

Title: title-45

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 1. Construction and Applicability 45-1-101. Short title

45-1-101. Short title. This title shall be known and may be cited as the "Criminal Code of 1973". History: En. 94-1-101 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-1-101.

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 1. Construction and Applicability 45-1-102. General purposes and principles of construction

45-1-102. General purposes and principles of construction. (1) The general purposes of the provisions governing the definition of offenses are: (a) to forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens harm to individual or public interests; (b) to safeguard conduct that is without fault from condemnation as criminal; (c) to give fair warning of the nature of the conduct declared to constitute an offense; (d) to differentiate on reasonable grounds between serious and minor offenses. (2) The rule of the common law that penal statutes are to be strictly construed has no application to this code. All its provisions are to be construed according to the fair import of their terms with a view to effect its object and to promote justice. History: En. 94-1-102 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-1-102.

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 1. Construction and Applicability 45-1-103. Application to offenses committed before and after enactment

45-1-103. Application to offenses committed before and after enactment. (1) The provisions of this code apply to any offense defined in this code and committed after January 1, 1974. (2) Unless otherwise expressly provided or unless the context otherwise requires, the provisions of this title and Title 46 govern the construction of and punishment for any offense defined outside of this code and committed after January 1, 1974, as well as the construction and application of any defense to a prosecution for such an offense. (3) The provisions of this code do not apply to any offense defined outside of this code and committed before January 1, 1974. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this code had not been enacted. History: En. 94-1-103 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 7, Ch. 359, L. 1977; R.C.M. 1947, 94-1-103.

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 1. Construction and Applicability 45-1-104. Other limitations on applicability

45-1-104. Other limitations on applicability. (1) This code does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered, and the civil injury is not merged into the offense. (2) No conduct constitutes an offense unless it is described as an offense in this code or in another statute of this state. However, this provision does not affect the power of a court to punish for contempt or to employ any sanction authorized by law for the enforcement of an order, civil judgment, or decree. History: En. 94-1-104 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-1-104.

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 2. Classification and Limitations 45-1-201. Classification of offenses

45-1-201. Classification of offenses. (1) For the determination of the court's jurisdiction at the commencement of the action and for the determination of the commencement of the period of limitations, the offense shall be designated a felony or misdemeanor based upon the maximum potential sentence which could be imposed by statute. (2) An offense defined by any statute of this state other than this code shall be classified as provided in this section, and the sentence that may be imposed upon conviction thereof shall be governed by this title and Title 46. History: En. 94-1-105 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 8, Ch. 359, L. 1977; R.C.M. 1947, 94-1-105.

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 2. Classification and Limitations 45-1-202. through 45-1-204 reserved

45-1-202 through 45-1-204 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 2. Classification and Limitations 45-1-205. General time limitations

45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time. (b) Except as provided in subsection (1)(c) or (9), a prosecution for a felony offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507(4) or (5), 45-5-625, or 45-5-627 may be commenced within 10 years after it is committed. (c) A prosecution for an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-625, 45-5-627, 45-5-702, 45-5-705, 45-5-706, or 45-5-711 may be commenced at any time if the victim was less than 18 years of age at the time that the offense occurred. (2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation: (a) A prosecution for a felony must be commenced within 5 years after it is committed. (b) A prosecution for a misdemeanor must

be commenced within 1 year after it is committed. (3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows: (a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency; (b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense. (4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense. (5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed. (6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed. (7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed. (b) A prosecution for theft under 45-6-301 may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property. (8) A prosecution is commenced either when an indictment is found or an information or complaint is filed. (9) If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection (1)(b) has expired, a prosecution may be commenced within 1 year after the suspect is conclusively identified by DNA testing. (10) A prosecution for reckless driving resulting in death may be commenced within 3 years after the offense is committed. (11) A prosecution of careless driving resulting in death may be commenced within 3 years after the offense is committed. History: En. 94-1-106 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 9, Ch. 359, L. 1977; R.C.M. 1947, 94-1-106; amd. Sec. 4, Ch. 485, L. 1981; amd. Sec. 1, Ch. 227, L. 1985; amd. Sec. 1, Ch. 294, L. 1989; amd. Sec. 1, Ch. 435, L. 1989; amd. Sec. 1, Ch. 277, L. 1991; amd. Sec. 17, Ch. 220, L. 1993; amd. Sec. 2, Ch. 560, L. 1993; amd. Sec. 1, Ch. 247, L. 1995; amd. Sec. 1, Ch. 530, L. 2001; amd. Sec. 1, Ch. 446, L. 2007; amd. Sec. 4, Ch. 483, L. 2007; amd. Sec. 1, Ch. 348, L. 2009; amd. Sec. 3, Ch. 225, L. 2013; amd. Sec. 1, Ch. 413, L. 2017; amd. Sec. 9, Ch. 367, L. 2019; amd. Sec. 7, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 1. General Preliminary Provisions Part 2. Classification and Limitations 45-1-206. Periods excluded from limitation

45-1-206. Periods excluded from limitation. The period of limitation does not run during: (1) any period in which the offender is not usually and publicly resident within this state or is beyond the jurisdiction of this state; (2) any period in which the offender is a public officer and the offense charged is theft of public funds while in public office; or (3) a prosecution pending against the offender for the same conduct, even if the indictment, complaint, or information which commences the prosecution is dismissed. History: En. 94-1-107 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-1-107.

2024 Montana Code Annotated Title 45. Crimes Chapter 10. Model Drug Paraphernalia Act Part 1. General Provisions 45-10-101. Definitions

45-10-101. Definitions. (1) As used in this part, the term "drug paraphernalia" means all equipment, products, and materials of any kind that are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a dangerous drug. It includes but is not limited to: (a) kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a dangerous drug or from which a dangerous drug can be derived; (b) kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing dangerous drugs; (c) isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant that is a dangerous drug; (d) testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of dangerous drugs; (e) scales and balances used, intended for use, or designed for use in weighing or measuring dangerous drugs; (f) dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting dangerous drugs; (g) separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana; (h) blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding dangerous drugs; (i) capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of dangerous drugs; (j) containers and other objects used, intended for use, or designed for use in storing or concealing dangerous drugs; (k) objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, or other dangerous drug as defined by 50-32-101 into the human body, such as: (i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; (ii) water pipes; (iii) carburetion tubes and devices; (iv) smoking and

carburetion masks; (v) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand; (vi) miniature cocaine spoons and cocaine vials; (vii) chamber pipes; (viii) carburetor pipes; (ix) electric pipes; (x) air-driven pipes; (xi) chillums; (xii) bongs; (xiii) ice pipes or chillers. (2) Words or phrases used in this part that are not defined by this section have the meaning given to them by the definitions contained in 50-32-101 unless the usage clearly indicates a different intent. History: En. Sec. 1, Ch. 481, L. 1981.

2024 Montana Code Annotated Title 45. Crimes Chapter 10. Model Drug Paraphernalia Act Part 1. General Provisions 45-10-102. Determination of what constitutes paraphernalia

45-10-102. Determination of what constitutes paraphernalia. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following: (1) statements by an owner or by anyone in control of the object concerning its use; (2) prior convictions, if any, of an owner or of anyone in control of the object under any state or federal law relating to any controlled substance or dangerous drug; (3) the proximity of the object in time and space to a direct violation of this part; (4) the proximity of the object to dangerous drugs; (5) the existence of any residue of dangerous drugs on the object; (6) direct or circumstantial evidence of the intent of an owner or of anyone in control of the object to deliver it to persons who the person knows or should reasonably know intend to use the object to facilitate a violation of 45-10-103 through 45-10-106. The innocence of an owner or of anyone in control of the object as to a direct violation of 45-10-103 through 45-10-106 does not prevent a finding that the object is intended for use or designed for use as drug paraphernalia. (7) instructions, oral or written, provided with the object concerning its use; (8) descriptive materials accompanying the object that explain or depict its use; (9) national and local advertising concerning its use; (10) the manner in which the object is displayed for sale; (11) whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products; (12) direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise; (13) the existence and scope of legitimate uses for the object in the community; (14) expert testimony concerning its use. History: En. Sec. 2, Ch. 481, L. 1981; amd. Sec. 1726, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 10. Model Drug Paraphernalia Act Part 1. General Provisions 45-10-103. Criminal possession of drug paraphernalia

45-10-103. Criminal possession of drug paraphernalia. Except as provided in Title 16, chapter 12, or 50-32-609, it is unlawful for a person to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred imposition of sentence of imprisonment. History: En. Sec. 3, Ch. 481, L. 1981; amd. Sec. 2, Ch. 100, L. 2001; amd. Sec. 1, Ch. 156, L. 2009; amd. Sec. 16, Ch. 253, L. 2017; amd. Sec. 46, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 75, Ch. 576, L. 2021; amd. Sec. 1, Ch. 723, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 10. Model Drug Paraphernalia Act Part 1. General Provisions 45-10-104. Manufacture or delivery of drug paraphernalia

45-10-104. Manufacture or delivery of drug paraphernalia. It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. Any person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined not more than \$500, or both. History: En. Sec. 4, Ch. 481, L. 1981.

2024 Montana Code Annotated Title 45. Crimes Chapter 10. Model Drug Paraphernalia Act Part 1. General Provisions 45-10-105. Delivery of drug paraphernalia to minor

45-10-105. Delivery of drug paraphernalia to minor. Any person 18 years of age or older who violates 45-10-104 by delivering drug paraphernalia to a person under 18 years of age who is at least 3 years younger is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 1 year or be fined not more than \$1,000, or both. History: En. Sec. 5, Ch. 481, L. 1981; amd. Sec. 1727, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 10. Model Drug Paraphernalia Act Part 1. General Provisions 45-10-106. Advertisement of drug paraphernalia

45-10-106. Advertisement of drug paraphernalia. It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement knowing or under circumstances where one reasonably should know that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this section is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for not more than 6 months, fined not more than \$500, or both. History: En. Sec. 6, Ch. 481, L. 1981.

2024 Montana Code Annotated Title 45. Crimes Chapter 10. Model Drug Paraphernalia Act Part 1. General Provisions 45-10-107. Exemptions

45-10-107. Exemptions. The provisions of this part do not apply to: (1) practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice; (2) persons acting in compliance with Title 16, chapter 12; or (3) persons acting as employees or volunteers of an organization, including a nonprofit community-based organization, local health department, or tribal health department, that provides needle and syringe exchange services to prevent and reduce the transmission of communicable diseases. History: En. Sec. 7, Ch. 481, L. 1981; amd. Sec. 91, Ch. 114, L. 2003; amd. Sec. 16, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 1, Ch. 96, L. 2017; amd. Sec. 47, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 76, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 1. Definitions and State of Mind 45-2-101. General definitions

45-2-101. General definitions. Unless otherwise specified in the statute, all words must be taken in the objective standard rather than in the subjective, and unless a different meaning plainly is required, the following definitions apply in this title: (1) "Acts" has its usual and ordinary meaning and includes any bodily movement, any form of communication, and when relevant, a failure or omission to take action. (2) "Administrative proceeding" means a proceeding the outcome of which is required to be based on a record or documentation prescribed by law or in which a law or a regulation is particularized in its application to an individual. (3) "Another" means a person or persons other than the offender. (4) (a) "Benefit" means gain or advantage or anything regarded by the beneficiary as gain or advantage, including benefit to another person or entity in whose welfare the beneficiary is interested. (b) Benefit does not include an advantage promised generally to a group or class of voters as a consequence of public measures that a candidate engages to support or oppose. (5) "Bodily injury" means physical pain, illness, or an impairment of physical condition and includes mental illness or impairment. (6) "Child" or "children" means any individual or individuals under 18 years of age, unless a different age is specified. (7) "Cohabit" means to live together under the representation of being married. (8) "Common scheme" means a series of acts or omissions resulting in a pecuniary loss to the victim of at least \$1,500, or \$1,500 in value, motivated by a purpose to accomplish a single criminal objective or by a common purpose or plan that results in the repeated commission of the same offense or that affects the same person or the same persons or the property of the same person or persons. (9) "Computer" means an electronic device that performs logical, arithmetic, and memory functions by the manipulation of electronic or magnetic impulses and includes all input, output, processing, storage, software, or communication facilities that are connected or related to that device in a system or network. (10) "Computer network" means the interconnection of communication systems between computers or computers and remote terminals. (11) "Computer program" means an instruction or statement or a series of instructions or statements, in a form acceptable to a computer, that in actual or modified form permits the functioning of a computer or computer system and causes it to perform specified functions. (12) "Computer services" include but are not limited to computer time, data processing, and storage functions. (13) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with the operation of a computer system. (14) "Computer system" means a set of related, connected, or unconnected devices, computer software, or other related computer equipment. (15) "Conduct" means an act or series of acts and the accompanying mental state. (16) "Conviction" means a judgment of conviction and sentence entered upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty of an offense rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (17) "Correctional institution" means a state prison, detention center, multijurisdictional detention center, private detention center, regional correctional facility, private correctional facility, or other institution for the incarceration of inmates under sentence for offenses or the custody of individuals awaiting trial or sentence for offenses. (18) "Deception" means knowingly to: (a) create or confirm in another an impression that is false and that the offender does not believe to be true; (b) fail to correct a false impression that the offender previously has created or confirmed; (c) prevent another from acquiring information pertinent to the disposition of the property involved; (d) sell or otherwise transfer or encumber property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether the impediment is or is not of value or is or is not a matter of official record; or (e) promise performance that the offender does not intend to perform or knows will not be performed. Failure to perform, standing alone, is not evidence that the offender did not intend to perform. (19) "Defamatory matter" means anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or to injury to the person's or its business or occupation. (20) "Deprive" means: (a) to withhold property of another: (i) permanently; (ii) for such a period as to appropriate a portion of its value; or (iii) with the purpose to restore it only upon payment of reward or other compensation; or (b) to dispose of the property of another and use or deal with the property so as to make it unlikely that the owner will recover it. (21) "Deviate sexual relations" means any form of sexual intercourse with an animal or dead human body. (22) "Document" means, with respect to offenses involving the medicare program, any application, claim, form, report, record, writing, or correspondence, whether in written, electronic, magnetic, microfilm, or other form. (23) "Felony" means an offense in which the sentence imposed upon conviction is death or imprisonment in a state prison for a term exceeding 1 year. (24) "Forcible felony" means a felony that involves the use or threat of physical force or violence against any individual. (25) A "frisk" is a search by an external patting of a person's clothing. (26) "Government" includes a branch, subdivision, or agency of the government of the state or a locality within it. (27) "Harm" means loss, disadvantage, or injury or anything so regarded by the person affected, including loss, disadvantage, or injury to a person or entity in whose welfare the

affected person is interested. (28) A "house of prostitution" means a place where prostitution or promotion of prostitution is regularly carried on by one or more persons under the control, management, or supervision of another. (29) "Human being" means a person who has been born and is alive. (30) An "illegal article" is an article or thing that is prohibited by statute, rule, or order from being in the possession of a person subject to official detention. (31) "Inmate" means a person who is confined in a correctional institution. (32) (a) "Intoxicating substance" means a controlled substance, as defined in Title 50, chapter 32, and an alcoholic beverage, including but not limited to a beverage containing 1/2 of 1% or more of alcohol by volume. (b) Intoxicating substance does not include dealcoholized wine or a beverage or liquid produced by the process by which beer, ale, port, or wine is produced if it contains less than 1/2 of 1% of alcohol by volume. (33) An "involuntary act" means an act that is: (a) a reflex or convulsion; (b) a bodily movement during unconsciousness or sleep; (c) conduct during hypnosis or resulting from hypnotic suggestion; or (d) a bodily movement that otherwise is not a product of the effort or determination of the actor, either conscious or habitual. (34) "Juror" means a person who is a member of a jury, including a grand jury, impaneled by a court in this state in an action or proceeding or by an officer authorized by law to impanel a jury in an action or proceeding. The term "juror" also includes a person who has been drawn or summoned to attend as a prospective juror. (35) "Knowingly"--a person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when the person is aware of the person's own conduct or that the circumstance exists. A person acts knowingly with respect to the result of conduct described by a statute defining an offense when the person is aware that it is highly probable that the result will be caused by the person's conduct. When knowledge of the existence of a particular fact is an element of an offense, knowledge is established if a person is aware of a high probability of its existence. Equivalent terms, such as "knowing" or "with knowledge", have the same meaning. (36) "Medicaid" means the Montana medical assistance program provided for in Title 53, chapter 6. (37) "Medicaid agency" has the meaning in 53-6-155. (38) "Medicaid benefit" means the provision of anything of pecuniary value to or on behalf of a recipient under the medicaid program. (39) (a) "Medicaid claim" means a communication, whether in oral, written, electronic, magnetic, or other form: (i) that is used to claim specific services or items as payable or reimbursable under the medicaid program; or (ii) that states income, expense, or other information that is or may be used to determine entitlement to or the rate of payment under the medicaid program. (b) The term includes related documents submitted as a part of or in support of the claim. (40) "Mentally disordered" means that a person suffers from a mental disease or disorder that renders the person incapable of appreciating the nature of the person's own conduct. (41) "Mentally incapacitated" means that a person is rendered temporarily incapable of appreciating or controlling the person's own conduct as a result of the influence of an intoxicating substance. (42) "Misdemeanor" means an offense for which the sentence imposed upon conviction is imprisonment in the county jail for a term or a fine, or both, or for which the sentence imposed is imprisonment in a state prison for a term of 1 year or less. (43) "Negligently"--a person acts negligently with respect to a result or to a circumstance described by a statute defining an offense when the person consciously disregards a risk that the result will occur or that the circumstance exists or when the person disregards a risk of which the person should be aware that the result will occur or that the circumstance exists. The risk must be of a nature and degree that to disregard it involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. "Gross deviation" means a deviation that is considerably greater than lack of ordinary care. Relevant terms, such as "negligent" and "with negligence", have the same meaning. (44) "Nolo contendere" means a plea in which the defendant does not contest the charge or charges against the defendant and neither admits nor denies the charge or charges. (45) "Obtain" means: (a) in relation to property, to bring about a transfer of interest or possession, whether to the offender or to another; and (b) in relation to labor or services, to secure the performance of the labor or service. (46) "Obtains or exerts control" includes but is not limited to the taking, the carrying away, or the sale, conveyance, or transfer of title to, interest in, or possession of property. (47) "Occupied structure" means any building, vehicle, or other place suitable for human occupancy or night lodging of persons or for carrying on business, whether or not a person is actually present, including any outbuilding that is immediately adjacent to or in close proximity to an occupied structure and that is habitually used for personal use or employment. Each unit of a building consisting of two or more units separately secured or occupied is a separate occupied structure. (48) "Offender" means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense. (49) "Offense" means a crime for which a sentence of death or of imprisonment or a fine is authorized. Offenses are classified as felonies or misdemeanors. (50) (a) "Official detention" means imprisonment resulting from a conviction for an offense, confinement for an offense, confinement of a person charged with an offense, detention by a peace officer pursuant to arrest, detention for extradition or deportation, or lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society. (b) Official detention does not include supervision of probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape. (51) "Official proceeding" means a proceeding heard or that may be heard before a legislative, a judicial, an administrative, or another governmental agency or official authorized to take evidence under oath, including any referee, hearings examiner, commissioner, notary, or other person taking testimony or deposition in connection with the proceeding. (52) "Other state" means a state or territory of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. (53) "Owner" means a person other than the offender who has possession of or other interest in the property involved, even though the interest or possession is unlawful, and without whose consent the offender has no authority to exert control over the property. (54) "Party official" means a person who holds an elective or appointive post in a political party in the United States by virtue of which the person directs or conducts or participates in directing or conducting party affairs at any level of responsibility. (55) "Peace officer" means a person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses while acting within the scope of the person's authority. (56) "Pecuniary benefit" is benefit in the form of

money, property, commercial interests, or anything else the primary significance of which is economic gain. (57) "Person" includes an individual, business association, partnership, corporation, government, or other legal entity and an individual acting or purporting to act for or on behalf of a government or subdivision of government. (58) "Physically helpless" means that a person is unconscious or is otherwise physically unable to communicate unwillingness to act. (59) "Possession" is the knowing control of anything for a sufficient time to be able to terminate control. (60) "Premises" includes any type of structure or building and real property. (61) "Property" means a tangible or intangible thing of value. Property includes but is not limited to: (a) real estate; (b) money; (c) commercial instruments; (d) admission or transportation tickets; (e) written instruments that represent or embody rights concerning anything of value, including labor or services, or that are otherwise of value to the owner; (f) things growing on, affixed to, or found on land and things that are part of or affixed to a building; (g) electricity, gas, and water; (h) birds, animals, and fish that ordinarily are kept in a state of confinement; (i) food and drink, samples, cultures, microorganisms, specimens, records, recordings, documents, blueprints, drawings, maps, and whole or partial copies, descriptions, photographs, prototypes, or models thereof; (j) other articles, materials, devices, substances, and whole or partial copies, descriptions, photographs, prototypes, or models thereof that constitute, represent, evidence, reflect, or record secret scientific, technical, merchandising, production, or management information or a secret designed process, procedure, formula, invention, or improvement; and (k) electronic impulses, electronically processed or produced data or information, commercial instruments, computer software or computer programs, in either machine- or human-readable form, computer services, any other tangible or intangible item of value relating to a computer, computer system, or computer network, and copies thereof. (62) "Property of another" means real or personal property in which a person other than the offender has an interest that the offender has no authority to defeat or impair, even though the offender may have an interest in the property. (63) "Public place" means a place to which the public or a substantial group has access. (64) (a) "Public servant" means an officer or employee of government, including but not limited to legislators, judges, and firefighters, and a person participating as a juror, adviser, consultant, administrator, executor, guardian, or court-appointed fiduciary. The term "public servant" includes one who has been elected or designated to become a public servant. (b) The term does not include witnesses. (65) "Purposely"--a person acts purposely with respect to a result or to conduct described by a statute defining an offense if it is the person's conscious object to engage in that conduct or to cause that result. When a particular purpose is an element of an offense, the element is established although the purpose is conditional, unless the condition negatives the harm or evil sought to be prevented by the law defining the offense. Equivalent terms, such as "purpose" and "with the purpose", have the same meaning. (66) (a) "Serious bodily injury" means bodily injury that: (i) creates a substantial risk of death; (ii) causes serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ; or (iii) at the time of injury, can reasonably be expected to result in serious permanent disfigurement or protracted loss or impairment of the function or process of a bodily member or organ. (b) The term includes serious mental illness or impairment. (67) "Sexual contact" means touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely: (a) cause bodily injury to or humiliate, harass, or degrade another; or (b) arouse or gratify the sexual response or desire of either party. (68) (a) "Sexual intercourse" means penetration of the vulva, anus, or mouth of one person by the penis of another person, penetration of the vulva or anus of one person by a body member of another person, or penetration of the vulva or anus of one person by a foreign instrument or object manipulated by another person to knowingly or purposely: (i) cause bodily injury or humiliate, harass, or degrade; or (ii) arouse or gratify the sexual response or desire of either party. (b) For purposes of subsection (68)(a), any penetration, however slight, is sufficient. (69) "Solicit" or "solicitation" means to command, authorize, urge, incite, request, or advise another to commit an offense. (70) "State" or "this state" means the state of Montana, all the land and water in respect to which the state of Montana has either exclusive or concurrent jurisdiction, and the air space above the land and water. (71) "Statute" means an act of the legislature of this state. (72) "Stolen property" means property over which control has been obtained by theft. (73) A "stop" is the temporary detention of a person that results when a peace officer orders the person to remain in the peace officer's presence. (74) "Tamper" means to interfere with something improperly, meddle with it, make unwarranted alterations in its existing condition, or deposit refuse upon it. (75) "Telephone" means any type of telephone, including but not limited to a corded, uncoded, cellular, or satellite telephone. (76) "Threat" means a menace, however communicated, to: (a) inflict physical harm on the person threatened or any other person or on property; (b) subject any person to physical confinement or restraint; (c) commit a criminal offense; (d) accuse a person of a criminal offense; (e) expose a person to hatred, contempt, or ridicule; (f) harm the credit or business repute of a person; (g) reveal information sought to be concealed by the person threatened; (h) take action as an official against anyone or anything, withhold official action, or cause the action or withholding; (i) bring about or continue a strike, boycott, or other similar collective action if the person making the threat demands or receives property that is not for the benefit of groups that the person purports to represent; or (j) testify or provide information or withhold testimony or information with respect to another's legal claim or defense. (77) (a) "Value" means the market value of the property at the time and place of the crime or, if the market value cannot be satisfactorily ascertained, the cost of the replacement of the property within a reasonable time after the crime. If the offender appropriates a portion of the value of the property, the value must be determined as follows: (i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, is considered the amount due or collectible. The figure is ordinarily the face amount of the indebtedness less any portion of the indebtedness that has been satisfied. (ii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation is considered the amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument. (iii) The value of electronic impulses, electronically produced data or information, computer software or programs, or any other tangible or intangible item relating to a computer, computer system, or computer network is considered to be the amount of economic loss that

the owner of the item might reasonably suffer by virtue of the loss of the item. The determination of the amount of economic loss includes but is not limited to consideration of the value of the owner's right to exclusive use or disposition of the item. (b) When it cannot be determined if the value of the property is more or less than \$1,500 by the standards set forth in subsection (77)(a), its value is considered to be an amount less than \$1,500. (c) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property. (78) "Vehicle" means a device for transportation by land, water, or air or by mobile equipment, with provision for transport of an operator. (79) "Weapon" means an instrument, article, or substance that, regardless of its primary function, is readily capable of being used to produce death or serious bodily injury. (80) "Witness" means a person whose testimony is desired in an official proceeding, in any investigation by a grand jury, or in a criminal action, prosecution, or proceeding. History: En. 94-2-101 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 190, L. 1975; amd. Sec. 1, Ch. 405, L. 1975; amd. Sec. 1, Ch. 443, L. 1975; amd. Sec. 10, Ch. 359, L. 1977; amd. Sec. 3, Ch. 489, L. 1977; R.C.M. 1947, 94-2-101; amd. Sec. 1, Ch. 10, L. 1979; amd. Sec. 1, Ch. 485, L. 1981; amd. Sec. 15, Ch. 3, L. 1985; amd. Sec. 1, Ch. 143, L. 1993; amd. Sec. 1, Ch. 616, L. 1993; amd. Sec. 50, Ch. 18, L. 1995; amd. Sec. 8, Ch. 354, L. 1995; amd. Sec. 1, Ch. 288, L. 1999; amd. Sec. 1, Ch. 354, L. 1999; amd. Sec. 2, Ch. 395, L. 1999; amd. Sec. 2, Ch. 397, L. 1999; amd. Sec. 1, Ch. 312, L. 2001; amd. Sec. 1, Ch. 364, L. 2005; amd. Sec. 1, Ch. 155, L. 2007; amd. Sec. 1, Ch. 473, L. 2009; amd. Sec. 4, Ch. 225, L. 2013; amd. Sec. 6, Ch. 161, L. 2015; amd. Sec. 3, Ch. 321, L. 2017; amd. Sec. 2, Ch. 465, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 1. Definitions and State of Mind 45-2-102. Substitutes for negligence and knowledge

45-2-102. Substitutes for negligence and knowledge. When the law provides that negligence suffices to establish an element of an offense, such element also is established if a person acts purposely or knowingly. When acting knowingly suffices to establish an element, such element also is established if a person acts purposely. History: En. 94-2-110 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-110.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 1. Definitions and State of Mind 45-2-103. General requirements of criminal act and mental state

45-2-103. General requirements of criminal act and mental state. (1) Except for deliberate homicide as defined in 45-5-102(1)(b) or an offense that involves absolute liability, a person is not guilty of an offense unless, with respect to each element described by the statute defining the offense, a person acts while having one of the mental states of knowingly, negligently, or purposely. (2) In deliberate homicide under 45-5-102(1)(b), the offender must act while having the mental state of purposely or knowingly only as to the underlying felony referred to in 45-5-102(1)(b). (3) The existence of a mental state may be inferred from the acts of the accused and the facts and circumstances connected with the offense. (4) If the statute defining an offense prescribes a particular mental state with respect to the offense as a whole without distinguishing among the elements of the offense, the prescribed mental state applies to each element. (5) Knowledge that certain conduct constitutes an offense or knowledge of the existence, meaning, or application of the statute defining an offense is not an element of the offense unless the statute clearly defines it as an element. (6) A person's reasonable belief that the person's conduct does not constitute an offense is a defense if: (a) the offense is defined by an administrative regulation or order that is not known to the person and has not been published or otherwise made reasonably available to the person and if the person could not have acquired the knowledge by the exercise of due diligence pursuant to facts known to the person; (b) the person acts in reliance upon a statute that later is determined to be invalid; (c) the person acts in reliance upon an order or opinion of the Montana supreme court or a United States appellate court later overruled or reversed; or (d) the person acts in reliance upon an official interpretation of the statute, regulation, or order defining the offense made by a public officer or agency legally authorized to interpret the statute. (7) If a person's reasonable belief is a defense under subsection (6), nevertheless the person may be convicted of an included offense of which the person would be guilty if the law were as the person believed it to be. (8) A defense based upon this section is an affirmative defense. History: En. 94-2-103 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 11, Ch. 359, L. 1977; R.C.M. 1947, 94-2-103; amd. Sec. 1, Ch. 580, L. 1979; amd. Sec. 5, Ch. 485, L. 1981; amd. Sec. 2, Ch. 610, L. 1987; amd. Sec. 9, Ch. 354, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 1. Definitions and State of Mind 45-2-104. Absolute liability

45-2-104. Absolute liability. A person may be guilty of an offense without having, as to each element of the offense, one of the mental states of knowingly, negligently, or purposely only if the offense is punishable by a fine not exceeding \$500 or the statute defining the offense clearly indicates a legislative purpose to impose absolute liability for the conduct described. History: En. 94-2-104 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 12, Ch. 359, L. 1977; R.C.M. 1947, 94-2-104; amd. Sec. 6, Ch. 485, L. 1981; amd. Sec. 1, Ch. 350, L. 1987; amd. Sec. 10, Ch. 354, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-201. Causal relationship between conduct and result

45-2-201. Causal relationship between conduct and result. (1) Conduct is the cause of a result if: (a) without the conduct the result

would not have occurred; and (b) any additional causal requirements imposed by the specific statute defining the offense are satisfied. (2) If purposely or knowingly causing a result is an element of an offense and the result is not within the contemplation or purpose of the offender, either element can nevertheless be established if: (a) the result differs from that contemplated only in the respect that a different person or different property is affected or that the injury or harm caused is less than contemplated; or (b) the result involves the same kind of harm or injury as contemplated but the precise harm or injury was different or occurred in a different way, unless the actual result is too remote or accidental to have a bearing on the offender's liability or on the gravity of the offense. (3) If negligently causing a particular result is an element of an offense and the result is not within the risk of which the offender is aware or should be aware, either element can nevertheless be established if: (a) the actual result differs from the probable result only in the respect that a different person or different property is affected or that the actual injury or harm is less; or (b) the actual result involves the same kind of injury or harm as the probable result, unless the actual result is too remote or accidental to have a bearing on the offender's liability or on the gravity of the offense. History: En. 94-2-105 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-105.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-202. Voluntary act

45-2-202. Voluntary act. A material element of every offense is a voluntary act, which includes an omission to perform a duty that the law imposes on the offender and that the offender is physically capable of performing, except for deliberate homicide under 45-5-102(1)(b) for which there must be a voluntary act only as to the underlying felony. Possession is a voluntary act if the offender knowingly procured or received the thing possessed or was aware of the offender's control of the thing for a sufficient time to have been able to terminate control. History: En. 94-2-102 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-102; amd. Sec. 3, Ch. 610, L. 1987; amd. Sec. 1635, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-203. Responsibility -- intoxicated condition

45-2-203. Responsibility -- intoxicated condition. A person who is in an intoxicated condition is criminally responsible for the person's conduct, and an intoxicated condition is not a defense to any offense and may not be taken into consideration in determining the existence of a mental state that is an element of the offense unless the defendant proves that the defendant did not know that it was an intoxicating substance when the defendant consumed, smoked, sniffed, injected, or otherwise ingested the substance causing the condition. History: En. 94-2-109 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 53, Ch. 329, L. 1974; R.C.M. 1947, 94-2-109; amd. Sec. 1, Ch. 251, L. 1987; amd. Sec. 1636, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-204. Liability of firefighters

45-2-204. Liability of firefighters. (1) A fire warden, firefighter, or officer or employee of a state or governmental fire agency is not criminally liable for acts or omissions while fighting fires other than acts or omissions committed with demonstrable criminal intent. (2) For the purposes of this section, "governmental fire agency" means a fire protection entity organized under Title 7, chapter 33. History: En. Sec. 1, Ch. 464, L. 2007.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-205. through 45-2-210 reserved

45-2-205 through 45-2-210 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-211. Consent as defense

45-2-211. Consent as defense. (1) The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense. (2) Consent is ineffective if: (a) it is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense; (b) it is given by a person who by reason of youth, mental disease or disorder, or intoxication is unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; (c) it is induced by force, duress, or deception; (d) it is against public policy to permit the conduct or the resulting harm, even though consented to; or (e) for offenses under 45-5-502, 45-5-503, 45-5-508, 45-5-601, or Title 45, chapter 5, part 7, it is given by a person who the offender knew or reasonably should have known was a victim of human trafficking, as defined in 45-5-701, or was subjected to force, fraud, or coercion, either of which caused the person to be in the situation where the offense occurred. History: En. 94-2-111 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 13, Ch. 359, L. 1977; R.C.M. 1947, 94-2-111; amd. Sec. 7, Ch. 161, L. 2015; amd. Sec. 1, Ch. 308, L. 2019; amd. Sec. 8, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-212. Compulsion

45-2-212. Compulsion. A person is not guilty of an offense, other than an offense punishable with death, by reason of conduct that

the person performs under the compulsion of threat or menace of the imminent infliction of death or serious bodily harm if the person reasonably believes that death or serious bodily harm will be inflicted upon the person if the person does not perform the conduct. History: En. 94-3-110 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-110; amd. Sec. 1637, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 2. Other Factors Affecting Individual Liability 45-2-213. Entrapment

45-2-213. Entrapment. A person is not guilty of an offense if the person's conduct is incited or induced by a public servant or a public servant's agent for the purpose of obtaining evidence for the prosecution of the person. However, this section is inapplicable if a public servant or a public servant's agent merely affords to the person the opportunity or facility for committing an offense in furtherance of criminal purpose that the person has originated. History: En. 94-3-111 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-111; amd. Sec. 1638, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 3. Liability for Acts Committed by or for Another 45-2-301. Accountability for conduct of another

45-2-301. Accountability for conduct of another. A person is responsible for conduct that is an element of an offense if the conduct is either that of the person or that of another and the person is legally accountable for the conduct as provided in 45-2-302, or both. History: En. 94-2-106 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-106; amd. Sec. 1639, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 3. Liability for Acts Committed by or for Another 45-2-302. When accountability exists

45-2-302. When accountability exists. A person is legally accountable for the conduct of another when: (1) having a mental state described by the statute defining the offense, the person causes another to perform the conduct, regardless of the legal capacity or mental state of the other person; (2) the statute defining the offense makes the person accountable; or (3) either before or during the commission of an offense with the purpose to promote or facilitate the commission, the person solicits, aids, abets, agrees, or attempts to aid the other person in the planning or commission of the offense. However, a person is not accountable if: (a) the person is a victim of the offense committed, unless the statute defining the offense provides otherwise; or (b) before the commission of the offense, the person terminates the person's effort to promote or facilitate the commission and does one of the following: (i) wholly deprives the person's prior efforts of effectiveness in the commission; (ii) gives timely warning to the proper law enforcement authorities; or (iii) otherwise makes proper effort to prevent the commission of the offense. History: En. 94-2-107 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-107; amd. Sec. 1640, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 3. Liability for Acts Committed by or for Another 45-2-303. Separate conviction of person accountable

45-2-303. Separate conviction of person accountable. A person who is legally accountable for the conduct of another that is an element of an offense may be convicted upon proof that the offense was committed and that the person was accountable although the other person claimed to have committed the offense has not been prosecuted or convicted, has been convicted of a different offense, is not amenable to justice, or has been acquitted. History: En. 94-2-108 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-108; amd. Sec. 1641, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 3. Liability for Acts Committed by or for Another 45-2-304. through 45-2-310 reserved

45-2-304 through 45-2-310 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 3. Liability for Acts Committed by or for Another 45-2-311. Criminal responsibility of corporations

45-2-311. Criminal responsibility of corporations. (1) A corporation may be prosecuted for the commission of an offense only if: (a) the offense is a misdemeanor, is defined by 45-5-204, 45-6-315, 45-6-317, 45-6-318, 45-6-326, 45-8-113, 45-8-114, 45-8-212, 45-8-214, 82-1-201, or 82-10-104, or is defined by another statute that clearly indicates a legislative purpose to impose liability on a corporation and an agent of the corporation performs the conduct that is an element of the offense while acting within the scope of the agent's office or employment and in behalf of the corporation, except that any limitation in the defining statute concerning the corporation's accountability for certain agents or under certain circumstances is applicable; or (b) the commission of the offense is authorized, requested, commanded, or performed by the board of directors or by a high managerial agent who is acting within the scope of that agent's employment in behalf of the corporation. (2) A corporation's proof that the high managerial agent having supervisory responsibility over the conduct that is the subject matter of the offense exercised due diligence to prevent the commission of the offense is a defense to a prosecution for any offense to which subsection (1)(a) refers, other than an offense for which absolute liability is imposed. This subsection is inapplicable if the legislative purpose of the statute defining the offense is inconsistent with the provisions of this subsection. (3) For the purposes of this section: (a) "agent" means any director, officer, servant, employee, or other person who is authorized to act in behalf of the corporation; (b) "high managerial agent" means an

officer of the corporation or any other agent who has a position of comparable authority for the formulation of corporate policy or the supervision of subordinate employees in a managerial capacity. History: En. 94-2-112 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-112; amd. Sec. 2, Ch. 582, L. 1983; amd. Sec. 2, Ch. 365, L. 1985; amd. Sec. 193, Ch. 42, L. 1997; amd. Sec. 3, Ch. 400, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 2. General Principles of Liability Part 3. Liability for Acts Committed by or for Another 45-2-312. Accountability for conduct of corporation

45-2-312. Accountability for conduct of corporation. (1) A person is legally accountable for conduct that is an element of an offense and that, in the name or in behalf of a corporation, the person performs or causes to be performed to the same extent as if the conduct were performed in the person's own name or behalf. (2) An individual who has been convicted of an offense by reason of legal accountability for the conduct of a corporation is subject to the punishment authorized by law for an individual upon conviction of the offense although only a lesser or different punishment is authorized for the corporation. History: En. 94-2-113 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-2-113; amd. Sec. 1642, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-101. Definitions

45-3-101. Definitions. (1) "Force likely to cause death or serious bodily harm" within the meaning of this chapter includes but is not limited to: (a) the firing of a firearm in the direction of a person, even though no purpose exists to kill or inflict serious bodily harm; and (b) the firing of a firearm at a vehicle in which a person is riding. (2) "Forcible felony" means any felony which involves the use or threat of physical force or violence against any individual. History: En. 94-3-101 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-101.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-102. Use of force in defense of person

45-3-102. Use of force in defense of person. A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the conduct is necessary for self-defense or the defense of another against the other person's imminent use of unlawful force. However, the person is justified in the use of force likely to cause death or serious bodily harm only if the person reasonably believes that the force is necessary to prevent imminent death or serious bodily harm to the person or another or to prevent the commission of a forcible felony. History: En. 94-3-102 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-102; amd. Sec. 1643, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-103. Use of force in defense of occupied structure

45-3-103. Use of force in defense of occupied structure. (1) A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the use of force is necessary to prevent or terminate the other person's unlawful entry into or attack upon an occupied structure. (2) A person justified in the use of force pursuant to subsection (1) is justified in the use of force likely to cause death or serious bodily harm only if: (a) the entry is made or attempted and the person reasonably believes that the force is necessary to prevent an assault upon the person or another then in the occupied structure; or (b) the person reasonably believes that the force is necessary to prevent the commission of a forcible felony in the occupied structure. History: En. 94-3-103 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-103; amd. Sec. 1644, Ch. 56, L. 2009; amd. Sec. 4, Ch. 332, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-104. Use of force in defense of other property

45-3-104. Use of force in defense of other property. A person is justified in the use of force or threat to use force against another when and to the extent that the person reasonably believes that the conduct is necessary to prevent or terminate the other person's trespass on or other tortious or criminal interference with either real property, other than an occupied structure, or personal property lawfully in the person's possession or in the possession of another who is a member of the person's immediate family or household or of a person whose property the person has a legal duty to protect. However, the person is justified in the use of force likely to cause death or serious bodily harm only if the person reasonably believes that the force is necessary to prevent the commission of a forcible felony. History: En. 94-3-104 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-104; amd. Sec. 1645, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-105. Use of force by aggressor

45-3-105. Use of force by aggressor. The justification described in 45-3-102 through 45-3-104 is not available to a person who: (1) is attempting to commit, committing, or escaping after the commission of a forcible felony; or (2) purposely or knowingly provokes the use of force against the person, unless: (a) the force is so great that the person reasonably believes that the person is in imminent danger of death or serious bodily harm and that the person has exhausted every reasonable means to escape the danger other than the

use of force that is likely to cause death or serious bodily harm to the assailant; or (b) in good faith, the person withdraws from physical contact with the assailant and indicates clearly to the assailant that the person desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force. History: En. 94-3-105 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-105; amd. Sec. 1646, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-106. Use of force to prevent escape

45-3-106. Use of force to prevent escape. (1) A peace officer or other person who has an arrested person in custody is justified in the use of force to prevent the escape of the arrested person from custody that the officer or other person would be justified in using if the officer or other person were arresting the person. (2) A guard or other peace officer is justified in the use of force, including force likely to cause death or serious bodily harm, that the guard or officer reasonably believes to be necessary to prevent the escape from a correctional institution of a person whom the guard or officer reasonably believes to be lawfully detained in the institution under sentence for an offense or awaiting trial or commitment for an offense. History: En. 94-3-106 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-106; amd. Sec. 1647, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-107. Use of force by parent, guardian, or teacher

45-3-107. Use of force by parent, guardian, or teacher. A parent or an authorized agent of a parent or a guardian, master, or teacher is justified in the use of force that is reasonable and necessary to restrain or correct the person's child, ward, apprentice, or pupil. History: En. 94-3-107 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-107; amd. Sec. 1648, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-108. Use of force in resisting arrest

45-3-108. Use of force in resisting arrest. A person is not authorized to use force to resist an arrest that the person knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if the person believes that the arrest is unlawful and the arrest in fact is unlawful. History: En. 94-3-108 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-108; amd. Sec. 1649, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-109. Execution of death sentence

45-3-109. Execution of death sentence. A person who puts a person to death pursuant to a sentence of a court of competent jurisdiction is justified if the person acts in accordance with the sentence pronounced and the law prescribing the procedure for execution of a death sentence. History: En. 94-3-109 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-109; amd. Sec. 3, Ch. 411, L. 1983; amd. Sec. 1650, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-110. No duty to summon help or flee

45-3-110. No duty to summon help or flee. Except as provided in 45-3-105, a person who is lawfully in a place or location and who is threatened with bodily injury or loss of life has no duty to retreat from a threat or summon law enforcement assistance prior to using force. The provisions of this section apply to a person offering evidence of justifiable use of force under 45-3-102, 45-3-103, or 45-3-104. History: En. Sec. 1, Ch. 332, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-111. Openly carrying weapon -- display

45-3-111. Openly carrying weapon -- display. (1) Any person who is not otherwise prohibited from doing so by federal or state law may openly carry a weapon and may communicate to another person the fact that the person has a weapon. (2) If a person reasonably believes that the person or another person is threatened with bodily harm, the person may warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon. History: En. Sec. 2, Ch. 332, L. 2009; amd. Sec. 8, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-112. Investigation of alleged offense involving claim of justifiable use of force

45-3-112. Investigation of alleged offense involving claim of justifiable use of force. When an investigation is conducted by a peace officer of an incident that appears to have or is alleged to have involved justifiable use of force, the investigation must be conducted so as to disclose all evidence, including testimony concerning the alleged offense and that might support the apparent or alleged justifiable use of force. History: En. Sec. 3, Ch. 332, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-113. and

45-3-114 reserved

45-3-113 and 45-3-114 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-115. Affirmative defense

45-3-115. Affirmative defense. A defense of justifiable use of force based on the provisions of this part is an affirmative defense. History: En. 94-3-112 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-3-112.

2024 Montana Code Annotated Title 45. Crimes Chapter 3. Justifiable Use of Force Part 1. When Force Justified 45-3-116. Use of force in defense of military equipment and information

45-3-116. Use of force in defense of military equipment and information. (1) A member of the armed forces or a member of the national guard who is on official duty defending military equipment is privileged to use reasonable force as necessary, including deadly force, in accordance with published military regulations and doctrine regarding the use of force. (2) The servicing staff judge advocate shall provide a briefing on the rules for the use of force to members of the armed forces and members of the national guard prior to defending military equipment. The failure of a member of the armed forces or a member of the national guard to receive a briefing on the rules for the use of force, through no fault of the individual member, does not preclude the individual member from asserting this privilege. History: En. Sec. 2, Ch. 241, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 4. Inchoate Offenses Part 1. Enumeration of Offenses and Extent of Liability 45-4-101. Solicitation

45-4-101. Solicitation. (1) A person commits the offense of solicitation when, with the purpose that an offense be committed, the person commands, encourages, or facilitates the commission of that offense. (2) A person convicted of solicitation shall be punished not to exceed the maximum provided for the offense solicited. History: En. 94-4-101 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-4-101; amd. Sec. 1651, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 4. Inchoate Offenses Part 1. Enumeration of Offenses and Extent of Liability 45-4-102. Conspiracy

45-4-102. Conspiracy. (1) A person commits the offense of conspiracy when, with the purpose that an offense be committed, the person agrees with another to the commission of that offense. A person may not be convicted of conspiracy to commit an offense unless an act in furtherance of the agreement has been committed by the person or by a coconspirator. (2) It is not a defense to conspiracy that the person or persons with whom the accused has conspired: (a) has not been prosecuted or convicted; (b) has been convicted of a different offense; (c) is not amenable to justice; (d) has been acquitted; or (e) lacked the capacity to commit the offense. (3) A person convicted of the offense of conspiracy shall be punished not to exceed the maximum sentence provided for the offense that is the object of the conspiracy. History: En. 94-4-102 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-4-102; amd. Sec. 1652, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 4. Inchoate Offenses Part 1. Enumeration of Offenses and Extent of Liability 45-4-103. Attempt

45-4-103. Attempt. (1) A person commits the offense of attempt when, with the purpose to commit a specific offense, the person does any act toward the commission of the offense. (2) It is not a defense to a charge of attempt that because of a misapprehension of the circumstances, it would have been impossible for the accused to commit the offense attempted. (3) A person convicted of the offense of attempt shall be punished not to exceed the maximum provided for the offense attempted. (4) A person is not liable under this section if, under circumstances manifesting a voluntary and complete renunciation of criminal purpose, the person avoided the commission of the offense attempted by abandoning the person's criminal effort. (5) Proof of the completed offense does not bar conviction for the attempt. History: En. 94-4-103 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-4-103; amd. Sec. 1653, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-102. Deliberate homicide

45-5-102. Deliberate homicide. (1) A person commits the offense of deliberate homicide if: (a) the person purposely or knowingly causes the death of another human being; (b) the person attempts to commit, commits, or is legally accountable for the attempt or commission of robbery, sexual intercourse without consent, arson, burglary, kidnapping, aggravated kidnapping, felonious escape, assault with a weapon, aggravated assault, or any other forcible felony and in the course of the forcible felony or flight thereafter, the person or any person legally accountable for the crime causes the death of another human being; or (c) the person purposely or knowingly causes the death of a fetus of another with knowledge that the woman is pregnant. (2) A person convicted of the offense of deliberate homicide shall be punished by death as provided in 46-18-301 through 46-18-310, unless the person is less than 18 years of age at the time of the commission of the offense, by life imprisonment, or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years, except as provided in 46-18-219 and 46-18-222. History: En. 94-5-102 by Sec. 1, Ch.

513, L. 1973; amd. Sec. 11, Ch. 338, L. 1977; amd. Sec. 4, Ch. 584, L. 1977; R.C.M. 1947, 94-5-102; amd. Sec. 1, Ch. 322, L. 1979; amd. Sec. 1, Ch. 322, L. 1987; amd. Sec. 4, Ch. 610, L. 1987; amd. Sec. 2, Ch. 482, L. 1995; amd. Sec. 3, Ch. 432, L. 1999; amd. Sec. 3, Ch. 523, L. 1999; amd. Sec. 1, Ch. 271, L. 2013.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-103. Mitigated deliberate homicide

45-5-103. Mitigated deliberate homicide. (1) A person commits the offense of mitigated deliberate homicide when the person purposely or knowingly causes the death of another human being or purposely or knowingly causes the death of a fetus of another with knowledge that the woman is pregnant but does so under the influence of extreme mental or emotional stress for which there is reasonable explanation or excuse. The reasonableness of the explanation or excuse must be determined from the viewpoint of a reasonable person in the actor's situation. (2) Mitigated deliberate homicide is a lesser included offense of deliberate homicide as defined in 45-5-102(1)(a), but is not a lesser included offense of deliberate homicide as defined in 45-5-102(1)(b). (3) Mitigating circumstances that reduce deliberate homicide to mitigated deliberate homicide are not an element of the reduced crime that the state is required to prove or an affirmative defense that the defendant is required to prove. Neither party has the burden of proof as to mitigating circumstances, but either party may present evidence of mitigation. (4) A person convicted of mitigated deliberate homicide shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222. History: En. 94-5-103 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 5, Ch. 584, L. 1977; R.C.M. 1947, 94-5-103; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 5, Ch. 610, L. 1987; amd. Sec. 3, Ch. 482, L. 1995; amd. Sec. 1, Ch. 22, L. 2003; amd. Sec. 2, Ch. 271, L. 2013.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-104. Negligent homicide

45-5-104. Negligent homicide. (1) A person commits the offense of negligent homicide if the person negligently causes the death of another human being. (2) Negligent homicide is not an included offense of deliberate homicide as defined in 45-5-102(1)(b). (3) A person convicted of negligent homicide shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-5-104 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-104; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 6, Ch. 610, L. 1987; amd. Sec. 1, Ch. 381, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-105. Aiding or soliciting suicide

45-5-105. Aiding or soliciting suicide. (1) A person who purposely aids or solicits another to commit suicide, but such suicide does not occur, commits the offense of aiding or soliciting suicide. (2) A person convicted of the offense of aiding or soliciting a suicide shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-5-106 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-106; amd. Sec. 7, Ch. 198, L. 1981.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-106. Vehicular homicide while under influence

45-5-106. Vehicular homicide while under influence. (1) A person commits the offense of vehicular homicide while under the influence if the person negligently causes the death of another human being while the person is operating a vehicle in violation of 61-8-1002. (2) Vehicular homicide while under the influence is not an included offense of deliberate homicide as described in 45-5-102(1)(b). (3) A person convicted of vehicular homicide while under the influence shall be imprisoned in a state prison for a term not to exceed 30 years or be fined an amount not to exceed \$50,000, or both. Imposition of a sentence may not be deferred. History: En. Sec. 1, Ch. 426, L. 2005; amd. Sec. 2, Ch. 153, L. 2013; amd. Sec. 20, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-107. through 45-5-110 reserved

45-5-107 through 45-5-110 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-111. Extrajudicial confession -- evidence of death

45-5-111. Extrajudicial confession -- evidence of death. In a homicide trial, before an extrajudicial confession may be admitted into evidence, the state must introduce independent evidence tending to establish the death and the fact that the death was caused by a criminal agency. History: En. 95-3004 by Sec. 12, Ch. 513, L. 1973; amd. Sec. 49, Ch. 184, L. 1977; R.C.M. 1947, 95-3004; MCA 1981, 46-16-203(1); redes. 45-5-111 by Code Commissioner, 1983.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-112. Inference of mental state

45-5-112. Inference of mental state. In a deliberate homicide, knowledge or purpose may be inferred from the fact that the accused

committed a homicide and no circumstances of mitigation, excuse, or justification appear. History: En. 95-3004 by Sec. 12, Ch. 513, L. 1973; amd. Sec. 49, Ch. 184, L. 1977; R.C.M. 1947, 95-3004; MCA 1981, 46-16-203(2); redes. 45-5-112 by Code Commissioner, 1983.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-113. through 45-5-115 reserved

45-5-113 through 45-5-115 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 1. Homicide 45-5-116. Harm to fetus of another -- exceptions

45-5-116. Harm to fetus of another -- exceptions. (1) A prosecution for a violation of 45-5-102 or 45-5-103 with regard to the death of a fetus of another may not be brought against: (a) a person for conduct relating to an abortion for which the consent of the pregnant woman or a person authorized by law to act on her behalf has been obtained or for which the consent is implied by law; (b) a person for any medical treatment of the pregnant woman or her fetus; or (c) a woman with respect to her fetus. (2) A prosecution for or conviction of an offense under 45-5-102 or 45-5-103 is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct. (3) As used in 45-5-102, 45-5-103, and this section, "fetus" means an organism of the species *Homo sapiens* from 8 weeks of development until complete expulsion or extraction from a woman's body. History: En. Secs. 3 thru 5, Ch. 271, L. 2013.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-201. Assault

45-5-201. Assault. (1) A person commits the offense of assault if the person: (a) purposely or knowingly causes bodily injury to another; (b) negligently causes bodily injury to another with a weapon; (c) purposely or knowingly makes physical contact of an insulting or provoking nature with any individual; (d) purposely or knowingly causes reasonable apprehension of bodily injury in another; or (e) purposely or knowingly provides an individual with rohypnol, flunitrazolam, or gamma-hydroxybutyrate without the individual's consent. (2) A person convicted of assault shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-5-201 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-201; amd. Sec. 1, Ch. 261, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 188, L. 1991; amd. Sec. 4, Ch. 432, L. 1999; amd. Sec. 1, Ch. 268, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-202. Aggravated assault

45-5-202. Aggravated assault. (1) A person commits the offense of aggravated assault if the person purposely or knowingly causes serious bodily injury to another or purposely or knowingly, with the use of physical force or contact, causes reasonable apprehension of serious bodily injury or death in another. (2) A person convicted of aggravated assault shall be imprisoned in the state prison for a term not to exceed 20 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222. History: En. 94-5-202 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 6, Ch. 584, L. 1977; R.C.M. 1947, 94-5-202; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 289, L. 1981; amd. Sec. 1, Ch. 163, L. 1985; amd. Sec. 4, Ch. 482, L. 1995; amd. Sec. 1, Ch. 245, L. 1997; amd. Sec. 2, Ch. 433, L. 1997; amd. Sec. 6, Ch. 432, L. 1999; amd. Sec. 1, Ch. 472, L. 2007.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-203. Intimidation

45-5-203. Intimidation. (1) A person commits the offense of intimidation when, with the purpose to cause another to perform or to omit the performance of any act, the person communicates to another, under circumstances that reasonably tend to produce a fear that it will be carried out, a threat to perform without lawful authority any of the following acts: (a) inflict physical harm on the person threatened or any other person; (b) subject any person to physical confinement or restraint; or (c) commit any felony. (2) A person commits the offense of intimidation if the person knowingly communicates a threat or false report of a pending fire, explosion, or disaster that would endanger life or property. (3) A person convicted of the offense of intimidation shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-5-203 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-203; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 268, L. 1985; amd. Sec. 1654, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-204. Mistreating prisoners

45-5-204. Mistreating prisoners. (1) A person commits the offense of mistreating prisoners if, being responsible for the care or custody of a prisoner, the person purposely or knowingly: (a) assaults or otherwise injures a prisoner; (b) intimidates, threatens, endangers, or withholds reasonable necessities from the prisoner with the purpose to obtain a confession from the prisoner or for any other purpose; or (c) violates any civil right of a prisoner. (2) A person convicted of the offense of mistreating prisoners shall be

removed from office or employment and shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-8-113 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-113; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1655, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-205. Negligent vehicular assault -- penalty

45-5-205. Negligent vehicular assault -- penalty. (1) A person who negligently operates a vehicle, other than a bicycle as defined in 61-8-102, while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided for in 61-8-1002, and who causes bodily injury to another commits the offense of negligent vehicular assault. (2) Subject to subsection (3), a person convicted of the offense of negligent vehicular assault shall be fined an amount not to exceed \$1,000 or incarcerated in a county jail for a term not to exceed 1 year, or both, and shall be ordered to pay restitution as provided in 46-18-241. (3) A person convicted of the offense of negligent vehicular assault who caused serious bodily injury to another shall be fined an amount not to exceed \$10,000 or incarcerated for a term not to exceed 10 years, or both, and shall be ordered to pay restitution as provided in 46-18-241. (4) If a term of incarceration is imposed under subsection (2) or (3), the judge may suspend the term of incarceration upon the condition of payment of any fine imposed and of restitution. If the person does not pay the fine or restitution, the term of incarceration may be imposed. History: En. Sec. 1, Ch. 93, L. 1985; amd. Sec. 1, Ch. 196, L. 1987; amd. Sec. 14, Ch. 789, L. 1991; amd. Sec. 1, Ch. 317, L. 1997; amd. Sec. 1, Ch. 17, L. 2001; amd. Sec. 1, Ch. 563, L. 2001; amd. Sec. 40, Ch. 542, L. 2005; amd. Sec. 21, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-206. Partner or family member assault -- penalty

45-5-206. Partner or family member assault -- penalty. (1) A person commits the offense of partner or family member assault if the person: (a) purposely or knowingly causes bodily injury to a partner or family member; (b) negligently causes bodily injury to a partner or family member with a weapon; or (c) purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member. (2) For the purposes of Title 40, chapter 15, 45-5-231 through 45-5-234, 46-6-311, and this section, the following definitions apply: (a) "Family member" means mothers, fathers, children, brothers, sisters, and other past or present family members of a household. These relationships include relationships created by adoption and remarriage, including stepchildren, stepparents, in-laws, and adoptive children and parents. These relationships continue regardless of the ages of the parties and whether the parties reside in the same household. (b) "Partners" means spouses, former spouses, persons who have a child in common, and persons who have been or are currently in a dating or ongoing intimate relationship. (3) (a) (i) An offender convicted of partner or family member assault shall be fined an amount not less than \$100 or more than \$1,000 and be imprisoned in the county jail for a term not to exceed 1 year or not less than 24 hours for a first offense. (ii) An offender convicted of a second offense under this section shall be fined not less than \$300 or more than \$1,000 and be imprisoned in the county jail not less than 72 hours or more than 1 year. (iii) Upon a first or second conviction, the offender may be ordered into misdemeanor probation as provided in 46-23-1005. (iv) On a third or subsequent conviction for partner or family member assault, the offender shall be fined not less than \$500 and not more than \$50,000 and be imprisoned for a term not less than 30 days and not more than 5 years. If the term of imprisonment does not exceed 1 year, the person shall be imprisoned in the county jail. If the term of imprisonment exceeds 1 year, the person shall be imprisoned in the state prison. (v) If the offense was committed within the vision or hearing of a minor, the judge shall consider the minor's presence as a factor at the time of sentencing. (b) For the purpose of determining the number of convictions under this section, a conviction means: (i) a conviction, as defined in 45-2-101, under this section; (ii) a conviction for domestic abuse under this section; (iii) a conviction for a violation of a statute similar to this section in another state; (iv) if the offender was a partner or family member of the victim, a conviction for aggravated assault under 45-5-202 or assault with a weapon under 45-5-213; (v) a conviction for strangulation of a partner or family member under 45-5-215; (vi) a conviction in another state for an offense related to domestic violence between partners or family members, as those terms are defined in this section, regardless of what the offense is named or whether it is misdemeanor or felony, if the offense involves conduct similar to conduct that is prohibited under 45-5-202, 45-5-213, or this section; or (vii) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or in another state for a violation of a statute similar to this section, which forfeiture has not been vacated. (4) (a) An offender convicted of partner or family member assault is required to pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency. An investigative criminal justice report, as defined in 45-5-231, must be copied and sent to the offender intervention program, as defined in 45-5-231, to assist the counseling provider in properly assessing the offender's need for counseling and treatment. Counseling providers shall take all required precautions to ensure the confidentiality of the report. If the report contains confidential information relating to the victim's location or not related to the charged offense, that information must be deleted from the report prior to being sent to the offender intervention program. (b) The offender shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court. The counseling must include a preliminary assessment for counseling, as defined in 45-5-231. The offender shall complete a minimum of 40 hours of counseling. The counseling may include attendance at psychoeducational groups, as defined in 45-5-231, in addition to the assessment. The preliminary assessment and counseling that holds the offender accountable for the offender's violent or controlling behavior must meet the standards established pursuant to

44-7-210 and be: (i) with a person licensed under Title 37, chapter 17, 22, or 23; (ii) with a professional person as defined in 53-21-102; or (iii) in a specialized domestic violence intervention program. (c) The minimum counseling and attendance at psychoeducational groups provided in subsection (4)(b) must be directed to the violent or controlling conduct of the offender. Other issues indicated by the assessment may be addressed in additional counseling beyond the minimum 40 hours. Subsection (4)(b) does not prohibit the placement of the offender in other appropriate treatment if the court determines that there is no available treatment program directed to the violent or controlling conduct of the offender. (5) In addition to any sentence imposed under subsections (3) and (4), after determining the financial resources and future ability of the offender to pay restitution as provided for in 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable actual medical, housing, wage loss, and counseling costs. (6) In addition to the requirements of subsection (5), if financially able, the offender must be ordered to pay for the costs of the offender's probation, if probation is ordered by the court. (7) The court may prohibit an offender convicted under this section from possession or use of the firearm used in the assault. The court may enforce 45-8-323 if a firearm was used in the assault. (8) The court shall provide an offender with a written copy of the offender's sentence at the time of sentencing or within 2 weeks of sentencing if the copy is sent electronically or by mail. History: En. Sec. 1, Ch. 700, L. 1985; amd. Sec. 1, Ch. 480, L. 1989; amd. Sec. 257, Ch. 800, L. 1991; amd. Sec. 2, Ch. 425, L. 1993; amd. Sec. 51, Ch. 18, L. 1995; amd. Sec. 10, Ch. 350, L. 1995; amd. Sec. 2, Ch. 245, L. 1997; amd. Sec. 5, Ch. 484, L. 1997; amd. Sec. 8, Ch. 432, L. 1999; amd. Sec. 6, Ch. 503, L. 2001; amd. Sec. 1, Ch. 438, L. 2003; amd. Sec. 1, Ch. 161, L. 2013; amd. Sec. 1, Ch. 228, L. 2013; amd. Sec. 3, Ch. 104, L. 2017; amd. Sec. 6, Ch. 394, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-207. Criminal endangerment -- penalty

45-5-207. Criminal endangerment -- penalty. (1) A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of criminal endangerment. This conduct includes but is not limited to knowingly placing in a tree, log, or any other wood any steel, iron, ceramic, or other substance for the purpose of damaging a saw or other wood harvesting, processing, or manufacturing equipment. (2) A high blood alcohol concentration, alone is not sufficient to support a criminal endangerment charge. (3) A person convicted of the offense of criminal endangerment shall be fined an amount not to exceed \$50,000 or imprisoned in the state prison for a term not to exceed 10 years, or both. (4) As used in this section, "alcohol concentration" has the meaning provided in 61-8-1001. History: En. Sec. 2, Ch. 196, L. 1987; amd. Sec. 1, Ch. 299, L. 1989; amd. Sec. 4, Ch. 321, L. 2017; amd. Sec. 22, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-208. Negligent endangerment -- penalty

45-5-208. Negligent endangerment -- penalty. (1) A person who negligently engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of negligent endangerment. (2) A person convicted of the offense of negligent endangerment shall be fined an amount not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 1 year, or both. History: En. Sec. 3, Ch. 196, L. 1987.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-209. Partner or family member assault -- no contact order -- notice -- violation of order -- penalty

45-5-209. Partner or family member assault -- no contact order -- notice -- violation of order -- penalty. (1) A court may issue a standing no contact order and direct law enforcement to serve the order on a defendant charged with or arrested for a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, 45-5-213, or 45-5-215. The court order may specify conditions necessary to enhance the safety of any protected person. The court-ordered conditions may include prohibiting the defendant from contacting the protected person in person, by a third party, by telephone, by electronic communication, as defined in 45-8-213, and in writing. The court may impose up to a 1,500-foot restriction on the defendant to stay away from the protected person's location. (2) Notice of the no contact order must be given orally and in writing by a peace officer at the time that the offender is charged with or arrested for a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, 45-5-213, or 45-5-215. One copy of the order must be given to the defendant, and one copy must be filed with the court. (3) The charge of a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, 45-5-213, or 45-5-215 must be supported by a peace officer's affidavit of probable cause. (4) The no contact order issued at the time that the defendant is charged with or arrested for a violation of 45-5-206 or, if the victim is a partner or family member of the defendant, a violation of 45-5-202, 45-5-213, or 45-5-215 is effective for 72 hours or until the defendant makes the first appearance in court. (5) The court order must state: "You have been charged with or arrested for an assault on a partner or family member. You are not allowed to have contact with

_____ (list names). You may not _____.

_____. Violation of this no contact order is a criminal offense under 45-5-209, MCA, and may result in your arrest. You may be arrested even if the person protected by the no contact order invites or allows you to violate the prohibitions. This order lasts 72 hours or until the court continues or changes the order." (6) The court shall review and amend, if appropriate, the no contact order at the defendant's first appearance. (7) A no contact order may be issued by a court with jurisdiction over violations of 45-5-206 or, if the victim is a partner or family member of the defendant, violations of 45-5-202,

45-5-213, or 45-5-215 at the time of the defendant's arraignment or at any other appearance of the defendant, including sentencing. The no contact order must be in writing. A copy of the no contact order must be given to the defendant when it is issued by the court. The court order shall specify protected persons and prohibited contact, including but not limited to the restriction mentioned in subsection (1). (8) (a) A person commits the offense of violation of a no contact order if the person, with knowledge of the order, purposely or knowingly violates any provision of any order issued under this section. (b) Each contact or attempt to make contact with each protected person, directly or indirectly, is a separate offense. Consent of the protected person to prohibited contact is not a defense. A protected person may not be charged with a violation of a no contact order. (c) An offender convicted of violation of a no contact order shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (9) As used in this section, the following definitions apply: (a) "No contact order" means a court order that prohibits a defendant charged with or convicted of an assault on a partner or family member from contacting a protected person. (b) "Partner" or "family member" has the meaning provided in 45-5-206. (c) "Protected person" means a victim of a partner or family member assault listed in a no contact order. History: En. Sec. 1, Ch. 411, L. 2005; amd. Sec. 47, Ch. 44, L. 2007; amd. Sec. 1, Ch. 328, L. 2015; amd. Sec. 7, Ch. 394, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-210. Assault on peace officer or judicial officer

45-5-210. Assault on peace officer or judicial officer. (1) A person commits the offense of assault on a peace officer or judicial officer if the person purposely or knowingly causes: (a) bodily injury to a peace officer or judicial officer; (b) reasonable apprehension of serious bodily injury in a peace officer or judicial officer by use of: (i) a weapon; or (ii) what reasonably appears to be a weapon; (c) bodily injury to a peace officer or judicial officer with a weapon; or (d) serious bodily injury to a peace officer or judicial officer. (2) (a) A person convicted of assault on a peace officer or judicial officer: (i) under subsection (1)(a), (1)(b)(i), or (1)(c) shall be imprisoned in the state prison for a term of not less than 2 years or more than 10 years and may be fined an amount not to exceed \$50,000; or (ii) under subsection (1)(b)(ii) shall be imprisoned in the state prison for a term not to exceed 10 years and may be fined an amount not to exceed \$50,000. (b) Except as provided in 46-18-222, a person convicted of assault on a peace officer or judicial officer under subsection (1)(d) shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 5 years or more than 20 years, or both. (3) As used in this section, the following definitions apply: (a) "Judicial officer" has the meaning provided in 1-1-202 and includes the workers' compensation judge, water court judges, and judges pro tempore. (b) "Peace officer" has the meaning provided in 45-2-101 and includes a person, sworn or unsworn, who is responsible for the care or custody of an adult or youth offender. (4) Criminal endangerment, negligent endangerment, and assault, as defined in 45-5-201, are not included as offenses of assault on a peace officer or judicial officer. History: En. Sec. 1, Ch. 433, L. 1997; amd. Sec. 1, Ch. 436, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-211. Assault upon sports official

45-5-211. Assault upon sports official. (1) A person commits the offense of assault upon a sports official if, while a sports official is acting as an official at an athletic contest in any sport at any level of amateur or professional competition, the person: (a) purposely or knowingly causes bodily injury to the sports official; (b) negligently causes bodily injury to the sports official with a weapon; (c) purposely or knowingly makes physical contact of an insulting or provoking nature with the sports official; or (d) purposely or knowingly causes reasonable apprehension of bodily injury in the sports official. (2) A person convicted of assault upon a sports official shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. Sec. 1, Ch. 408, L. 1993.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-212. Assault on minor

45-5-212. Assault on minor. (1) A person commits the offense of assault on a minor if the person commits an offense under 45-5-201, and at the time of the offense, the victim is under 14 years of age and the offender is 18 years of age or older. (2) (a) Except as provided in subsection (2)(b) or (2)(c), a person convicted of assault on a minor shall be imprisoned in a state prison for a term not to exceed 5 years or be fined not more than \$50,000, or both. (b) If at the time of the offense the victim is under 36 months of age, a person convicted of assault on a minor: (i) for a first offense under this subsection (2)(b) shall be imprisoned in a state prison for a term not to exceed 10 years or be fined not more than \$50,000, or both; or (ii) for a second or subsequent offense under this subsection (2)(b) shall be imprisoned in a state prison for a term not to exceed 20 years or be fined not more than \$50,000, or both. (c) If at the time of the offense the victim is under 36 months of age, a person convicted of assault on a minor that resulted in serious bodily injury to the victim: (i) for a first offense under this subsection (2)(c) shall be imprisoned in a state prison for a term not to exceed 20 years or be fined not more than \$50,000, or both; or (ii) for a second or subsequent offense under this subsection (2)(c) shall be imprisoned in a state prison for a term not to exceed 40 years or be fined not more than \$50,000, or both. (3) An offender convicted of an offense under subsection (2)(b) or (2)(c) shall pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency and complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court and be a person licensed under Title 37, chapter 17,

22, or 23, or a professional person as defined in 53-21-102. The offender shall complete a minimum of 40 hours of counseling. History: En. Sec. 5, Ch. 432, L. 1999; amd. Sec. 1, Ch. 378, L. 2013.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-213. Assault with weapon

45-5-213. Assault with weapon. (1) A person commits the offense of assault with a weapon if the person purposely or knowingly causes: (a) bodily injury to another with a weapon; or (b) reasonable apprehension of serious bodily injury in another by use of a weapon or what reasonably appears to be a weapon. (2) (a) Subject to the provisions of subsection (2)(b), a person convicted of assault with a weapon shall be imprisoned in the state prison for a term not to exceed 20 years or be fined not more than \$50,000, or both. (b) In addition to any sentence imposed under subsection (2)(a), if the person convicted of assault with a weapon is a partner or family member of the victim, as defined in 45-5-206, the person is required to pay for and complete a counseling assessment as required in 45-5-206(4). History: En. Sec. 7, Ch. 432, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-214. Assault with bodily fluid

45-5-214. Assault with bodily fluid. (1) A person commits the offense of assault with a bodily fluid if the person purposely causes one of the person's bodily fluids to make physical contact with: (a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care provider, as defined in 50-4-504, including a health care provider performing emergency services, while the health care provider is acting in the course and scope of the health care provider's profession and occupation: (i) during or after an arrest for a criminal offense; (ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or regional jail or detention facility, or a health care facility; or (iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city, or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility, short-term detention center, correctional facility as defined in 41-5-103, health care facility, or shelter care facility; or (b) an emergency responder. (2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to exceed \$1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both. (3) The youth court has jurisdiction of any violation of this section by a minor. (4) As used in this section, the following definitions apply: (a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva. (b) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency care provider, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident. History: En. Sec. 1, Ch. 388, L. 1999; amd. Sec. 1, Ch. 292, L. 2005; amd. Sec. 5, Ch. 321, L. 2017; amd. Sec. 12, Ch. 220, L. 2019; amd. Sec. 21, Ch. 339, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-215. Strangulation of partner or family member

45-5-215. Strangulation of partner or family member. (1) A person commits the offense of strangulation of a partner or family member if the person purposely or knowingly impedes the normal breathing or circulation of the blood of a partner or family member by: (a) applying pressure on the throat or neck of the partner or family member; or (b) blocking air flow to the nose and mouth of the partner or family member. (2) (a) A person convicted of a first offense of strangulation of a partner or family member shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. (b) A person convicted of a second or subsequent offense under this section shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined an amount not more than \$50,000, except as provided in 46-18-219 and 46-18-222. (3) A person convicted of strangulation of a partner or family member is required to pay for and complete a counseling assessment as required in 45-5-206(4). (4) For the purposes of this section, "partner" and "family member" have the meanings provided in 45-5-206. History: En. Sec. 1, Ch. 394, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-216. through 45-5-219 reserved

45-5-216 through 45-5-219 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-220. Stalking -- exemption -- penalty

45-5-220. Stalking -- exemption -- penalty. (1) A person commits the offense of stalking if the person purposely or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person to: (a) fear for the person's own safety or the safety of a third person; or (b) suffer other substantial emotional distress. (2) For the purposes of this section, the following definitions apply: (a) "Course of conduct" means two or more acts, including but not limited to acts in which the offender directly or indirectly, by any action, method, communication, or physical or electronic devices or means, follows, monitors, observes, surveils, threatens, harasses, or intimidates a person or interferes with a

person's property. (b) "Monitors" includes the use of any electronic, digital, or global positioning device or similar technological means. (c) "Reasonable person" means a reasonable person under similar circumstances as the victim. This is an objective standard. (d) "Substantial emotional distress" means significant mental suffering or distress that may but does not necessarily require medical or other professional treatment or counseling. (3) This section does not apply to a constitutionally protected activity. (4) (a) Except as provided in subsection (4)(b), for the first offense, a person convicted of stalking shall be imprisoned in the county jail for a term not to exceed 1 year or fined an amount not to exceed \$1,000, or both. (b) For a second or subsequent offense within 20 years or for a first offense when the offender violated any order of protection, when the offender used force or a weapon or threatened to use force or a weapon, or when the victim is a minor and the offender is at least 5 years older than the victim, the offender shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or both. (c) A person convicted of stalking may be sentenced to pay all medical, counseling, and other costs incurred by or on behalf of the victim as a result of the offense. (5) Upon presentation of credible evidence of violation of this section, an order may be granted, as set forth in Title 40, chapter 15, restraining a person from engaging in the activity described in subsection (1). (6) For the purpose of determining the number of convictions under this section, "conviction" means: (a) a conviction, as defined in 45-2-101, in this state; (b) a conviction for a violation of a statute similar to this section in another state; or (c) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or another state for a violation of a statute similar to this section, which forfeiture has not been vacated. (7) Attempts by the accused person to contact or follow the stalked person after the accused person has been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie evidence that the accused person purposely or knowingly followed, harassed, threatened, or intimidated the stalked person. History: En. Sec. 1, Ch. 292, L. 1993; amd. Sec. 11, Ch. 350, L. 1995; amd. Sec. 1, Ch. 344, L. 2003; amd. Sec. 2, Ch. 255, L. 2019; amd. Sec. 1, Ch. 444, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-221. Malicious intimidation or harassment relating to civil or human rights -- penalty

45-5-221. Malicious intimidation or harassment relating to civil or human rights -- penalty. (1) A person commits the offense of malicious intimidation or harassment when, because of another person's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities, the person purposely or knowingly, with the intent to terrify, intimidate, threaten, harass, annoy, or offend: (a) causes bodily injury to another; (b) causes reasonable apprehension of bodily injury in another; or (c) damages, destroys, or defaces any property of another or any public property. (2) For purposes of this section, "deface" includes but is not limited to cross burning or the placing of any word or symbol commonly associated with racial, religious, or ethnic identity or activities on the property of another person without the other person's permission. (3) A person convicted of the offense of malicious intimidation or harassment shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both. History: En. Secs. 1, 2, Ch. 570, L. 1989; amd. Sec. 1656, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-222. Sentence enhancement -- offenses committed because of victim's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities

45-5-222. Sentence enhancement -- offenses committed because of victim's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities. (1) A person who has pleaded guilty or nolo contendere to or who has been found guilty of any offense, except malicious intimidation or harassment, that was committed because of the victim's race, creed, religion, color, national origin, or involvement in civil rights or human rights activities or that involved damage, destruction, or attempted destruction of a building regularly used for religious worship, in addition to the punishment provided for commission of the offense, may, if the provisions of 46-1-401 have been complied with, be sentenced to a term of imprisonment of not less than 2 years or more than 10 years, except as provided in 46-18-222. (2) An additional sentence prescribed by subsection (1) must run consecutively to the sentence, except as provided in 46-18-222. History: En. Sec. 3, Ch. 570, L. 1989; amd. Sec. 3, Ch. 395, L. 1999; amd. Sec. 2, Ch. 524, L. 2001.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-223. Surreptitious visual observation or recordation -- place of residence -- public place -- exceptions

45-5-223. Surreptitious visual observation or recordation -- place of residence -- public place -- exceptions. (1) A person commits the offense of surreptitious visual observation or recordation in a place of residence if the person purposely or knowingly hides, waits, or otherwise loiters in person or by means of a remote electronic device within or in the vicinity of a private dwelling house, apartment, or other place of residence for the purpose of: (a) watching, gazing at, or looking upon any occupant in the residence in a surreptitious manner without the occupant's knowledge; or (b) by means of an electronic device, surreptitiously observing or recording the visual image of any occupant in the residence without the occupant's knowledge. (2) A person commits the offense of surreptitious visual observation or recordation in public if the person purposely or knowingly observes or records a visual image of the sexual or intimate parts of another person in a public place without the other person's knowledge when the victim has a reasonable expectation of privacy. (3) Subsections (1) and (2) do not apply to a law enforcement officer, an agent or employee of an insurer, or a private investigator licensed pursuant to 37-60-301 or to any person engaged in fraud detection, prevention, or prosecution pursuant to 2-15-2015 or 39-71-211 while the officer, agent, employee, or private investigator is acting in the course

and scope of employment for legitimate investigative purposes. (4) A person convicted of an offense under subsection (1) or (2) shall be fined an amount not to exceed \$500 or be incarcerated in the county jail for a term not to exceed 6 months, or both. Upon a second conviction, a person shall be fined an amount not to exceed \$1,000 or be incarcerated for a term not to exceed 1 year, or both. Upon a third or subsequent conviction, a person shall be fined an amount not to exceed \$10,000 or be incarcerated for a term not to exceed 5 years, or both. History: En. Sec. 1, Ch. 62, L. 1997; amd. Sec. 3, Ch. 303, L. 1997; amd. Sec. 1, Ch. 75, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-224. through 45-5-230 reserved

45-5-224 through 45-5-230 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-231. Definitions

45-5-231. Definitions. As used in 45-5-231 through 45-5-234, unless the context requires otherwise, the following definitions apply: (1) "Assault on a partner or family member" has the meaning provided in 45-5-206 for partner or family member assault. (2) "Chemical dependency treatment" means required counseling and treatment related to chemical dependency issues. (3) "Counseling" means clinical professional counseling as defined in 37-39-102 and includes group counseling for the purposes of 45-5-231 through 45-5-234. (4) "Investigative criminal justice report" means the investigative report prepared by a law enforcement agency associated with an offender's arrest for an assault on a partner or family member, excluding any confidential information relating to the victim's location and confidential information not related to the offense. (5) "Offender" means a person convicted of an assault on a partner or family member. (6) "Offender intervention program" means the combination of counseling and other services that is organized in a judicial district to provide a preliminary assessment for counseling and other services that are required for an offender. (7) "Preliminary assessment for counseling" means the counseling assessment completed by a counselor to determine an offender's need for counseling, attendance at psychoeducational groups, and referrals for other treatment. This assessment must be completed either before or within 4 weeks after counseling and psychoeducational groups are started. (8) "Psychoeducational group" means a group discussion, with instructional content themes, that encourages sharing and feedback, increases self-awareness, and is aimed at facilitating change in group members' daily lives. (9) "Recreational intoxicant" means a substance, drug, or other chemical that was taken for the purpose of causing a person to be in a different emotional or psychological state and was not taken for a medically recognized therapeutic purpose. (10) "Victim" means a person against whom the offender committed an assault. History: En. Sec. 1, Ch. 503, L. 2001; amd. Sec. 23, Ch. 713, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-232. Offender intervention counseling referral

45-5-232. Offender intervention counseling referral. (1) The court shall notify the offender intervention program of the court's sentence and the court's judgment ordering the offender to complete a preliminary assessment and all recommended counseling, referrals, and attendance at psychoeducational groups, as well as other recommended treatment, including chemical dependency treatment. (2) A copy of the investigative criminal justice report related to the offense charged must be sent to the offender intervention program to assist counselors in completing the offender's assessment, counseling, referrals, and psychoeducational group counseling. Before the report is sent, information in the report that relates to the victim's location or does not relate to the charged offense must be deleted. (3) The referral of the offender's investigative report to the offender intervention program does not violate the confidentiality provisions under Title 44, chapter 5. The court shall adopt and the offender intervention program must include confidentiality procedures to protect the privacy rights of the victim and offender. History: En. Sec. 2, Ch. 503, L. 2001.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-233. Report to court or probation officer

45-5-233. Report to court or probation officer. (1) The head of the offender intervention program shall report to the court and the offender's probation officer. The report does not breach confidentiality. (2) The head of the offender intervention program shall report to the court or the offender's probation officer, if the offender is assigned a probation officer, when: (a) the offender has started the program; (b) the offender has completed the assessment and the program has established recommendations for counseling, referrals, and attendance at psychoeducational groups, as well as other recommended treatment, including chemical dependency treatment; (c) the offender has violated the offender intervention program rules related to attendance, the use of violence, and the use of recreational intoxicants; and (d) the offender has completed the program. History: En. Sec. 3, Ch. 503, L. 2001.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 2. Assault and Related Offenses 45-5-234. Offender intervention counseling confidentiality

45-5-234. Offender intervention counseling confidentiality. (1) Offender intervention programs must have policies and procedures to protect the confidentiality of the offender and the victim. The investigative criminal justice report may be used within the offender intervention counseling sessions and psychoeducational groups after precautions are taken to protect confidentiality. (2) The

counselor may contact the victim of the assault. The counselor may notify the victim that the offender intervention program is not a guarantee that the offender will not be violent. The victim may be asked to provide information about the most recent offense, the offender's history of violence, the offender's use of recreational intoxicants, the offender's use of power and control over the victim, and whether the offender has committed another offense. All precautions must be taken to prevent this contact from increasing the victim's danger. (3) The counselor shall, when possible, warn the victim if the offender exhibits behavior or makes statements in a group meeting that indicate imminent danger to the victim. If the counselor is unable to tell the victim this information, information about these high-risk behaviors must be given to the local victim advocacy agency. This contact does not violate the offender's right to confidentiality. History: En. Sec. 4, Ch. 503, L. 2001.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 3. Kidnapping 45-5-301.

Unlawful restraint

45-5-301. Unlawful restraint. (1) A person commits the offense of unlawful restraint if the person knowingly or purposely and without lawful authority restrains another so as to interfere substantially with the other person's liberty. (2) A person convicted of the offense of unlawful restraint shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-5-301 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-301; amd. Sec. 1657, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 3. Kidnapping 45-5-302.

Kidnapping

45-5-302. Kidnapping. (1) A person commits the offense of kidnapping if the person knowingly or purposely and without lawful authority restrains another person by either secreting or holding the other person in a place of isolation or by using or threatening to use physical force. (2) A person convicted of the offense of kidnapping shall be imprisoned in the state prison for a term of not less than 2 years or more than 10 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222. History: En. 94-5-302 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 7, Ch. 584, L. 1977; R.C.M. 1947, 94-5-302; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 5, Ch. 482, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 3. Kidnapping 45-5-303.

Aggravated kidnapping

45-5-303. Aggravated kidnapping. (1) A person commits the offense of aggravated kidnapping if the person knowingly or purposely and without lawful authority restrains another person by either secreting or holding the other person in a place of isolation or by using or threatening to use physical force, with any of the following purposes: (a) to hold for ransom or reward or as a shield or hostage; (b) to facilitate commission of any felony or flight thereafter; (c) to inflict bodily injury on or to terrorize the victim or another; (d) to interfere with the performance of any governmental or political function; or (e) to hold another in a condition of involuntary servitude. (2) Except as provided in 46-18-219 and 46-18-222, a person convicted of the offense of aggravated kidnapping shall be punished by death or life imprisonment as provided in 46-18-301 through 46-18-310 or be imprisoned in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than \$50,000, unless the person has voluntarily released the victim alive, in a safe place, and with no serious bodily injury, in which event the person shall be imprisoned in the state prison for a term of not less than 2 years or more than 10 years and may be fined not more than \$50,000. History: En. 94-5-303 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 12, Ch. 338, L. 1977; amd. Sec. 8, Ch. 584, L. 1977; R.C.M. 1947, 94-5-303; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 6, Ch. 482, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 3. Kidnapping 45-5-304.

Custodial interference

45-5-304. Custodial interference. (1) A person commits the offense of custodial interference if, knowing that the person has no legal right to do so, the person takes, entices, or withholds from lawful custody any child, incompetent person, or other person entrusted by authority of law to the custody of another person or institution. (2) A person convicted of the offense of custodial interference shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. (3) With respect to the first alleged commission of the offense only, a person who has not left the state does not commit an offense under this section if the person voluntarily returns the child, incompetent person, or other person to lawful custody before arraignment. With respect to the first alleged commission of the offense only, a person who has left the state does not commit an offense under this section if the person voluntarily returns the child, incompetent person, or other person to lawful custody before arrest. History: En. 94-5-305 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-305; amd. Sec. 1, Ch. 274, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 518, L. 1987; amd. Sec. 4, Ch. 467, L. 1995; amd. Sec. 34, Ch. 343, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 3. Kidnapping 45-5-307. through 45-5-309 reserved

45-5-307 through 45-5-309 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 4. Robbery 45-5-401. Robbery

45-5-401. Robbery.(1) A person commits the offense of robbery if in the course of committing a theft, the person: (a) inflicts bodily injury upon another; (b) threatens to inflict bodily injury upon any person or purposely or knowingly puts any person in fear of immediate bodily injury; or (c) commits or threatens immediately to commit any felony other than theft. (2) A person convicted of the offense of robbery shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222. (3) "In the course of committing a theft", as used in this section, includes acts that occur in an attempt to commit or in the commission of theft or in flight after the attempt or commission. History: En. 94-5-401 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 9, Ch. 584, L. 1977; R.C.M. 1947, 94-5-401; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 7, Ch. 482, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-501. Definitions

45-5-501. Definitions.(1) (a) As used in 45-5-502, 45-5-503, and 45-5-508, the term "consent" means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact and is further defined but not limited by the following: (i) an expression of lack of consent through words or conduct means there is no consent or that consent has been withdrawn; (ii) a current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent; and (iii) lack of consent may be inferred based on all of the surrounding circumstances and must be considered in determining whether a person gave consent. (b) Subject to subsections (1)(c) through (1)(g), the victim is incapable of consent because the victim is: (i) mentally disordered or incapacitated; (ii) physically helpless; (iii) overcome by deception, coercion, or surprise; (iv) less than 16 years old; (v) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, conditional release, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search; (vi) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator: (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and (B) is an employee, contractor, or volunteer of the youth care facility; (vii) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator: (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and (B) is an employee, contractor, or volunteer of the facility or community-based service; (viii) a program participant, as defined in 52-2-802, in a private alternative adolescent residential or outdoor program, pursuant to Title 52, chapter 2, part 8, and the perpetrator is a person associated with the program, as defined in 52-2-802; (ix) the victim is a client receiving psychotherapy services and the perpetrator: (A) is providing or purporting to provide psychotherapy services to the victim; or (B) is an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the victim and the perpetrator has supervisory or disciplinary authority over the victim; (x) a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting; (xi) a witness in a criminal investigation or a person who is under investigation in a criminal matter and the perpetrator is a law enforcement officer who is involved with the case in which the victim is a witness or is being investigated; or (xii) a parent or guardian involved in a child abuse or neglect proceeding under Title 41, chapter 3, and the perpetrator is: (A) employed by the department of public health and human services for the purposes of carrying out the department's duties under Title 41, chapter 3; and (B) directly involved in the parent or guardian's case or involved in the supervision of the case. (c) Subsection (1)(b)(v) does not apply if the individuals are married to each other and one of the individuals involved is on probation, conditional release, or parole and the other individual is a probation or parole officer of a supervising authority. (d) Subsections (1)(b)(vi) and (1)(b)(vii) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service. (e) Subsection (1)(b)(viii) does not apply if the individuals are married to each other and one of the individuals involved is a program participant and the other individual is a person associated with the program. (f) Subsection (1)(b)(ix) does not apply if the individuals are married to each other and one of the individuals involved is a psychotherapy client and the other individual is a psychotherapist or an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the client. (g) Subsection (1)(b)(x) does not apply if the individuals are married to each other. (2) As used in 45-5-508, the term "force" means: (a) the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or (b) the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat. (3) As used in 45-5-502 and this section, the following definitions apply: (a) "Conditional release", in the case of a youth offender, has the meaning provided in 41-5-103. (b) "Parole", in the case of an adult offender, has the meaning provided in 46-1-202. (c) "Probation" means: (i) in the case of an adult offender, release without imprisonment of a defendant found guilty of a crime and subject to the supervision of a supervising authority; and (ii) in the case of a youth offender, supervision of the youth by a youth court pursuant to Title 41, chapter 5. (d) (i) "Psychotherapy services" means treatment, diagnosis, or counseling in a professional relationship to assist individuals or groups to alleviate behavioral or mental health disorders, understand unconscious or conscious motivation, resolve emotional, relationship, or attitudinal conflicts, or modify behaviors that interfere with effective emotional, social, or intellectual functioning regardless of whether the individual providing the psychotherapy services is licensed or

unlicensed. (ii) The term does not include a partner surrogate working with a clinical social worker, clinical professional counselor, or a marriage and family therapist as those professionals are licensed in Title 37, chapter 39. (e) "Supervising authority" includes a court, including a youth court, a county, or the department of corrections. History: En. 94-5-501 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 2, Ch. 405, L. 1975; amd. Sec. 15, Ch. 359, L. 1977; R.C.M. 1947, 94-5-501; amd. Sec. 3, Ch. 175, L. 1991; amd. Sec. 1, Ch. 218, L. 1991; amd. Secs. 1, 8, Ch. 687, L. 1991; amd. Sec. 1, Ch. 84, L. 1999; amd. Sec. 1, Ch. 562, L. 2001; amd. Sec. 1, Ch. 321, L. 2007; amd. Sec. 1, Ch. 335, L. 2007; amd. Sec. 8, Ch. 161, L. 2015; amd. Sec. 2, Ch. 279, L. 2017; amd. Sec. 1, Ch. 133, L. 2019; amd. Sec. 1, Ch. 181, L. 2019; amd. Sec. 24, Ch. 344, L. 2019; amd. Sec. 1, Ch. 346, L. 2019; amd. Sec. 24, Ch. 713, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-502. Sexual assault

45-5-502. Sexual assault. (1) A person who knowingly subjects another person to any sexual contact without consent commits the offense of sexual assault. (2) Except as provided in subsections (3) and (4): (a) on a first conviction for sexual assault, the offender shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both; (b) on a second conviction for sexual assault, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both; and (c) on a third and subsequent conviction for sexual assault, the offender shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 5 years, or both. (3) If the victim is less than 16 years old and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing sexual assault, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000. (4) If the victim is a client receiving psychotherapy services and the offender is providing or purporting to provide psychotherapy services to the victim, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years and may be fined not more than \$50,000. (5) An act "in the course of committing sexual assault" includes an attempt to commit the offense or flight after the attempt or commission. (6) (a) Subject to subsections (6)(b) through (6)(f), consent is ineffective under this section if the victim is: (i) incarcerated in an adult or juvenile correctional, detention, or treatment facility or is on probation, conditional release, or parole and the perpetrator is an employee, contractor, or volunteer of the supervising authority and has supervisory or disciplinary authority over the victim, unless the act is part of a lawful search; (ii) less than 14 years old and the offender is 3 or more years older than the victim; (iii) receiving services from a youth care facility, as defined in 52-2-602, and the perpetrator: (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and (B) is an employee, contractor, or volunteer of the youth care facility; (iv) admitted to a mental health facility, as defined in 53-21-102, is admitted to a community-based facility or a residential facility, as those terms are defined in 53-20-102, or is receiving community-based services, as defined in 53-20-102, and the perpetrator: (A) has supervisory or disciplinary authority over the victim or is providing treatment to the victim; and (B) is an employee, contractor, or volunteer of the facility or community-based service; (v) a program participant, as defined in 52-2-802, in a private alternative adolescent residential or outdoor program, pursuant to Title 52, chapter 2, part 8, and the perpetrator is a person associated with the program, as defined in 52-2-802; (vi) the victim is a client receiving psychotherapy services and the perpetrator: (A) is providing or purporting to provide psychotherapy services to the victim; or (B) is an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the victim and the perpetrator has supervisory or disciplinary authority over the victim; or (vii) a student of an elementary, middle, junior high, or high school, whether public or nonpublic, and the perpetrator is not a student of an elementary, middle, junior high, or high school and is an employee, contractor, or volunteer of any school who has ever had instructional, supervisory, disciplinary, or other authority over the student in a school setting. (b) Subsection (6)(a)(i) does not apply if one of the parties is on probation, conditional release, or parole and the other party is a probation or parole officer of the supervising authority and the parties are married to each other. (c) Subsections (6)(a)(iii) and (6)(a)(iv) do not apply if the individuals are married to each other and one of the individuals involved is a patient in or resident of a facility, is a recipient of community-based services, or is receiving services from a youth care facility and the other individual is an employee, contractor, or volunteer of the facility or community-based service. (d) Subsection (6)(a)(v) does not apply if the individuals are married to each other and one of the individuals involved is a program participant and the other individual is a person associated with the program. (e) Subsection (6)(a)(vi) does not apply if the individuals are married to each other and one of the individuals involved is a psychotherapy client and the other individual is a psychotherapist or an employee, contractor, or volunteer of a facility that provides or purports to provide psychotherapy services to the client. (f) Subsection (6)(a)(vii) does not apply if the individuals are married to each other. History: En. 94-5-502 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-502; amd. Sec. 1, Ch. 687, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 172, L. 1985; amd. Sec. 1, Ch. 564, L. 1991; amd. Sec. 2, Ch. 687, L. 1991; amd. Sec. 1, Ch. 550, L. 1995; amd. Sec. 2, Ch. 84, L. 1999; amd. Sec. 1, Ch. 450, L. 2003; amd. Sec. 2, Ch. 321, L. 2007; amd. Sec. 2, Ch. 335, L. 2007; amd. Sec. 1, Ch. 46, L. 2011; amd. Sec. 2, Ch. 181, L. 2019; amd. Sec. 25, Ch. 344, L. 2019; amd. Sec. 2, Ch. 346, L. 2019; amd. Sec. 1, Ch. 205, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-503. Sexual intercourse without consent

45-5-503. Sexual intercourse without consent.(1) A person who knowingly has sexual intercourse with another person without consent or with another person who is incapable of consent commits the offense of sexual intercourse without consent. A person may not be convicted under this section based on the age of the person's spouse, as provided in 45-5-501(1)(b)(iv). (2) A person convicted of sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-219, 46-18-222, and subsections (3), (4), and (5) of this section. (3) (a) If the victim is less than 16 years old and the offender is 4 or more years older than the victim or if the offender inflicts bodily injury on anyone in the course of committing sexual intercourse without consent, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222. (b) If two or more persons are convicted of sexual intercourse without consent with the same victim in an incident in which each offender was present at the location where another offender's offense occurred during a time period in which each offender could have reasonably known of the other's offense, each offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 5 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222. (c) If the offender was previously convicted of an offense under this section or of an offense under the laws of another state or of the United States that if committed in this state would be an offense under this section and if the offender inflicted serious bodily injury on a person in the course of committing each offense, the offender shall be: (i) punished by death as provided in 46-18-301 through 46-18-310, unless the offender is less than 18 years of age at the time of the commission of the offense; or (ii) punished as provided in 46-18-219. (4) (a) If the victim was 12 years of age or younger and the offender in the course of committing a violation of this section was 18 years of age or older at the time of the offense, the offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply. (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010. (5) If the victim is at least 14 years of age and the offender is 18 years of age or younger, the offender may be punished by imprisonment in the state prison for a term of not more than 5 years and may be fined not more than \$10,000 if: (a) the offender has not previously been found to have committed or been adjudicated for a sexual offense as defined in 46-23-502; (b) a psychosexual evaluation of the offender has been prepared and the court finds that registration is not necessary for protection of the public and that relief from registration is in the public's best interest; and (c) the court finds that the alleged conduct was consensual as indicated by words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact. (6) In addition to any sentence imposed under subsection (2) or (3), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable medical and counseling costs that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244. (7) As used in subsections (3) and (4), an act "in the course of committing sexual intercourse without consent" includes an attempt to commit the offense or the act of flight after the attempt or commission. (8) If as a result of sexual intercourse without consent a child is born, the offender who has been convicted of an offense under this section and who is the biological parent of the child resulting from the sexual intercourse without consent forfeits all parental and custodial rights to the child if the provisions of 46-1-401 have been followed. History: En. 94-5-503 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 2, L. 1975; amd. Sec. 1, Ch. 129, L. 1975; amd. Sec. 1, Ch. 94, L. 1977; amd. Sec. 16, Ch. 359, L. 1977; amd. Sec. 10, Ch. 584, L. 1977; R.C.M. 1947, 94-5-503; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 172, L. 1985; amd. Sec. 1, Ch. 356, L. 1985; amd. Sec. 1, Ch. 644, L. 1985; amd. Sec. 1, Ch. 175, L. 1991; amd. Sec. 2, Ch. 218, L. 1991; amd. Sec. 3, Ch. 687, L. 1991; amd. Sec. 1, Ch. 85, L. 1993; amd. Sec. 8, Ch. 482, L. 1995; amd. Sec. 2, Ch. 550, L. 1995; amd. Sec. 1, Ch. 312, L. 1997; amd. Sec. 3, Ch. 84, L. 1999; amd. Sec. 4, Ch. 523, L. 1999; amd. Sec. 85, Ch. 114, L. 2003; amd. Sec. 3, Ch. 335, L. 2007; amd. Sec. 5, Ch. 483, L. 2007; amd. Sec. 1, Ch. 149, L. 2013; amd. Sec. 1, Ch. 277, L. 2017; amd. Sec. 3, Ch. 279, L. 2017; amd. Sec. 6, Ch. 321, L. 2017; amd. Sec. 1, Ch. 228, L. 2019.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-504. Indecent exposure

45-5-504. Indecent exposure.(1) A person commits the offense of indecent exposure if the person knowingly or purposely exposes the person's genitals or intimate parts by any means, including electronic communication as defined in 45-5-625(5)(a), under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to: (a) abuse, humiliate, harass, or degrade another; or (b) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person. (2) (a) A person convicted of the offense of indecent exposure shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term of not more than 6 months, or both. (b) On a second conviction, the person shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term of not more than 1 year, or both. (c) On a third or subsequent conviction, the person shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term of not more than 10 years, or both. (3) (a) A person commits the offense of indecent exposure to a minor if the person commits an offense under

subsection (1) and the person knows the conduct will be observed by a person who is under 16 years of age and the offender is more than 4 years older than the victim. (b) A person convicted of the offense of indecent exposure to a minor shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years, or both. History: En. 94-5-504 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-504; amd. Sec. 1, Ch. 176, L. 1991; amd. Sec. 4, Ch. 687, L. 1991; amd. Sec. 3, Ch. 550, L. 1995; amd. Sec. 2, Ch. 288, L. 1999; amd. Sec. 1, Ch. 144, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-505. Renumbered 45-8-218

45-5-505. Renumbered 45-8-218. Sec. 8, Ch. 225, L. 2013.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-506. Renumbered 45-5-511

45-5-506. Renumbered 45-5-511. Code Commissioner, 1983.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-507. Incest

45-5-507. Incest. (1) A person commits the offense of incest if the person knowingly marries, cohabits with, has sexual intercourse with, or has sexual contact, as defined in 45-2-101, with an ancestor, a descendant, a brother or sister of the whole or half blood, a nephew or niece, or any stepson or stepdaughter. The relationships referred to in this subsection include blood relationships without regard to legitimacy, relationships of parent and child by adoption, and relationships involving a stepson or stepdaughter. (2) (a) Consent is a defense to incest with or upon a stepson or stepdaughter, but consent is ineffective if the stepson or stepdaughter is less than 18 years of age and the stepparent is 4 or more years older than the stepson or stepdaughter. (b) A person who is less than 18 years of age is not legally responsible or legally accountable for the offense of incest and is considered a victim of the offense of incest if the other person in the incestuous relationship is 4 or more years older than the victim. (3) Except as provided in subsections (4) and (5), a person convicted of incest shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years or be fined an amount not to exceed \$50,000. (4) If the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing incest, the offender shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$50,000. (5) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (5)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply. (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010. (6) In addition to any sentence imposed under subsection (3), (4), or (5), after determining the financial resources and future ability of the offender to pay restitution as required by 46-18-242, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244. History: En. 94-5-606 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-606; amd. Sec. 7, Ch. 198, L. 1981; MCA 1981, 45-5-613; redes. 45-5-507 by Code Commissioner, 1983; amd. Sec. 1, Ch. 438, L. 1983; amd. Sec. 2, Ch. 644, L. 1985; amd. Sec. 1, Ch. 174, L. 1989; amd. Sec. 5, Ch. 687, L. 1991; amd. Sec. 4, Ch. 550, L. 1995; amd. Sec. 6, Ch. 483, L. 2007; amd. Sec. 1, Ch. 226, L. 2017; amd. Sec. 7, Ch. 321, L. 2017; amd. Sec. 2, Ch. 228, L. 2019; amd. Sec. 1, Ch. 536, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-508. Aggravated sexual intercourse without consent

45-5-508. Aggravated sexual intercourse without consent. (1) A person who uses force while knowingly having sexual intercourse with another person without consent or with another person who is incapable of consent commits the offense of aggravated sexual intercourse without consent. (2) A person convicted of aggravated sexual intercourse without consent shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 10 years or more than 100 years and may be fined not more than \$50,000, except as provided in 46-18-219 and 46-18-222. History: En. Sec. 1, Ch. 279, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-509. and 45-5-510 reserved

45-5-509 and 45-5-510 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-511.

Provisions generally applicable to sexual crimes

45-5-511. Provisions generally applicable to sexual crimes.(1) When criminality depends on the victim being less than 16 years old, it is a defense for the offender to prove that the offender reasonably believed the child to be above that age. The belief may not be considered reasonable if the child is less than 14 years old. (2) Evidence concerning the sexual conduct of the victim is inadmissible in prosecutions under this part except evidence of the victim's past sexual conduct with the offender or evidence of specific instances of the victim's sexual activity to show the origin of semen, pregnancy, or disease that is at issue in the prosecution. (3) If the defendant proposes for any purpose to offer evidence described in subsection (2), the trial judge shall order a hearing out of the presence of the jury to determine whether the proposed evidence is admissible under subsection (2). (4) Evidence of failure to make a timely complaint or immediate outcry does not raise any presumption as to the credibility of the victim. (5) Resistance by the victim is not required to show lack of consent. Force, fear, or threat is sufficient alone to show lack of consent. History: En. 94-5-506 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 17, Ch. 359, L. 1977; R.C.M. 1947, 94-5-506; amd. Sec. 3, Ch. 407, L. 1979; MCA 1981, 45-5-506; redes. 45-5-511 by Code Commissioner, 1983; amd. Sec. 3, Ch. 172, L. 1985; amd. Sec. 1, Ch. 425, L. 1987; amd. Sec. 6, Ch. 687, L. 1991; amd. Sec. 1658, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-512. Chemical treatment of sex offenders

45-5-512. Chemical treatment of sex offenders.(1) A person convicted of a first offense under 45-5-502(3), 45-5-503(3), or 45-5-507(4) or (5) may, in addition to the sentence imposed under those sections, be sentenced to undergo medically safe medroxyprogesterone acetate treatment or its chemical equivalent or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both, administered by the department of corrections or its agent pursuant to subsection (4) of this section. (2) A person convicted of a second or subsequent offense under 45-5-502(3), 45-5-503, or 45-5-507 may, in addition to the sentence imposed under those sections, be sentenced to undergo medically safe medroxyprogesterone acetate treatment or its chemical equivalent or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both, administered by the department of corrections or its agent pursuant to subsection (4) of this section. (3) A person convicted of a first or subsequent offense under 45-5-502, 45-5-503, or 45-5-507 who is not sentenced to undergo medically safe medroxyprogesterone acetate treatment or its chemical equivalent or other medically safe drug treatment that reduces sexual fantasies, sex drive, or both, may voluntarily undergo such treatment, which must be administered by the department of corrections or its agent and paid for by the department of corrections. (4) Treatment under subsection (1) or (2) must begin 1 week before release from confinement and must continue until the department of corrections determines that the treatment is no longer necessary. Failure to continue treatment as ordered by the department of corrections constitutes a criminal contempt of court for failure to comply with the sentence, for which the sentencing court shall impose a term of incarceration without possibility of parole of not less than 10 years or more than 100 years. (5) Prior to chemical treatment under this section, the person must be fully medically informed of its effects. (6) A state employee who is a professional medical person may not be compelled against the employee's wishes to administer chemical treatment under this section. History: En. Sec. 1, Ch. 334, L. 1997; amd. Sec. 2, Ch. 341, L. 1997; amd. Sec. 7, Ch. 483, L. 2007.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 5. Sexual Crimes 45-5-513. Geographic restrictions applicable to high-risk sexual offenders

45-5-513. Geographic restrictions applicable to high-risk sexual offenders.(1) A high-risk sexual offender as provided in this section may not: (a) establish a residence within 300 feet of a school, day-care center, playground, developed or improved park, athletic field or facility that primarily serves minors, or business or facility having a principal purpose of caring for, educating, or entertaining minors. This subsection (1)(a) does not apply if the residence was established on or before May 5, 2015. (b) establish a residence or any other living accommodation in a place where a minor resides, except that the offender may reside with a minor if the offender is the parent, grandparent, or stepparent of the minor unless: (i) the offender's parental rights were terminated or are in the process of being terminated as provided by law; (ii) the offender was convicted of a sexual offense in which any of the offender's minor children, grandchildren, or stepchildren were the victim; or (iii) the offender was convicted of a sexual offense in which a minor was the victim and the minor resided with the offender at the time of the offense; (c) knowingly make any visual or audible sexually suggestive or obscene gesture, sound, or communication at or to a former victim or a member of the victim's immediate family; (d) knowingly come within 300 feet of a former victim of the offender without the prior written permission of the victim or the victim's legal guardian; (e) accept, maintain, or carry on regular employment at or within 300 feet of a school, day-care center, playground, developed or improved park, athletic field or facility that primarily serves minors, or business or facility having a principal purpose of caring for, educating, or entertaining minors. (2) A high-risk sexual offender who knowingly violates a provision of this section is guilty of a felony and upon conviction shall be punished as provided in 46-18-213. (3) For high-risk sexual offenders who are no longer under the supervision of the department of corrections, the residential and geographic restrictions provided in subsections (1)(a) and (1)(e) do not apply if the high-risk sexual offender possesses an approved safety plan from a sexual offender evaluator to mitigate the risk of reoffending and protect public safety. The safety plan must be reevaluated annually by a sexual offender evaluator to ensure any conditions or requirements are adequate and protect public safety. (4) This section does not apply to offenders who are placed in a facility in operation by the department of corrections, the department of public health and human services, or a contractor with either department before October 1, 2015. The department of corrections and

the department of public health and human services shall adopt rules specifying the type of facility to which this section applies. (5) The department of corrections and the department of public health and human services may also exempt from the requirements of this section offenders who are placed in a facility to be operated by either department or a contractor with either department beginning on or after October 1, 2015. The department of corrections and the department of public health and human services shall adopt rules specifying facilities to which this subsection applies. As part of the process of granting an exemption to a facility constructed or designated after October 1, 2015, the department of corrections and the department of public health and human services shall hold at least one public hearing in the community where the facility is to be located. (6) As used in this section, the following definitions apply: (a) "Day-care center" has the meaning provided in 52-2-703. (b) "High-risk sexual offender" means a person 18 years of age or older who is designated as a sexually violent predator under 46-23-509 and has committed a sexual offense against a victim 12 years of age or younger. (c) "Minor" means a person under 18 years of age. (d) "Regular employment" means employment for which a sexual offender has a reasonable expectation of employment for longer than 90 days. (e) "Sexual offense" has the meaning provided in 46-23-502. History: En. Sec. 1, Ch. 412, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-601. Prostitution -- patronizing prostitute -- exception

45-5-601. Prostitution -- patronizing prostitute -- exception. (1) Except as provided in subsection (2)(a), the offense of prostitution is committed if a person engages in or agrees or offers to engage in sexual intercourse or sexual contact that is direct and not through clothing with another person for compensation, whether the compensation is received or to be received or paid or to be paid. (2) (a) A prostitute may be convicted of prostitution only if the prostitute engages in or agrees or offers to engage in sexual intercourse with another person for compensation, whether the compensation is received or to be received or paid or to be paid. A prostitute who is convicted of prostitution may be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (b) A patron may be convicted of patronizing a prostitute if the patron engages in or agrees or offers to engage in sexual intercourse or sexual contact that is direct and not through clothing with another person for compensation, whether the compensation is received or to be received or paid or to be paid. Except as provided in subsection (3), a patron who is convicted of prostitution shall for the first offense be fined an amount not to exceed \$5,000 or be imprisoned for a term not to exceed 5 years, or both, and for a second or subsequent offense shall be fined an amount not to exceed \$10,000 or be imprisoned for a term not to exceed 10 years, or both. (3) (a) If the person patronized was a child and the patron was 18 years of age or older at the time of the offense, whether or not the patron was aware of the child's age, the patron offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole. (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010. (4) It is not a violation of this section for a person with an impaired physical ability, physical dysfunction, recent injury, or other disability to engage in sex therapy with a partner surrogate who is working under the supervision of a clinical social worker, marriage and family therapist, or clinical professional counselor licensed under Title 37, chapter 39. (5) It is not a defense in a prosecution under this section that a child consented to engage in sexual activity. (6) It is not a defense in a prosecution under this section that a defendant believed the child was an adult. Absolute liability, as provided in 45-2-104, is imposed. History: En. 94-5-602 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 80, L. 1975; R.C.M. 1947, 94-5-602; amd. Sec. 2, Ch. 312, L. 2001; amd. Sec. 8, Ch. 483, L. 2007; amd. Sec. 5, Ch. 374, L. 2013; amd. Sec. 2, Ch. 308, L. 2019; amd. Sec. 9, Ch. 167, L. 2023; amd. Sec. 25, Ch. 713, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-605. through 45-5-610 reserved

45-5-605 through 45-5-610 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-611. Bigamy

45-5-611. Bigamy. (1) A person commits the offense of bigamy if, while married, the person knowingly contracts or purports to contract another marriage unless at the time of the subsequent marriage: (a) the offender believes on reasonable grounds that the prior spouse is dead; (b) the offender and the prior spouse have been living apart for 5 consecutive years throughout which the prior spouse was not known by the offender to be alive; (c) a court has entered a judgment purporting to terminate or annul any prior disqualifying marriage and the offender does not know that judgment to be invalid; or (d) the offender reasonably believes that the offender is legally eligible to remarry. (2) A person convicted of bigamy shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-5-604 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-604; amd. Sec. 1660, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the

Family45-5-612. Marrying a bigamist

45-5-612. Marrying a bigamist.(1) A person commits the offense of marrying a bigamist if the person contracts or purports to contract a marriage with another knowing that the other is committing bigamy. (2) A person convicted of the offense of marrying a bigamist shall be fined not to exceed \$500 or be imprisoned in the county jail for any period not to exceed 6 months, or both. History: En. 94-5-605 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-605; amd. Sec. 1661, Ch. 56, L. 2009.

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45-5-613. Renumbered 45-5-507.Code Commissioner, 1983.

2024 Montana Code AnnotatedTitle 45. CrimesChapter 5. Offenses Against the PersonPart 6. Offenses Against the Family45-5-614. through 45-5-619 reserved

45-5-614 through 45-5-619 reserved.

2024 Montana Code AnnotatedTitle 45. CrimesChapter 5. Offenses Against the PersonPart 6. Offenses Against the Family45-5-621. Nonsupport

45-5-621. Nonsupport.(1) A person commits the offense of nonsupport if the person fails to provide support that the person can provide and that the person knows the person is legally obliged to provide to a spouse, child, or other dependent. (2) (a) A person commits the offense of aggravated nonsupport if the person has: (i) left the state without making reasonable provisions for the support of a spouse, child, or other dependent; or (ii) been previously convicted of the offense of nonsupport. (b) For purposes of this section, "conviction" means a conviction, as defined in 45-2-101, in this state, conviction for a violation of a statute similar to this section in another state, or a forfeiture of bail or collateral deposited to secure a person's appearance in court in this state or another state, which forfeiture has not been vacated. (3) If a defense to the charge of nonsupport is inability to pay, the person's inability must be the result of circumstances over which the person had no control. In determining ability to pay, after an allowance for the person's minimal subsistence needs, the support of a spouse, child, or other dependent has priority over any other obligations of the person. (4) When a person is ordered to pay support by a court or administrative agency with jurisdiction to enter the order, the support order is prima facie evidence of the person's legal obligation to provide support. (5) Payment records maintained by the court or administrative agency that issued the support order are prima facie evidence of the amount of support paid and the arrearages that have accrued. (6) It is not a defense to a charge of nonsupport that any other person, organization, or agency furnishes necessary food, clothing, shelter, medical attention, or other essential needs for the support of the spouse, child, or other dependent. (7) (a) Except as provided in subsection (7)(b) or (7)(c), a person convicted of nonsupport shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (b) A person convicted of nonsupport who has failed to provide support under a court or administrative order for 6 months or more or who has failed to provide support in a cumulative amount equal to or in excess of 6 months' support shall be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 10 years, all but 2 years of which must be suspended, with the person placed on probation for the remainder of the imprisonment term, or both. (c) A person convicted of aggravated nonsupport shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. (8) Before trial with the consent of the defendant, on entry of a plea of guilty or nolo contendere, or after conviction, instead of the penalty provided in subsection (7) or in addition to that penalty, the defendant may post a bond, undertaking, or other security. This security must be for a period of 10 years. The court shall fix the sum of the security in an amount sufficient to ensure payment of support by the defendant. After the security is posted, the court shall release the defendant on the condition that the defendant comply with any order for support. If there is no order for support, the court shall order the defendant to pay support to the spouse, child, or other dependent in an amount that is consistent with the defendant's ability to pay and, if applicable, the child support guidelines adopted under 40-5-209. (9) The bond, undertaking, or other security posted pursuant to subsection (8) is forfeited if the defendant fails to pay support as ordered, and the court may proceed to try the defendant upon the original charge of nonsupport, sentence the defendant under the original plea or conviction, or enforce a suspended sentence. (10) As part of any prosecution under this section, the court shall also order the offender to make restitution to the spouse, the child's caretaker, or any other dependent or to the person or agency that provided support to the spouse, child, or other dependent. The amount of restitution is the sum of the arrearages payable under a support order or, if there is no support order, an amount determined reasonable by the court. The terms for payment of restitution must be determined by the court. (11) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of nonsupport paid to or for the benefit of any person that the offender has failed to support. A bond, undertaking, or other security forfeited under subsection (9) must be paid to the person or agency entitled to receive support from the offender. (12) When a payment of public assistance money has been made for the benefit of a child by the department of public health and human services under the provisions of Title 53, a representative of the department may sign a criminal complaint against the person obligated by law to support the child who received the public assistance. (13) The court may order that a term of imprisonment imposed under this section be served in another facility made available by the county and approved by the sentencing court. The offender, if financially able, shall bear the expense of the imprisonment. The court may impose restrictions on the offender's ability to leave the premises of the facility and require that the defendant follow the rules of that facility. The facility may be a community-based

prerelease center as provided for in 53-1-203. The prerelease center may accept or reject an offender referred by the sentencing court. History: En. 94-5-608 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 19, Ch. 359, L. 1977; R.C.M. 1947, 94-5-608; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 3, Ch. 429, L. 1993; amd. Sec. 199, Ch. 546, L. 1995; amd. Sec. 4, Ch. 395, L. 1999; amd. Sec. 1, Ch. 286, L. 2003.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-622. Endangering welfare of children

45-5-622. Endangering welfare of children. (1) (a) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly endangers the child's welfare by violating a duty of care, protection, or support. (b) A parent or guardian of a child does not violate a duty of care, protection, or support by permitting the child to engage in independent activities consistent with the child's intellectual, emotional, and physical maturity, including: (i) traveling to and from school by walking, running, bicycling, public transit, or other means; (ii) traveling to and from nearby commercial or recreational facilities; (iii) engaging in outdoor play; (iv) remaining for less than 15 minutes in a vehicle if the temperature inside the vehicle is not or will not become dangerously hot or cold; (v) remaining at home if the parent or guardian: (A) returns home the same day on which the parent or guardian gives the child permission to remain at home; (B) makes provisions for the child to contact the parent or guardian; and (C) makes provisions for any reasonably foreseeable emergency. (2) Except as provided in 16-6-305, a parent or guardian or any person who is 18 years of age or older, whether or not the parent, guardian, or other person is supervising the welfare of the child, commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly contributes to the delinquency of a child less than: (a) 18 years old by: (i) supplying or encouraging the use of an intoxicating substance by the child; or (ii) assisting, promoting, or encouraging the child to enter a place of prostitution; or (b) 16 years old by assisting, promoting, or encouraging the child to: (i) abandon the child's place of residence without the consent of the child's parents or guardian; or (ii) engage in sexual conduct. (3) A person, whether or not the person is supervising the welfare of a child less than 18 years of age, commits the offense of endangering the welfare of children if the person, in the residence of a child, in a building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple-unit residential building, knowingly: (a) produces or manufactures methamphetamine or attempts to produce or manufacture methamphetamine; (b) possesses any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107 with intent to manufacture methamphetamine; or (c) causes or permits a child to inhale, be exposed to, have contact with, or ingest methamphetamine or be exposed to or have contact with methamphetamine paraphernalia. (4) A parent, guardian, or other person supervising the welfare of a child less than 16 years of age may verbally or in writing request a person who is 18 years of age or older and who has no legal right of supervision or control over the child to stop contacting the child if the requester believes that the contact is not in the child's best interests. If the person continues to contact the child, the parent, guardian, or other person supervising the welfare of the child may petition or the county attorney may upon the person's request petition for an order of protection under Title 40, chapter 15. To the extent that they are consistent with this subsection, the provisions of Title 40, chapter 15, apply. A person who purposely or knowingly violates an order of protection commits the offense of endangering the welfare of children and upon conviction shall be sentenced as provided in subsection (5)(a). (5) (a) Except as provided in subsection (5)(b), a person convicted of endangering the welfare of children shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of children shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (b) A person convicted under subsection (3) is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed 5 years and may be fined an amount not to exceed \$10,000, or both. If a child suffers serious bodily injury, the offender shall be fined an amount not to exceed \$25,000 or be imprisoned for a term not to exceed 10 years, or both. Prosecution or conviction of a violation of subsection (3) does not bar prosecution or conviction for any other crime committed by the offender as part of the same conduct. (6) On the issue of whether there has been a violation of the duty of care, protection, and support, the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury. (7) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has endangered. History: En. 94-5-607 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 85, L. 1975; amd. Sec. 1, Ch. 218, L. 1977; amd. Sec. 18, Ch. 359, L. 1977; R.C.M. 1947, 94-5-607; amd. Sec. 1, Ch. 405, L. 1987; amd. Sec. 3, Ch. 448, L. 1989; amd. Sec. 1, Ch. 333, L. 1997; amd. Sec. 1, Ch. 75, L. 2007; (1)(b) En. Sec. 1, Ch. 408, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-623. Unlawful transactions with children

45-5-623. Unlawful transactions with children. (1) Except as provided for in 16-6-305, a person commits the offense of unlawful transactions with children if the person knowingly: (a) sells or gives explosives to a child except as authorized under appropriate city ordinances; (b) sells or gives intoxicating substances other than alcoholic beverages to a child; (c) sells or gives an alcoholic beverage to a person under 21 years of age; (d) sells or gives to a child a tobacco product, alternative nicotine product, or vapor product, as defined in 16-11-302; (e) sells or gives to a child a synthetic marijuana product, as defined in 16-12-102; (f) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child without authorization of the parent or guardian;

or (g) tattoos or provides a body piercing on a child without the explicit in-person consent of the child's parent or guardian. For purposes of this subsection (1)(g), "tattoo" and "body piercing" have the meaning provided in 50-48-102. Failure to adequately verify the identity of a parent or guardian is not an excuse for violation of this subsection (1)(g). (2) A person convicted of the offense of unlawful transactions with children shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (See compiler's comments for contingent termination of certain text.) History: En. 94-5-609 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-609; amd. Sec. 2, Ref. 74, app. Nov. 7, 1978; amd. Sec. 4, Ch. 217, L. 1987; amd. Sec. 4, Ch. 448, L. 1989; amd. Sec. 1, Ch. 155, L. 1997; amd. Sec. 2, Ch. 391, L. 2003; amd. Sec. 16, Ch. 386, L. 2005; amd. Sec. 1, Ch. 66, L. 2021; amd. Sec. 9, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-624. Possession of or unlawful attempt to purchase intoxicating substance -- interference with sentence or court order

45-5-624. Possession of or unlawful attempt to purchase intoxicating substance -- interference with sentence or court order. (1) A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes, uses, has in the person's possession, or delivers or distributes without consideration an intoxicating substance. A person may not be arrested for or charged with the offense solely because the person was at a place where other persons were possessing or consuming alcoholic beverages or marijuana. A person does not commit the offense if the person consumes or gains possession of an alcoholic beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages or marijuana. (2) (a) In addition to any disposition by the youth court under 41-5-1512, a person under 18 years of age who is convicted under this section: (i) for a first offense, shall be fined an amount not less than \$100 and not to exceed \$300 and: (A) shall be ordered to perform 20 hours of community service; (B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available; and (C) if the person has a driver's license, must have the license confiscated by the court for 30 days, except as provided in subsection (2)(b); (ii) for a second offense, shall be fined an amount not less than \$200 and not to exceed \$600 and: (A) shall be ordered to perform 40 hours of community service; (B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available; (C) if the person has a driver's license, must have the license confiscated by the court for 6 months, except as provided in subsection (2)(b); and (D) shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7); (iii) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than \$900, shall be ordered to perform 60 hours of community service, shall be ordered, and the person's parent or parents or guardian shall be ordered, to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8), if one is available, and shall be required to complete a chemical dependency assessment and treatment, if recommended, as provided in subsection (7). If the person has a driver's license, the court shall confiscate the license for 6 months, except as provided in subsection (2)(b). (b) If the convicted person fails to complete the community-based substance abuse information course and has a driver's license, the court shall order the license suspended for 3 months for a first offense, 9 months for a second offense, and 12 months for a third or subsequent offense. (c) The court shall retain jurisdiction for up to 1 year to order suspension of a license under subsection (2)(b). (3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating substance: (a) for a first offense: (i) shall be fined an amount not less than \$100 or more than \$300; (ii) shall be ordered to perform 20 hours of community service; and (iii) shall be ordered to complete and pay all costs of participation in a community-based substance abuse information course that meets the requirements of subsection (8); (b) for a second offense: (i) shall be fined an amount not less than \$200 or more than \$600; (ii) shall be ordered to perform 40 hours of community service; and (iii) shall be ordered to complete and pay for an alcohol or drug information course at an alcohol or drug treatment program that meets the requirements of subsection (8), which may, in the court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; (c) for a third or subsequent offense: (i) shall be fined an amount not less than \$300 or more than \$900; (ii) shall be ordered to perform 60 hours of community service; (iii) shall be ordered to complete and pay for an alcohol or drug information course at an alcohol or drug treatment program that meets the requirements of subsection (8), which may, in the sentencing court's discretion and on recommendation of a licensed addiction counselor, include alcohol or drug treatment, or both; and (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months. (4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage or marijuana. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service. (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged youth in need of intervention as defined in 41-5-103. The youth court may enter its judgment under 41-5-1512. (6) A person commits the offense of interference with a sentence or court order if the person purposely or knowingly causes a child or ward to fail to comply with a sentence imposed

under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both. (7) (a) A person convicted of a second or subsequent offense of possession of an intoxicating substance shall be ordered to complete a chemical dependency assessment. (b) The assessment must be completed at a treatment program that meets the requirements of subsection (8) and must be conducted by a licensed addiction counselor. The person may attend a program of the person's choice as long as a licensed addiction counselor provides the services. If able, the person shall pay the cost of the assessment and any resulting treatment. (c) The assessment must describe the person's level of abuse or dependency, if any, and contain a recommendation as to the appropriate level of treatment, if treatment is indicated. A person who disagrees with the initial assessment may, at the person's expense, obtain a second assessment provided by a licensed addiction counselor or program that meets the requirements of subsection (8). (d) The treatment provided must be at a level appropriate to the person's alcohol or drug problem, or both, if any, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon the determination, the court shall order the appropriate level of treatment, if any. If more than one counselor makes a determination, the court shall order an appropriate level of treatment based on the determination of one of the counselors. (e) Each counselor providing treatment shall, at the commencement of the course of treatment, notify the court that the person has been enrolled in a chemical dependency treatment program. If the person fails to attend the treatment program, the counselor shall notify the court of the failure. (8) (a) A community-based substance abuse information course required under subsection (2)(a)(i)(B), (2)(a)(ii)(B), (2)(a)(iii), or (3)(a)(iii) must be: (i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by an accrediting entity approved by the U.S. centers for medicare and medicaid services to provide chemical dependency services. (b) An alcohol or drug information course required under subsection (3)(b)(iii) or (3)(c)(iii) must be provided at an alcohol or drug treatment program: (i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by an accrediting entity approved by the U.S. centers for medicare and medicaid services to provide chemical dependency services. (c) A chemical dependency assessment required under subsection (7) must be completed at a treatment program: (i) approved by the department of public health and human services under 53-24-208 or by a court or provided under a contract with the department of corrections; or (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical dependency services and that is accredited by an accrediting entity approved by the U.S. centers for medicare and medicaid services to provide chemical dependency services. (9) Information provided or statements made by a person under 21 years of age to a health care provider or law enforcement personnel regarding an alleged offense against that person under Title 45, chapter 5, part 5, may not be used in a prosecution of that person under this section. This subsection's protection also extends to a person who helps the victim obtain medical or other assistance or report the offense to law enforcement personnel. (10) (a) A person under 21 years of age may not be charged or prosecuted under subsection (1) if: (i) the person has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment; (ii) the person accompanies another person under 21 years of age who has consumed an intoxicating substance and seeks medical treatment at a health care facility or contacts law enforcement personnel or an emergency medical service provider for the purpose of seeking medical treatment for the other person; or (iii) the person requires medical treatment as a result of consuming an intoxicating substance and evidence of a violation of this section is obtained during the course of seeking or receiving medical treatment. (b) For the purposes of this subsection (10), the following definitions apply: (i) "Health care facility" means a facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state. (ii) "Medical treatment" means medical treatment provided by a health care facility or an emergency medical service. (See compiler's comments for contingent termination of certain text.) History: En. 94-5-610 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 87, L. 1974; amd. Sec. 1, Ch. 536, L. 1977; R.C.M. 1947, 94-5-610; amd. Sec. 3, Ref. 74, app. Nov. 7, 1978; amd. Sec. 1, Ch. 105, L. 1985; amd. Sec. 5, Ch. 217, L. 1987; amd. Sec. 65, Ch. 609, L. 1987; amd. Sec. 1, Ch. 412, L. 1989; amd. Sec. 5, Ch. 448, L. 1989; amd. Sec. 1, Ch. 477, L. 1989; amd. Sec. 1, Ch. 502, L. 1991; amd. Sec. 1, Ch. 233, L. 1993; amd. Sec. 6, Ch. 481, L. 1995; amd. Sec. 194, Ch. 42, L. 1997; amd. Sec. 1, Ch. 182, L. 1997; amd. Sec. 54, Ch. 550, L. 1997; amd. Sec. 14, Ch. 23, L. 2001; amd. Sec. 1, Ch. 64, L. 2001; amd. Secs. 3, 5, Ch. 498, L. 2001; amd. Sec. 1, Ch. 611, L. 2003; amd. Sec. 1, Ch. 183, L. 2005; amd. Sec. 1, Ch. 546, L. 2005; amd. Sec. 1, Ch. 245, L. 2007; amd. Sec. 1, Ch. 152, L. 2015; amd. Sec. 3, Ch. 45, L. 2017; amd. Sec. 2, Ch. 312, L. 2021; amd. Sec. 1, Ch. 131, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-625. Sexual abuse of children

45-5-625. Sexual abuse of children. (1) A person commits the offense of sexual abuse of children if the person: (a) knowingly employs, uses, or permits the employment or use of a child in an exhibition of sexual conduct, actual or simulated; (b) knowingly photographs, films, videotapes, develops or duplicates the photographs, films, or videotapes, or records a child engaging in sexual conduct, actual or simulated; (c) knowingly, by any means of communication, including electronic communication or in person, persuades, entices, counsels, coerces, encourages, directs, or procures a child under 16 years of age or a person the offender believes to be a child under 16 years of age to engage in sexual conduct, actual or simulated, or to view sexually explicit material or acts for the purpose of inducing or persuading a child to participate in any sexual activity that is illegal; (d) knowingly processes, develops,

prints, publishes, transports, distributes, sells, exhibits, or advertises any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated; (e) knowingly possesses any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated; (f) finances any of the activities described in subsections (1)(a) through (1)(d) and (1)(g), knowing that the activity is of the nature described in those subsections; (g) possesses with intent to sell any visual or print medium, including a medium by use of electronic communication in which a child is engaged in sexual conduct, actual or simulated; (h) knowingly travels within, from, or to this state with the intention of meeting a child under 16 years of age or a person the offender believes to be a child under 16 years of age in order to engage in sexual conduct, actual or simulated; or (i) knowingly coerces, entices, persuades, arranges for, or facilitates a child under 16 years of age or a person the offender believes to be a child under 16 years of age to travel within, from, or to this state with the intention of engaging in sexual conduct, actual or simulated. (2) (a) Except as provided in subsection (2)(b), (2)(c), or (4), a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term not to exceed 100 years and may be fined not more than \$10,000. (b) Except as provided in 46-18-219, if the victim is under 16 years of age, a person convicted of the offense of sexual abuse of children shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 4 years or more than 100 years and may be fined not more than \$10,000. (c) Except as provided in 46-18-219, a person convicted of the offense of sexual abuse of children for the possession of material, as provided in subsection (1)(e), shall be fined not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. (3) An offense is not committed under subsections (1)(d) through (1)(g) if the visual or print medium is processed, developed, printed, published, transported, distributed, sold, possessed, or possessed with intent to sell, or if the activity is financed, as part of a sexual offender information or treatment course or program conducted or approved by the department of corrections. (4) (a) If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender: (i) shall be punished by imprisonment in a state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 25 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply. (ii) may be fined an amount not to exceed \$50,000; and (iii) shall be ordered to enroll in and successfully complete the educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010. (5) As used in this section, the following definitions apply: (a) "Electronic communication" means a sign, signal, writing, image, sound, data, or intelligence of any nature transmitted or created in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. (b) "Sexual conduct" means: (i) actual or simulated: (A) sexual intercourse, whether between persons of the same or opposite sex, as defined in 1-1-201; (B) penetration of the vagina or rectum by any object, except when done as part of a recognized medical procedure; (C) bestiality; (D) masturbation; (E) sadomasochistic abuse; (F) lewd exhibition of the genitals, breasts, pubic or rectal area, or other intimate parts of any person; or (G) defecation or urination for the purpose of the sexual stimulation of the viewer; or (ii) depiction of a child in the nude or in a state of partial undress with the purpose to abuse, humiliate, harass, or degrade the child or to arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person. (c) "Simulated" means any depicting of the genitals or pubic or rectal area that gives the appearance of sexual conduct or incipient sexual conduct. (d) "Visual medium" means: (i) any film, photograph, videotape, negative, slide, or photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or (ii) any disk, diskette, or other physical media that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method. History: En. Sec. 1, Ch. 505, L. 1979; amd. Sec. 1, Ch. 638, L. 1993; amd. Sec. 2, Ch. 187, L. 1995; amd. Sec. 9, Ch. 482, L. 1995; amd. Sec. 200, Ch. 546, L. 1995; amd. Sec. 5, Ch. 550, L. 1995; amd. Sec. 2, Ch. 344, L. 2003; amd. Sec. 2, Ch. 364, L. 2005; amd. Sec. 1, Ch. 29, L. 2007; amd. Sec. 11, Ch. 483, L. 2007; amd. Sec. 1, Ch. 198, L. 2009; amd. Sec. 1, Ch. 134, L. 2017; amd. Sec. 8, Ch. 321, L. 2017; amd. Sec. 3, Ch. 228, L. 2019; amd. Sec. 22, Ch. 685, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-626. Violation of order of protection

45-5-626. Violation of order of protection. (1) Except as provided in 50-32-609, a person commits the offense of violation of an order of protection if the person, with knowledge of the order, purposely or knowingly violates a provision of any order provided for in 40-4-121 or an order of protection under Title 40, chapter 15. It may be inferred that the defendant had knowledge of an order at the time of an offense if the defendant had been served with the order before the time of the offense. Service of the order is not required upon a showing that the defendant had knowledge of the order and its content. (2) Only the respondent under an order of protection may be cited for a violation of the order. The petitioner who filed for an order of protection may not be cited for a violation of that order of protection. (3) An offender convicted of violation of an order of protection shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both, for a first offense. Upon conviction for a second offense, an offender shall be fined not less than \$200 and not more than \$500 and be imprisoned in the county jail not less than 24 hours and not more than 6 months. Upon conviction for a third or subsequent offense, an offender shall be fined not less than \$500 and not more than \$2,000 and be imprisoned in the county jail or state prison for a term not less than 10 days and not more than 2

years. History: En. Sec. 9, Ch. 526, L. 1985; amd. Sec. 12, Ch. 350, L. 1995; amd. Sec. 13, Ch. 253, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-627. Ritual abuse of minor -- exceptions -- penalty

45-5-627. Ritual abuse of minor -- exceptions -- penalty. (1) A person commits the offense of ritual abuse of a minor if the person purposely or knowingly and as part of any ceremony, rite, or ritual or of any training or practice for any ceremony, rite, or ritual: (a) has sexual intercourse without consent with a person less than 16 years of age; commits assault, aggravated assault, assault on a minor, or assault with a weapon against a victim less than 16 years of age; or kills a person less than 16 years of age; (b) actually or by simulation tortures, mutilates, or sacrifices an animal or person in the presence of the minor; (c) dissects, mutilates, or incinerates a human corpse or remains in the presence of the minor; (d) forces upon the minor or upon another person in the presence of a minor the ingestion or the external bodily application of human or animal urine, feces, flesh, blood, bone, or bodily secretions or drugs or chemical compounds; (e) places a living minor or another living person in the presence of a minor in a coffin or open grave that is empty or that contains a human corpse or remains; or (f) threatens the minor or, in the presence of the minor, threatens any person or animal with death or serious bodily harm and the minor reasonably believes that the threat will or may be carried out. (2) This section does not apply to activities, practices, and procedures otherwise allowed by law. (3) Except as provided in 46-18-219, a person convicted of ritual abuse of a minor shall: (a) for the first offense, be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, or both; and (b) for a second or subsequent offense, be imprisoned in the state prison for any term of not less than 2 years or more than 40 years and may be fined not more than \$50,000, or both. (4) In addition to any sentence imposed under subsection (3), after determining pursuant to 46-18-242 the financial resources and future ability of the offender to pay restitution, the court shall require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense. The amount, method, and time of payment must be determined in the same manner as provided for in 46-18-244. History: En. Sec. 1, Ch. 560, L. 1993; amd. Sec. 10, Ch. 482, L. 1995; amd. Sec. 9, Ch. 432, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-628. Criminal child endangerment

45-5-628. Criminal child endangerment. (1) A person commits the offense of criminal child endangerment if the person purposely, knowingly, or negligently causes substantial risk of death or serious bodily injury to a child under 14 years of age by: (a) failing to seek reasonable medical care for a child suffering from an apparent acute life-threatening condition; (b) placing a child in the physical custody of another who the person knows has previously purposely or knowingly caused bodily injury to a child; (c) placing a child in the physical custody of another who the person knows has previously committed an offense against the child under 45-5-502 or 45-5-503; (d) manufacturing or distributing dangerous drugs in a place where a child is present; (e) operating a motor vehicle under the influence of alcohol or dangerous drugs in violation of 61-8-1002 or committing aggravated driving under the influence as defined in 61-8-1001 with a child in the vehicle; or (f) failing to attempt to provide proper nutrition for a child, resulting in a medical diagnosis of nonorganic failure to thrive. (2) A person may not be charged under subsection (1)(b) or (1)(c) if the person placed the child in the other person's custody pursuant to a court order. (3) A person convicted of the offense of criminal child endangerment shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. (4) For purposes of this section, "nonorganic failure to thrive" means inadequate physical growth that is a result of insufficient nutrition and is not secondary to a diagnosed medical condition. History: En. Sec. 1, Ch. 304, L. 2013; amd. Sec. 23, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-629. and 45-5-630 reserved

45-5-629 and 45-5-630 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-631. Interference with parent-child contact

45-5-631. Interference with parent-child contact. (1) A person who has been granted parent-child contact under a parenting plan commits the offense of interference with parent-child contact if the person knowingly or purposely prevents, obstructs, or frustrates the rights of another person entitled to parent-child contact under an existing court order. (2) A person convicted of the offense of interference with parent-child contact shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 5 days, or both. History: En. Sec. 1, Ch. 493, L. 1987; amd. Sec. 36, Ch. 343, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-632. Aggravated interference with parent-child contact

45-5-632. Aggravated interference with parent-child contact. (1) A person who commits the offense of interference with parent-child contact by changing the residence of the minor child to another state without giving written notice as required in 40-4-217, unless the notice requirement has been precluded under 40-4-234, or without written consent of the person entitled to parent-child contact

pursuant to an existing court order commits the offense of aggravated interference with parent-child contact. (2) A person convicted of the offense of aggravated interference with parent-child contact shall be fined an amount not to exceed \$1,000 or be imprisoned in the state prison for a term not to exceed 18 months, or both. History: En. Sec. 2, Ch. 493, L. 1987; amd. Sec. 37, Ch. 343, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-633. Defenses to interference with parent-child contact and aggravated interference with parent-child contact

45-5-633. Defenses to interference with parent-child contact and aggravated interference with parent-child contact. (1) A person does not commit the offense of interference with parent-child contact or aggravated interference with parent-child contact if the person acts: (a) with the consent of the person entitled to parent-child contact; (b) under an existing court order; or (c) with reasonable cause. (2) Return of the child before arrest is a defense only with respect to the first commission of interference with parent-child contact or aggravated interference with parent-child contact. History: En. Sec. 3, Ch. 493, L. 1987; amd. Sec. 38, Ch. 343, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-634. Parenting interference

45-5-634. Parenting interference. (1) A person commits the offense of parenting interference if, knowing that the person has no legal right to do so, the person: (a) before the entry of a court order determining parenting rights, takes, entices, or withholds a child from the other parent when the action manifests a purpose to substantially deprive that parent of parenting rights; or (b) is one of two persons who has parenting authority of a child under a court order and takes, entices, or withholds the child from the other when the action manifests a purpose to substantially deprive the other parent of parenting rights. (2) A person convicted of the offense of parenting interference shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. (3) With respect to the first alleged commission of the offense only, a person who has not left the state does not commit an offense under this section if the person voluntarily returns the child before arraignment. With respect to the first alleged commission of the offense only, a person who has left the state does not commit an offense under this section if the person voluntarily returns the child before arrest. History: En. Sec. 35, Ch. 343, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-635. and 45-5-636 reserved

45-5-635 and 45-5-636 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 6. Offenses Against the Family 45-5-637. Possession or consumption of tobacco products, alternative nicotine products, or vapor products by persons under 18 years of age prohibited -- unlawful attempt to purchase -- penalties

45-5-637. Possession or consumption of tobacco products, alternative nicotine products, or vapor products by persons under 18 years of age prohibited -- unlawful attempt to purchase -- penalties. (1) A person under 18 years of age who knowingly possesses or consumes a tobacco product, alternative nicotine product, or vapor product, as defined in 16-11-302, commits the offense of possession or consumption of a tobacco product, alternative nicotine product, or vapor product. (2) A person convicted of possession or consumption of a tobacco product, alternative nicotine product, or vapor product: (a) shall be fined \$50 for a first offense, no less than \$75 or more than \$100 for a second offense, and no less than \$100 or more than \$250 for a third or subsequent offense; or (b) may be adjudicated on a petition alleging the person to be a youth in need of intervention under the provisions of the Montana Youth Court Act provided for in Title 41, chapter 5. (3) A person convicted of possession or consumption of a tobacco product, alternative nicotine product, or vapor product may also be required to perform community service or to attend a tobacco cessation program. (4) A person under 18 years of age commits the offense of attempt to purchase a tobacco product, alternative nicotine product, or vapor product if the person knowingly attempts to purchase a tobacco product, alternative nicotine product, or vapor product, as defined in 16-11-302. A person convicted of attempt to purchase a tobacco product, alternative nicotine product, or vapor product: (a) for a first offense, shall be fined \$50 and may be ordered to perform community service; (b) for a second or subsequent offense, shall be fined an amount not to exceed \$100 and may be ordered to perform community service. (5) The fines collected under subsections (2) and (4) must be deposited to the credit of the general fund of the local government that employs the arresting officer, or if the arresting officer is an officer of the highway patrol, the fines must be credited to the county general fund in the county in which the arrest was made. History: En. Sec. 1, Ch. 376, L. 1995; amd. Sec. 55, Ch. 550, L. 1997; amd. Sec. 4, Ch. 498, L. 2001; amd. Sec. 10, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-701. Definitions

45-5-701. Definitions. As used in this part, the following definitions apply: (1) "Adult" means a person 18 years of age or older. (2) "Coercion" means: (a) the use or threat of force against, abduction of, serious harm to, or physical restraint of a person; (b) the use of a plan, pattern, or statement with intent to cause a person to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of a person; (c) the abuse or threatened abuse of law or legal process; (d)

controlling or threatening to control a person's access to any substance defined as a dangerous drug pursuant to Title 50, chapter 32, parts 1 and 2; (e) the actual or threatened destruction or taking of a person's identification document or other property; (f) the use of debt bondage; (g) the use of a person's physical or mental impairment when the impairment has a substantial adverse effect on the person's cognitive or volitional function; or (h) the commission of civil or criminal fraud. (3) "Commercial sexual activity" means sexual activity for which anything of value is given to, promised to, or received by a person. (4) "Debt bondage" means inducing a person to provide: (a) commercial sexual activity in payment toward or satisfaction of a real or purported debt; or (b) labor or services in payment toward or satisfaction of a real or purported debt if: (i) the reasonable value of the labor or services is not applied toward the liquidation of the debt; or (ii) the length of the labor or services is not limited and the nature of the labor or services is not defined. (5) "Human trafficking" means the commission of an offense under 45-5-702, 45-5-703, 45-5-705, 45-5-706, or 45-5-711. (6) "Identification document" means a passport, driver's license, immigration document, travel document, or other government-issued identification document, including a document issued by a foreign government. (7) "Labor or services" means activity having economic value. (8) "Prostitution" has the meaning provided in 45-5-601. (9) "Serious harm" means physical or nonphysical harm, including psychological, economic, or reputational harm to a person that would compel a reasonable person of the same background and in the same circumstances to perform or continue to perform labor or services or sexual activity to avoid incurring the harm. (10) "Sexual activity" means any sex act or simulated sex act intended to arouse or gratify the sexual desire of any person. The term includes a sexually explicit performance. (11) "Sexual contact" has the meaning provided in 45-2-101. (12) "Sexually explicit performance" means a live, public, private, photographed, recorded, or videotaped act or simulated act intended to arouse or gratify the sexual desire of any person. History: En. Sec. 1, Ch. 285, L. 2015; amd. Sec. 10, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-702. Sex trafficking

45-5-702. Sex trafficking. (1) A person commits the offense of sex trafficking if the person purposely or knowingly: (a) owns, controls, manages, supervises, resides in, or otherwise keeps, alone or in association with others, a house of prostitution or prostitution business; (b) procures an individual for a house of prostitution or prostitution business or procures a place in a house of prostitution or prostitution business for an individual; (c) encourages, induces, or otherwise purposely causes another person to become or remain a prostitute; (d) solicits clients for another person who is a prostitute; (e) procures a prostitute for a patron; (f) transports an individual into or within this state with the purpose to promote that individual's engaging in prostitution or procures or pays for transportation with that purpose; (g) leases or otherwise permits a place controlled by the offender, alone or in association with others, to be regularly used for prostitution or for the procurement of prostitution or fails to make reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or using other legally available means; (h) recruits, transports, transfers, harbors, receives, provides, obtains, isolates, maintains, or entices another person intending or knowing that the person will be subjected to prostitution; or (i) benefits, financially or by receiving anything of value, from facilitating any conduct described in subsections (1)(a) through (1)(h). (2) A person convicted of the offense of sex trafficking shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years, fined in the amount of \$400,000, or both. History: En. Sec. 2, Ch. 285, L. 2015; amd. Sec. 5, Ch. 308, L. 2019; amd. Sec. 5, Ch. 666, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-703. Labor trafficking

45-5-703. Labor trafficking. (1) A person commits the offense of labor trafficking if the person purposely or knowingly uses coercion to compel another person to provide labor or services, unless the conduct is otherwise permissible under federal or state law. (2) Except as provided in subsection (3), a person convicted of the offense of labor trafficking shall be imprisoned in the state prison for a term of not more than 15 years, fined in the amount of \$400,000, or both. (3) If the victim is less than 18 years of age, the offender shall be imprisoned in the state prison for a term of not less than 4 years or more than 50 years, fined in the amount of \$400,000, or both. History: En. Sec. 3, Ch. 285, L. 2015; amd. Sec. 7, Ch. 666, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-705. Patronizing victim of sex trafficking

45-5-705. Patronizing victim of sex trafficking. (1) A person commits the offense of patronizing a victim of sex trafficking if the person purposely or knowingly gives, agrees to give, or offers to give anything of value so that a person may engage in commercial sexual activity that involves sexual contact that is direct and not through clothing with another person who the person knows or reasonably should have known is a victim of sex trafficking. (2) Except as provided in subsection (3), a person convicted of the offense of patronizing a victim of sex trafficking shall: (a) for the first offense, be imprisoned in the state prison for a term of not more than 15 years, fined in the amount of \$400,000, or both; or (b) for a second or subsequent offense, be imprisoned in the state prison for a term of not less than 2 years or more than 15 years, fined in the amount of \$400,000, or both. (3) (a) If the individual patronized was a child and the patron was 18 years of age or older, a person convicted of the offense of patronizing a victim of sex trafficking, whether or not the person believed the child was an adult: (i) shall be imprisoned in the state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (3)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment the offender is not eligible for parole. (ii) shall be fined in the amount of \$400,000; and (iii) must be ordered to enroll in and successfully complete the

educational phase and the cognitive and behavioral phase of a sexual offender treatment program provided or approved by the department of corrections. (b) If the offender is released after the mandatory minimum period of imprisonment, the offender is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010. (4) It is not a defense in a prosecution under this section: (a) that a child consented to engage in commercial sexual activity; or (b) that the defendant believed that the child was an adult. Absolute liability, as provided in 45-2-104, is imposed. History: En. Sec. 5, Ch. 285, L. 2015; amd. Sec. 7, Ch. 308, L. 2019; amd. Sec. 8, Ch. 666, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-706. Aggravated sex trafficking

45-5-706. Aggravated sex trafficking. (1) A person commits the offense of aggravated sex trafficking if, during the commission of the offense of sex trafficking, the person purposely or knowingly: (a) uses fraud, coercion, or deception to control an adult to engage in prostitution; or (b) recruits, entices, or obtains the victim of the offense from a shelter that serves runaway youth, foster children, homeless persons, human trafficking victims, or victims of domestic violence or sexual violence. (2) A person convicted of the offense of aggravated sex trafficking shall be imprisoned in the state prison for a term of not less than 5 years or more than 40 years, fined in the amount of \$400,000, or both. The exceptions provided in 46-18-222(5) and (6) do not apply. History: En. Sec. 6, Ch. 285, L. 2015; amd. Sec. 9, Ch. 666, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-707. Property subject to forfeiture -- human trafficking

45-5-707. Property subject to forfeiture -- human trafficking. (1) (a) A person commits the offense of use or possession of property subject to criminal forfeiture for human trafficking if the person knowingly possesses, owns, uses, or attempts to use property that is subject to criminal forfeiture under this section. A person convicted of the offense of use or possession of property subject to criminal forfeiture shall be imprisoned in the state prison for a term not to exceed 10 years. (b) Property is subject to criminal forfeiture under this section if it is used or intended for use in violation of 45-5-702, 45-5-703, 45-5-705, 45-5-706, or 45-5-711. (c) The following property is subject to criminal forfeiture under this section: (i) money, raw materials, products, equipment, and other property of any kind; (ii) property used or intended for use as a container for property enumerated in subsection (1)(c)(i); (iii) except as provided in subsection (2), a conveyance, including an aircraft, vehicle, or vessel; (iv) books, records, research products and materials, formulas, microfilm, tapes, and data; (v) anything of value furnished or intended to be furnished in exchange for the provision of labor or services or commercial sexual activity and all proceeds traceable to the exchange; (vi) negotiable instruments, securities, and weapons; and (vii) personal property constituting or derived from proceeds obtained directly or indirectly from the provision of labor or services or commercial sexual activity. (2) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance or knowingly consented to its use for the purposes described in subsection (1)(b). (3) Criminal forfeiture under this section of property that is encumbered by a bona fide security interest is subject to that interest if the secured party did not use or consent to the use of the property for the purposes described in subsection (1)(b). (4) Property subject to criminal forfeiture under this section may be seized under the following circumstances: (a) A peace officer who has probable cause to make an arrest for a violation as described in subsection (1)(b) may seize a conveyance obtained with the proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency to be held as evidence until a criminal forfeiture is declared or release ordered. (b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property. (c) Seizure without a warrant may be made if: (i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose; (ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding under the provisions of Title 44, chapter 12, or this section; (iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or (iv) a peace officer has probable cause to believe that the property was used or is intended to be used under the circumstances described in subsection (1)(b). (5) A forfeiture proceeding under subsection (1) must be commenced within 45 days of the seizure of the property involved. (6) The procedure for forfeiture proceedings in Title 44, chapter 12, part 2, applies to property seized pursuant to this section. (7) Upon conviction, the property subject to criminal forfeiture is forfeited to the state and proceeds from the sale of property seized under this section must be distributed to the holders of security interests who have presented proper proof of their claims up to the amount of their interests in the property. The remainder, if any, must be deposited in the crime victims compensation account provided for in 53-9-113. History: En. Sec. 7, Ch. 285, L. 2015; amd. Sec. 15, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-708. Past sexual behavior of victim

45-5-708. Past sexual behavior of victim. In a prosecution for an offense under 45-5-702, 45-5-703, 45-5-705, 45-5-706, or 45-5-711 or a civil action under 27-1-755, evidence concerning a specific instance of the victim's past sexual behavior or reputation or opinion evidence of the victim's past sexual behavior is inadmissible unless the evidence is admitted in accordance with 45-5-511(2) or offered by the prosecution to prove a pattern of human trafficking by the defendant. History: En. Sec. 8, Ch. 285, L. 2015; amd. Sec. 16, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-709. Immunity of child -- sex therapy participants

45-5-709. Immunity of child -- sex therapy participants. (1) A person is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution, sex trafficking or prior similar laws in effect at the time the act occurred, or other nonviolent offenses if the person was a child at the time of the offense and committed the offense as a direct result of being a victim of human trafficking. (2) A person who has engaged in commercial sexual activity is not criminally liable or subject to proceedings under Title 41, chapter 5, for prostitution if the person was a child at the time of the offense. (3) A child who under subsection (1) or (2) is not subject to criminal liability or proceedings under Title 41, chapter 5, is presumed to be a youth in need of care under Title 41, chapter 3, and is entitled to specialized services and care, which may include access to protective shelter, food, clothing, medical care, counseling, and crisis intervention services, if appropriate. (4) Subsections (1) through (3) do not apply in a prosecution under 45-5-601 or a proceeding under Title 41, chapter 5, for patronizing a prostitute. (5) It is not a violation of this part for a person with an impaired physical ability, physical dysfunction, recent injury, or other disability to engage in sex therapy with a partner surrogate who is working under the supervision of a clinical social worker, marriage and family therapist, or clinical professional counselor licensed under Title 37, chapter 39. History: En. Sec. 9, Ch. 285, L. 2015; amd. Sec. 8, Ch. 308, L. 2019; amd. Sec. 2, Ch. 468, L. 2019; amd. Sec. 17, Ch. 167, L. 2023; amd. Sec. 26, Ch. 713, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-710. Affirmative defense

45-5-710. Affirmative defense. A person charged with prostitution, sex trafficking or prior similar laws in effect at the time the act occurred, or another nonviolent offense committed as a direct result of being a victim of human trafficking may assert an affirmative defense that the person is a victim of human trafficking. History: En. Sec. 10, Ch. 285, L. 2015; amd. Sec. 18, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-711. Child sex trafficking

45-5-711. Child sex trafficking. (1) A person commits the offense of child sex trafficking by purposely or knowingly: (a) committing the offense of sex trafficking with a child; or (b) recruiting, transporting, transferring, harboring, receiving, providing, obtaining, isolating, maintaining, enticing, or using a child for the purposes of commercial sexual activity. (2) (a) A person convicted of the offense of child sex trafficking shall be imprisoned in the state prison for a term of 100 years. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (2)(a) except as provided in 46-18-222(1) through (4). During the first 25 years of imprisonment, the offender is not eligible for parole. The exceptions provided in 46-18-222(5) and (6) do not apply. (b) In addition to the sentence of imprisonment imposed under subsection (2)(a), the offender: (i) must be fined in the amount of \$400,000; and (ii) if released after the mandatory minimum period of imprisonment, is subject to supervision by the department of corrections for the remainder of the offender's life and shall participate in the program for continuous, satellite-based monitoring provided for in 46-23-1010. (3) It is not a defense in a prosecution under this section: (a) that a child consented to engage in commercial sexual activity; or (b) that the defendant believed the child was an adult. Absolute liability, as provided in 45-2-104, is imposed. History: En. Sec. 6, Ch. 666, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 5. Offenses Against the Person Part 7. Human Trafficking 45-5-712. Evidence in cases of sex trafficking, aggravated sex trafficking, or child sex trafficking

45-5-712. Evidence in cases of sex trafficking, aggravated sex trafficking, or child sex trafficking. (1) In a case that involves a question of whether a place is a house of prostitution, evidence of the following, in addition to all other admissible evidence, is admissible: (a) the general reputation of the place; (b) the reputations of the place's residents and the nonresidents who frequent the place; and (c) the frequency, timing, and duration of visits by nonresidents. (2) Testimony of a person against the person's spouse is admissible under 45-5-702, 45-5-706, or 45-5-711. History: En. Sec. 20, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 1. Criminal Mischief and Arson 45-6-101. Criminal mischief

45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely: (a) injures, damages, or destroys any property of another or public property without consent; (b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use; (c) damages or destroys property with the purpose to defraud an insurer; or (d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns. (2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted. (3) A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$1,500, injures or

kills a commonly domesticated hoofed animal, or causes a substantial interruption or impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. (4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss. (5) A person convicted of or who forfeits bond or bail for committing an act of criminal mischief involving property owned or administered by the department of fish, wildlife, and parks shall forfeit any current hunting, fishing, or trapping license issued by this state and the privilege to hunt, fish, or trap in this state for at least 24 months from the date of conviction or forfeiture. History: En. 94-6-102 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 88, L. 1975; R.C.M. 1947, 94-6-102; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 3, Ch. 560, L. 1981; amd. Sec. 1, Ch. 581, L. 1983; amd. Sec. 1, Ch. 98, L. 1989; amd. Sec. 2, Ch. 616, L. 1993; amd. Sec. 3, Ch. 397, L. 1999; amd. Sec. 2, Ch. 121, L. 2009; amd. Sec. 2, Ch. 473, L. 2009; amd. Sec. 82, Ch. 258, L. 2011.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 1. Criminal Mischief and Arson 45-6-102. Negligent arson

45-6-102. Negligent arson. (1) A person commits the offense of negligent arson if the person purposely or knowingly starts a fire or causes an explosion, whether on the person's own property or property of another, and thereby negligently: (a) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion; or (b) places property of another in danger of damage or destruction. (2) A person convicted of the offense of negligent arson shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. If the offender places another person in danger of death or bodily injury, the offender shall be fined not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both. History: En. 94-6-103 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-103; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 590, L. 1985; amd. Sec. 1662, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 1. Criminal Mischief and Arson 45-6-103. Arson

45-6-103. Arson. (1) A person commits the offense of arson when, by means of fire or explosives, the person knowingly or purposely: (a) damages or destroys a structure, vehicle, personal property (other than a vehicle) that exceeds \$1,500 in value, crop, pasture, forest, or other real property that is property of another without consent; (b) damages or destroys a structure, vehicle, crop, pasture, forest, or other property that the person owns or has a possessory interest in, with the purpose of obtaining a pecuniary or other gain through fraud or deception; or (c) places another person in danger of death or bodily injury, including a firefighter responding to or at the scene of a fire or explosion. (2) A person convicted of the offense of arson shall be imprisoned in the state prison for a term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-6-104 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 261, L. 1975; R.C.M. 1947, 94-6-104; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 590, L. 1985; amd. Sec. 1, Ch. 124, L. 1995; amd. Sec. 4, Ch. 397, L. 1999; amd. Sec. 3, Ch. 473, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 1. Criminal Mischief and Arson 45-6-104. Desecration of capitol, place of worship, cemetery, or public memorial

45-6-104. Desecration of capitol, place of worship, cemetery, or public memorial. (1) In this section, "capitol" means the Montana state capitol building and any permanent monuments on the capitol grounds. (2) A person commits the offense of desecration if the person purposely: (a) defiles or defaces the capitol or a place of worship, cemetery, or public memorial; (b) places on or attaches to the capitol or a place of worship, cemetery, or public memorial any mark, design, or material not properly a part of the capitol, place of worship, cemetery, or public memorial; or (c) injures, damages, or destroys any portion of the capitol or of a place of worship, cemetery, or public memorial. (3) A person convicted of the offense of desecration shall be: (a) incarcerated for any term not to exceed 6 months or be fined an amount not to exceed \$500, or both, if the damage does not exceed \$1,500; or (b) imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both, if there is \$1,500 or more of damage. (4) With regard to the capitol, this section does not apply to displays or actions authorized by the department of administration. History: En. Sec. 1, Ch. 533, L. 1995; amd. Sec. 1, Ch. 141, L. 1999; amd. Sec. 4, Ch. 473, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 1. Criminal Mischief and Arson 45-6-105. Criminal destruction of or tampering with communication device

45-6-105. Criminal destruction of or tampering with communication device. (1) A person commits the offense of criminal destruction of or tampering with a communication device if the person purposely or knowingly destroys or tampers with a telephone or other communication device to obstruct, prevent, or interfere with: (a) the report to any law enforcement agency of any actual criminal offense; (b) the report to any law enforcement agency of any actual bodily injury or property damage; or (c) a request made to any governmental agency or to any hospital, doctor, or other medical provider for necessary ambulance or emergency medical assistance. (2) A person destroys or tampers with a communication device by making the communication device unusable or inoperable, by interrupting its use, or by making it inaccessible. (3) A person convicted of the offense of criminal destruction of or tampering with a communication device shall be fined an amount not to exceed \$1,000 or imprisoned in the county jail for a term

not to exceed 6 months, or both. History: En. Sec. 1, Ch. 413, L. 2007.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 1. Criminal Mischief and Arson 45-6-106. Criminal mischief damage to rental property

45-6-106. Criminal mischief damage to rental property. (1) A tenant commits the offense of criminal mischief damage to rental property if the tenant purposely or knowingly destroys, defaces, damages, impairs, or removes any part of the premises with a value of at least \$1,000 or permits any person to do so in violation of 70-24-321(2) or 70-33-321(3). (2) A person convicted of the offense of criminal mischief damage to rental property shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (3) A person convicted of criminal mischief damage to rental property must be ordered to make restitution in an amount and manner to be set by the court pursuant to 46-18-201(5) and 46-18-241 through 46-18-249. (4) A prosecution under this section is independent of and does not constitute a waiver of any of the rights, duties, obligations, and remedies otherwise provided for under Title 70, chapter 24 or 33. (5) A person convicted of criminal mischief damage to rental property under this section is not subject to the provisions of 45-6-101. History: En. Sec. 1, Ch. 466, L. 2009; amd. Sec. 1, Ch. 220, L. 2011.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 2. Criminal Trespass and Burglary 45-6-201. Definition of enter or remain unlawfully

45-6-201. Definition of enter or remain unlawfully. (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when the person is not licensed, invited, or otherwise privileged to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. The privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person. (2) To provide for effective posting of private land through which the public has no right-of-way, the notice provided for in subsection (1) must satisfy the following requirements: (a) notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and (b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line. (3) To provide for effective posting of private land through which or along which the public has an unfenced right-of-way by means of a public road, a landowner shall: (a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters the private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT ___ MILES"; or (b) place notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the roadway at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced private land, except that orange markings may not be placed on posts where the public roadway enters the private land. (4) If property has been posted in substantial compliance with subsection (2) or (3), it is considered closed to public access unless explicit permission to enter is given by the landowner or the landowner's authorized agent. (5) The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses or permits, in condensed form, the provisions of this section concerning entry on private land. The department shall use public media, as well as its own publications, in attempting to educate and inform other recreational users of the provisions of this section. In the interests of providing the public with clear information regarding the public nature of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that satisfy the requirements of subsection (3). (6) For purposes of this section, "land" means land as defined in 70-15-102. (7) Civil liability may not be imposed upon the owner or occupier of premises by reason of any privilege created by this section. History: En. 94-6-201 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 21, Ch. 359, L. 1977; R.C.M. 1947, 94-6-201; amd. Sec. 1, Ch. 599, L. 1985; amd. Sec. 1, Ch. 268, L. 1991; amd. Sec. 1663, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 2. Criminal Trespass and Burglary 45-6-202. Criminal trespass to vehicles

45-6-202. Criminal trespass to vehicles. (1) A person commits the offense of criminal trespass to vehicles when the person purposely or knowingly and without authority enters any vehicle or any part of a vehicle. (2) A person convicted of the offense of criminal trespass to vehicles shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-6-202 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-202; amd. Sec. 1664, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 2. Criminal Trespass and Burglary 45-6-203. Criminal trespass to property

45-6-203. Criminal trespass to property. (1) Except as provided in 15-7-139, 70-16-111, 76-13-116, and subsection (4) of this section, a person commits the offense of criminal trespass to property if the person knowingly: (a) enters or remains unlawfully in an occupied structure; or (b) enters or remains unlawfully in or upon the premises of another. (2) A person convicted of the offense of criminal trespass to property shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. (3) A person convicted of or who forfeits bond or bail for committing an act of criminal trespass involving property

owned or administered by the department of fish, wildlife, and parks or while hunting, fishing, or trapping may be subject to revocation of the person's privilege to hunt, fish, or trap in this state for up to 24 months from the date of conviction or forfeiture. (4) It does not constitute criminal trespass when a person who lacks proof of vaccination or vaccination status or fails to wear a specific medical device, such as masks or other facial coverings, enters or remains in a public place paid for in whole or in part with taxpayer funds where proof of vaccination or use of medical devices, such as masks or other facial coverings, is required. History: En. 94-6-203 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-203; amd. Sec. 1, Ch. 604, L. 1993; amd. Sec. 4, Ch. 5, L. 2003; amd. Sec. 2, Ch. 336, L. 2007; amd. Sec. 3, Ch. 121, L. 2009; amd. Sec. 83, Ch. 258, L. 2011; amd. Sec. 1, Ch. 527, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 2. Criminal Trespass and Burglary 45-6-204. Burglary

45-6-204. Burglary. (1) A person commits the offense of burglary if the person knowingly enters or remains unlawfully in an occupied structure and: (a) the person has the purpose to commit an offense in the occupied structure; or (b) the person knowingly or purposely commits any other offense within that structure. (2) A person commits the offense of aggravated burglary if the person knowingly enters or remains unlawfully in an occupied structure and: (a) (i) the person has the purpose to commit an offense in the occupied structure; or (ii) the person knowingly or purposely commits any other offense within that structure; and (b) in effecting entry or in the course of committing the offense or in immediate flight after effecting entry or committing the offense: (i) the person or another participant in the offense is armed with explosives or a weapon; or (ii) the person purposely, knowingly, or negligently inflicts or attempts to inflict bodily injury upon anyone. (3) A person convicted of the offense of burglary shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both. A person convicted of the offense of aggravated burglary shall be imprisoned in the state prison for any term not to exceed 40 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-6-204 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 260, L. 1975; R.C.M. 1947, 94-6-204; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 357, L. 1987; amd. Sec. 1665, Ch. 56, L. 2009; amd. Sec. 1, Ch. 263, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 2. Criminal Trespass and Burglary 45-6-205. Possession of burglary tools

45-6-205. Possession of burglary tools. (1) A person commits the offense of possession of burglary tools when the person knowingly possesses any key, tool, instrument, device, or explosive suitable for breaking into an occupied structure, a vehicle, or any depository designed for the safekeeping of property or any part of the occupied structure, vehicle, or depository with the purpose to commit an offense. (2) A person convicted of possession of burglary tools shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-6-205 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-205; amd. Sec. 1666, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-301. Theft

45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and: (a) has the purpose of depriving the owner of the property; (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property. (2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and: (a) has the purpose of depriving the owner of the property; (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property. (3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and: (a) has the purpose of depriving the owner of the property; (b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property. (4) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state or county agency, regardless of the original source of assistance, by means of: (a) a knowingly false statement, representation, or impersonation; or (b) a fraudulent scheme or device. (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter 51 or 71, by means of: (a) a knowingly false statement, representation, or impersonation; or (b) deception or other fraudulent action. (6) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive the owner of the property, the person: (a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer or over property entrusted to the person; or (b) purposely or knowingly obtains by deception control over property of the person's employer or over property entrusted to the person. (7) (a) Except as provided in subsections (7)(b), (7)(d), and (7)(e), a person convicted of a first offense of the offense of theft of property not exceeding \$1,500 in value shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to

exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year. (b) (i) Except as provided in subsections (7)(c) and (7)(e), a person convicted of the offense of theft of property that exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000. (ii) A person convicted of the theft of property exceeding \$5,000 in value or as part of a common scheme as defined in 45-2-101, or the theft of any amount of anhydrous ammonia for the purpose of manufacturing dangerous drugs, shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. (iii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329. (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the requirement that restitution be made under terms set by the court. If the terms are not met, the required prison term may be ordered. (d) A person convicted of a first offense for the offense of theft of property not exceeding \$1,500 in value and who utilized an emergency exit in furtherance of that offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. On a second conviction, the offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. On a third conviction, the offender shall be fined an amount not to exceed \$5,000 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year. (e) A person convicted of the offense of theft of property of a light vehicle, as defined in 61-1-101, shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. (8) Amounts involved in thefts committed pursuant to a common scheme or the same transaction, whether from the same person or several persons, may be aggregated in determining the value of the property. (9) A person convicted of the offense of theft of property not exceeding \$100 in value is presumed to qualify for a deferred imposition of sentence as long as the person has not been convicted of a misdemeanor or felony offense in the past 5 years. History: En. 94-6-302 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 22, Ch. 359, L. 1977; R.C.M. 1947, 94-6-302; amd. Sec. 1, Ch. 374, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 581, L. 1983; amd. Sec. 21, Ch. 670, L. 1985; amd. Sec. 65, Ch. 464, L. 1987; amd. Sec. 2, Ch. 739, L. 1991; amd. Sec. 1, Ch. 190, L. 1993; amd. Sec. 3, Ch. 616, L. 1993; amd. Sec. 2, Ch. 618, L. 1993; amd. Sec. 9, Ch. 237, L. 1995; amd. Sec. 5, Ch. 397, L. 1999; amd. Sec. 70, Ch. 227, L. 2001; amd. Sec. 1, Ch. 427, L. 2001; amd. Sec. 50, Ch. 380, L. 2003; amd. Sec. 1, Ch. 137, L. 2005; amd. Sec. 35, Ch. 416, L. 2005; amd. Sec. 17, Ch. 595, L. 2005; amd. Sec. 4, Ch. 400, L. 2009; amd. Sec. 5, Ch. 473, L. 2009; amd. Sec. 51, Ch. 151, L. 2017; amd. Sec. 9, Ch. 321, L. 2017; amd. Sec. 31, Ch. 396, L. 2017; amd. Sec. 1, Ch. 372, L. 2019; amd. Sec. 2, Ch. 70, L. 2023; amd. Sec. 1, Ch. 162, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-302. Theft of lost or mislaid property

45-6-302. Theft of lost or mislaid property. (1) A person who obtains control over lost or mislaid property commits the offense of theft when the person: (a) knows or learns the identity of the owner or knows, is aware of, or learns of a reasonable method of identifying the owner; (b) fails to take reasonable measures to restore the property to the owner; and (c) has the purpose of depriving the owner permanently of the use or benefit of the property. (2) A person convicted of theft of lost or mislaid property shall be fined not to exceed \$500 or be imprisoned in the county jail for a period not to exceed 6 months. History: En. 94-6-303 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-303; amd. Sec. 1667, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-303. Offender's interest in the property

45-6-303. Offender's interest in the property. (1) It is no defense to a charge of theft of property that the offender has an interest therein when the owner also has an interest to which the offender is not entitled. (2) It is no defense that theft was from the offender's spouse, except that misappropriation of household and personal effects or other property normally accessible to both spouses is theft only if it occurs after the parties have ceased living together. History: En. 94-6-306 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-306.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-305. Theft of labor or services or use of property

45-6-305. Theft of labor or services or use of property. (1) A person commits the offense of theft when the person obtains the temporary use of property, labor, or services of another that are available only for hire, by means of threat or deception or knowing that the use is without the consent of the person providing the property, labor, or services. (2) A person convicted of theft of labor or services or use of property shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-6-304 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-304; amd. Sec. 1668, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-306. Obtaining communication services with intent to defraud

45-6-306. Obtaining communication services with intent to defraud. In a prosecution under 45-6-305 for theft of telephone, telegraph, or cable television services, the element of deception is established by proof that the defendant obtained such services by any of the following means: (1) by use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information; (2) by installing, rearranging, or tampering with any facilities or equipment, whether physically, inductively, acoustically, or electronically; (3) by any other trick, stratagem, impersonation, false pretense, false representation, false statement, contrivance, device, or means; or (4) by making, assembling, or possessing any instrument, apparatus, equipment, or device or the plans or instructions for the making or assembling of any instrument, apparatus, equipment, or device which is designed, adapted, or otherwise intended to be used to avoid the lawful charge, in whole or in part, for any telecommunications service by concealing the existence, place of origin, or destination of any telecommunications. History: En. 94-6-304.1 by Sec. 1, Ch. 156, L. 1974; amd. Sec. 1, Ch. 175, L. 1977; R.C.M. 1947, 94-6-304.1.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-307. Aiding the avoidance of telecommunications charges

45-6-307. Aiding the avoidance of telecommunications charges. (1) A person commits the offense of aiding the avoidance of telecommunications charges when the person: (a) publishes the number or code of an existing, canceled, revoked, expired, or nonexistent telephone credit card or the numbering or coding that is employed in the issuance of credit cards with the purpose that it will be used to avoid the payment of lawful telecommunications charges; (b) publishes, advertises, sells, gives, or otherwise transfers to another plans or instructions for the making or assembling of any apparatus, instrument, equipment, or device described in 45-6-306(4) with the purpose that it will be used or with the knowledge or reason to believe that it will be used to avoid the payment of lawful telecommunications charges; or (c) manufactures, assembles, possesses, sells, gives, or otherwise transfers any apparatus, instrument, equipment, or device described in 45-6-306(4) with the purpose that it will be used to avoid the payment of lawful telecommunications charges. (2) A person convicted of the offense of aiding the avoidance of telecommunications charges shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (3) For the purposes of this section, the term "publish" means to communicate information to any one or more persons, either orally; in person; by computer, telephone, radio, or television; or in a writing of any kind, including but not limited to a letter, memorandum, circular, handbill, newspaper or magazine article, or book. History: En. 94-6-304.2 by Sec. 2, Ch. 175, L. 1977; R.C.M. 1947, 94-6-304.2; amd. Sec. 1, Ch. 282, L. 1979; amd. Sec. 2, Ch. 354, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-308. Unauthorized use of motor vehicles

45-6-308. Unauthorized use of motor vehicles. (1) A person commits the offense of unauthorized use of motor vehicles if the person knowingly operates the automobile, airplane, motorcycle, quadricycle, motorboat, or other motor-propelled vehicle of another without the other's consent. (2) A person convicted of unauthorized use of motor vehicles shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. It is an affirmative defense that the offender reasonably believed that the owner would have consented to the operation had the owner known of it. History: En. 94-6-305 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-305; amd. Sec. 14, Ch. 516, L. 1985; amd. Sec. 1669, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-309. Failure to return rented or leased personal property

45-6-309. Failure to return rented or leased personal property. (1) A person commits the offense of failure to return rented or leased personal property if, without notice to and permission of the lessor, the person purposely and knowingly fails to return the property within 48 hours after the time provided for return in the rental agreement, provided that clear written notice, in bold print, of the date and time when return of the property is required and of the penalty prescribed in this section is stated in the rental or lease agreement. (2) Presentation to the lessor by the lessee of identification that is false for the purpose of obtaining a rental or lease agreement constitutes prima facie evidence of commission of the offense. (3) After the rental or lease period specified in the rental or lease agreement has expired, failure to return rented or leased personal property within 72 hours of written demand by the lessor, sent by certified mail to the renter or lessee at the address given at the time of entering the rental or lease agreement, constitutes prima facie evidence of commission of the offense. (4) (a) A person convicted of failure to return rented or leased personal property not exceeding \$1,500 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (b) A person convicted of failure to return rented or leased personal property that exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000. (c) A person convicted of failure to return rental or leased personal property exceeding \$5,000 in value or part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or

both. History: En. Sec. 1, Ch. 239, L. 1981; amd. Sec. 3, Ch. 581, L. 1983; amd. Sec. 4, Ch. 616, L. 1993; amd. Sec. 6, Ch. 397, L. 1999; amd. Sec. 6, Ch. 473, L. 2009; amd. Sec. 10, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-310. Definitions -- computer use

45-6-310. Definitions -- computer use. As used in 45-6-311 and this section, the following definitions apply: (1) "Access" means to approach, instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system, computer network, or electronic device. (2) "Authorization" means a process ensuring that correctly authenticated users can access only those resources for which the owner of the resource has given the users explicit permission. (3) "Computer" means an electronic device used to create, receive, transmit, store, or process data of any kind, or to run programs stored on hardware or software, and includes any device attached physically or connected intangibly to the computer. (4) "Computer contaminant" means any set of computer instructions designed to modify, damage, destroy, record, or transmit information within a computer, computer system, or computer network without the intent or permission of the owner of the information. The term includes but is not limited to a group of computer instructions, commonly called viruses or worms, that are self-replicating or self-propagating and that are designed to contaminate other computer programs or computer data, consume computer resources, modify destroy, record, or transmit data, or in some other fashion usurp or interfere with the normal operation of the computer, computer system, or computer network. (5) "Computer credential" means: (a) a password, token code, or other means of limiting access; or (b) an account, address, username, handle, avatar, or other digital representation of a person. (6) "Computer network" means a system that provides a medium for communication between one or more computer systems or electronic devices, including communication with an input or output device such as a display terminal, printer, or any other electronic equipment that is connected to the computer systems or electronic devices by physical or wireless technologies. (7) "Computer system" means a device or collection of devices, including support or peripheral devices, one or more of which contain computer programs, electronic instructions, or input data and output data, and which perform functions, including but not limited to logic, arithmetic, data storage, data retrieval, data processing, communication, or control. (8) "Data" means a representation of information, knowledge, facts, concepts, computer software, computer programs, or instructions. Data may be in any form, in storage media or stored in the memory of the computer, or in transit or presented on a display device. (9) "Electronic device" means a device or a portion of a device that is designed for and capable of communicating across a computer network with other computers or devices for the purpose of transmitting, receiving, or storing data, including but not limited to a cellular telephone, tablet, or other portable device designed for and capable of communicating with or across a computer network and that is actually used for that purpose. (10) "Encrypt" means the use of any process of data encryption including but not limited to cryptography, enciphering, or encoding of data, programs, information, image, signal, sound, computer, computer networks, or other electronic devices. (11) "Obtain the use of" means to instruct, communicate with, store data in, retrieve data from, cause input to, cause output from, or otherwise make use of any resources of a computer, computer system, or computer network or to cause another to instruct, communicate with, store data in, retrieve data from, cause input to, cause output from, or otherwise make use of any resources of a computer, computer system, or computer network. (12) "Trade secret" has the meaning provided in 30-14-402. History: En. Sec. 2, Ch. 485, L. 1981; amd. Sec. 1, Ch. 247, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-311. Unlawful use of a computer -- exceptions

45-6-311. Unlawful use of a computer -- exceptions. (1) Except as provided in subsections (3), (4), (5), and (7), a person commits the offense of unlawful use of a computer when the person knowingly or purposely and without authorization: (a) destroys or renders inoperable a computer, computer system, computer network or any part of a computer system or network with the purpose of making the device or system physically inaccessible or to render the data, programs, or supporting documentation inaccessible or unusable; (b) obtains the use or access of any computer, computer system, or computer network without consent of the owner; (c) introduces a computer contaminant that deletes, modifies, or renders unavailable data, programs, or supporting documentation residing or existing internal or external to a computer, computer system, computer network, or electronic device; (d) destroys data, programs, or supporting documentation residing or existing internal or external to a computer, computer system, computer network, or electronic device; (e) discloses or takes data, programs, or supporting documentation that is a trade secret, confidential, or otherwise protected as provided by law or is data that materially compromises the security, confidentiality, or integrity of personal information as defined in 30-14-1704 residing or existing internal or external to a computer, computer system, computer network, or electronic device; (f) introduces a computer contaminant to gain access to data, programs, supporting documentation, computer systems, including peripheral devices, or computer networks to delete, encrypt, modify, append, or otherwise render unavailable data, programs, supporting documentation, computer systems, including peripheral devices, computer networks, or electronic devices owned or operated by a governmental or private entity or person; (g) uses or changes in any way another person's computer credentials without the person's permission; or (h) uses another person's computer or computer credentials to track that person's movements or monitor that person's communications without that person's consent. (2) A person convicted of the offense of unlawful use of a computer involving loss of property not exceeding \$1,500 in value or when no loss can be articulated shall be fined not to exceed \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of the offense of unlawful use of a computer involving loss of property exceeding \$1,500 in value shall be fined not more than 2 1/2 times

the value of the property used, altered, destroyed, or obtained or be imprisoned in the state prison for a term not to exceed 10 years, or both. (3) A person is not in violation of this section if the person encrypts or modifies another person's computer, computer system, electronic device, or computer credentials without permission or consent for the purposes of complying with a court order or a warrant from federal, state, or local law enforcement. (4) This section does not apply to an individual who modifies, accesses, or destroys the individual's personal computer, computer network, computer system, or electronic device. (5) A person may not: (a) encrypt or modify another person's computer, computer system, or electronic device; (b) restrict access to personal data by any means; or (c) restrict access to a product or service because the consumer did not authorize the use or collection of data. (6) Except as provided in subsections (5) and (7), a person may enforce the terms of a legal contract between the persons. (7) A person may only enforce nonpayment under the terms of a legal contract concerning digital software through modification of credentials. History: En. Sec. 3, Ch. 485, L. 1981; amd. Sec. 4, Ch. 581, L. 1983; amd. Sec. 5, Ch. 616, L. 1993; amd. Sec. 7, Ch. 397, L. 1999; amd. Sec. 7, Ch. 473, L. 2009; amd. Sec. 2, Ch. 247, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-312. Unauthorized acquisition or transfer of food stamps

45-6-312. Unauthorized acquisition or transfer of food stamps. (1) A person commits the offense of unauthorized acquisition or transfer of food stamp benefits if the person knowingly: (a) acquires, purchases, possesses, or uses any food stamp benefit that the person is not entitled to; or (b) transfers, sells, trades, gives, or otherwise disposes of any food stamp benefit to another person not entitled to receive or use it. (2) A person convicted of an offense under this section shall be fined not more than \$1,500 or be imprisoned in the county jail for not more than 6 months, or both. A person convicted of an offense under this section, which offense is part of a common scheme or in which the value of the food stamp benefits exceeds \$1,500, shall be fined not more than \$50,000 or be imprisoned in the state prison for not more than 10 years, or both. (3) As used in this section, "food stamp benefits" means any stamp, coupon, or type of certification provided for the purchase of eligible food pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2011 through 2029, or any similar public assistance program. History: En. Sec. 1, Ch. 87, L. 1983; amd. Sec. 6, Ch. 616, L. 1993; amd. Sec. 8, Ch. 397, L. 1999; amd. Sec. 81, Ch. 2, L. 2009; amd. Sec. 8, Ch. 473, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-313. Medicaid fraud

45-6-313. Medicaid fraud. (1) A person commits the offense of medicaid fraud when: (a) the person obtains a medicaid payment or benefit for the person or another person by purposely or knowingly making, submitting, or authorizing the making or submitting of a false or misleading medicaid claim, statement, representation, application, or document to a medicaid agency for a service or item that the person is not entitled to under applicable statutes or under rules adopted under Title 2, chapter 4; (b) the person purposely or knowingly: (i) solicits, accepts, offers, or provides any remuneration, including but not limited to a kickback, bribe, or rebate, other than an amount legally payable under the medical assistance program, for furnishing services or items for which payment may be made under the medicaid program or in return for purchasing, leasing, ordering, arranging for, or recommending the purchasing, leasing, or ordering of any services or items from a provider for which payment may be made under the medicaid program; or (ii) makes, offers, or accepts a remuneration, a rebate of a fee, or a charge for referring a recipient to another provider for the furnishing of services or items for which payment may be made under the medicaid program; or (c) the person, with respect to a managed care contract, health maintenance organization contract, or similar contract or subcontract under the medicaid program, purposely or knowingly fails or refuses to provide covered medically necessary services to eligible recipients as required by the contract. (2) Any conduct or activity that does not violate or that is protected under the provisions of, or federal regulations adopted under, 42 U.S.C. 1395nn or 42 U.S.C. 1320a-7b(b), as may be amended, is not considered an offense under subsection (1)(b), and the conduct or activity must be accorded the same protections allowed under federal laws and regulations. (3) In a prosecution for a violation of this section, it is a defense if the person acted in reliance upon the written authorization or advice of the department. (4) (a) A person convicted of the offense of medicaid fraud involving payments, benefits, or claims not exceeding \$1,500 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,500 and be imprisoned in the county jail for a term not less than 10 days or more than 6 months. A person convicted of a third or subsequent offense shall be fined \$1,500 and be imprisoned in the county jail for a term not less than 30 days or more than 1 year. (b) A person convicted of the offense of medicaid fraud involving payments, benefits, or claims exceeding \$1,500 in value shall be fined an amount not to exceed the greater of \$50,000 or 10 times the value of the payments obtained or be imprisoned in the state prison for a term not to exceed 10 years, or both. (c) For purposes of imposing sentence for a conviction under subsection (1)(b), the value of payments or benefits involved is the greater of the value of medicaid payments or benefits received as a result of the illegal conduct or activity or the value of the remuneration, rebate, or charge involved. (d) Amounts involved in medicaid fraud committed pursuant to a common scheme or the same transaction may be aggregated in determining the value involved. (e) A person convicted of the offense of medicaid fraud must be suspended from participation in the medicaid program: (i) for any period of time not less than 1 year for a first offense, or the person may be permanently terminated from participation in the medical assistance program; (ii) for any period of time not less than 3 years for a second offense, or the person may be permanently terminated from participation in the medical assistance program; or (iii) permanently for a third offense. (5) In addition to any other penalty provided by law, a person convicted of medicaid fraud is not entitled to bill or collect from the recipient, the medicaid program, or any other third-party payor for the services or items involved and shall repay to the medicaid

program any payments or benefits obtained by any person for the services or items involved. (6) The establishment of the criminal offenses specified in this section does not preclude the application of any other provision of law. History: En. Sec. 7, Ch. 354, L. 1995; amd. Sec. 9, Ch. 397, L. 1999; amd. Sec. 1, Ch. 185, L. 2005; amd. Sec. 9, Ch. 473, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-314. Theft by disposal of stolen property

45-6-314. Theft by disposal of stolen property. A pawnbroker or dealer who buys and sells secondhand merchandise and allows stolen property to be sold, bartered, or otherwise disposed of after a peace officer has requested the pawnbroker or dealer to hold the property for 30 days, as provided in 46-5-212, commits the offense of theft as defined in 45-6-301. History: En. Sec. 1, Ch. 470, L. 1989; amd. Sec. 1670, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-315. Defrauding creditors

45-6-315. Defrauding creditors. (1) A person commits the offense of defrauding secured creditors if the person destroys, conceals, encumbers, transfers, removes from the state, or otherwise deals with property subject to a security interest with the purpose to hinder enforcement of that interest. (2) "Security interest" means an interest in personal property or fixtures as defined in the Uniform Commercial Code, 30-1-201(2)(jj). (3) A person convicted of the offense of defrauding secured creditors shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (4) A person who destroys, conceals, encumbers, transfers, removes from the state, or otherwise deals with property subject to a security interest with the purpose of depriving the owner of the property or of the proceeds and value from the property may be prosecuted under 45-6-301. History: En. 94-6-313 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 2, Ch. 367, L. 1975; R.C.M. 1947, 94-6-313; amd. Sec. 88, Ch. 575, L. 2005; amd. Sec. 1671, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-316. Issuing a bad check

45-6-316. Issuing a bad check. (1) A person commits the offense of issuing a bad check when the person issues or delivers a check or other order upon a real or fictitious depository for the payment of money knowing that it will not be paid by the depository. (2) If the offender has an account with the depository, failure to make good the check or other order within 5 days after written notice of nonpayment has been received by the issuer is prima facie evidence that the offender knew that it would not be paid by the depository. (3) (a) A person convicted of issuing a bad check not exceeding \$500 in value shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be imprisoned in the county jail for a term of not less than 5 days or more than 1 year and may be fined an amount not to exceed \$500. (b) A person convicted of issuing a bad check that exceeds \$500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000. (c) A person convicted of issuing a bad check exceeding \$5,000 in value or as part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years. History: En. 94-6-309 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-309; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 5, Ch. 581, L. 1983; amd. Sec. 1, Ch. 383, L. 1985; amd. Sec. 7, Ch. 616, L. 1993; amd. Sec. 10, Ch. 397, L. 1999; amd. Sec. 10, Ch. 473, L. 2009; amd. Sec. 11, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-317. Deceptive practices

45-6-317. Deceptive practices. (1) A person commits the offense of deceptive practices when the person purposely or knowingly: (a) causes another, by deception or threat, to execute a document disposing of property or a document by which a pecuniary obligation is incurred; (b) makes or directs another to make a false or deceptive statement addressed to the public or any person for the purpose of promoting or procuring the sale of property or services; (c) makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or (d) obtains or attempts to obtain property, labor, or services by any of the following means: (i) using a credit card that was issued to another without the other's consent; (ii) using a credit card that has been revoked or canceled; (iii) using a credit card that has been falsely made, counterfeited, or altered in any material respect; (iv) using the pretended number or description of a fictitious credit card; or (v) using a credit card that has expired when the credit card clearly indicates the expiration date. (2) (a) A person convicted of the offense of deceptive practices if the value of any property, labor, or services obtained or attempted to be obtained does not exceed \$1,500 in value shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not

to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be imprisoned in the county jail for a term of not less than 5 days or more than 1 year and may be fined an amount not to exceed \$500. (b) A person convicted of the offense of deceptive practices if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000. (c) A person convicted of the offense of deceptive practices if the value of any property, labor, or services obtained or attempted to be obtained exceeds \$5,000 in value or as part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. History: En. 94-6-307 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 23, Ch. 359, L. 1977; R.C.M. 1947, 94-6-307; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 6, Ch. 581, L. 1983; amd. Sec. 8, Ch. 616, L. 1993; amd. Sec. 11, Ch. 397, L. 1999; amd. Sec. 11, Ch. 473, L. 2009; amd. Sec. 12, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-318. Deceptive business practices

45-6-318. Deceptive business practices. (1) A person commits the offense of deceptive business practices if in the course of engaging in a business, occupation, or profession, the person purposely or knowingly: (a) uses or possesses for use a false weight or measure or any other device for falsely determining or recording any quality or quantity; (b) sells, offers, exposes for sale, or delivers less than the represented quantity of any commodity or service; (c) takes or attempts to take more than the represented quantity of any commodity or service when as buyer the person furnished the weight or measure; (d) sells, offers, or exposes for sale adulterated commodities; (e) sells, offers, or exposes for sale mislabeled commodities; or (f) makes a deceptive statement regarding the quantity or price of goods in any advertisement addressed to the public. (2) "Adulterated" means varying from the standard of composition or quality prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage. (3) "Mislabeled" means: (a) varying from the standard of truth or disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation or, if none, as set by established commercial usage; or (b) represented as being another person's produce though otherwise labeled accurately as to quality and quantity. (4) A person convicted of the offense of deceptive business practices shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-6-308 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-308; amd. Sec. 1672, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-319. Chain distributor schemes

45-6-319. Chain distributor schemes. (1) As used in this section, the following definitions apply: (a) "Chain distributor scheme" means a sales device whereby a person, under a condition that the person make an investment, is granted a license or right to recruit for consideration one or more additional persons who are also granted a license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted a license or right upon the condition. (b) "Person" means a natural person, corporation, partnership, trust, or other entity and, in the case of an entity, includes any other entity that has a majority interest in the entity or effectively controls the other entity as well as the individual officers, directors, and other persons in act of control of the activities of each entity. (2) It is unlawful for a person to promote, sell, or encourage participation in any chain distributor scheme. (3) A person violating the provisions of this section shall, upon conviction, be imprisoned in the state prison for a period not to exceed 1 year or be fined not to exceed \$1,000, or both. (4) A person convicted of a second offense under this section shall be imprisoned in the state prison for a period not to exceed 5 years or be fined not to exceed \$5,000, or both. History: En. Secs. 1 to 3, Ch. 465, L. 1973; amd. Sec. 24, Ch. 359, L. 1977; R.C.M. 1947, 94-6-308.1; amd. Sec. 1673, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-320. Theft of nonferrous metal

45-6-320. Theft of nonferrous metal. (1) A person commits the offense of theft of nonferrous metal if the person purposely or knowingly takes, steals, carries away, destroys, injures, or otherwise damages any personal or real property of another without consent, including fixtures or improvements, for the purpose of obtaining nonferrous metal as defined in 30-22-101. (2) (a) If the injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss is less than \$1,500, the person shall be fined an amount not to exceed \$5,000 or be imprisoned for a term not to exceed 1 year, or both. (b) If the injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss is \$1,500 or more, the person shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. History: En. Sec. 2, Ch. 174, L. 2013.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-321. Illegal transportation of catalytic converters

45-6-321. Illegal transportation of catalytic converters. (1) Except for a person transporting vehicles or materials in conformance

with the junk vehicle program provided for in Title 75, chapter 10, part 5, a person commits the offense of illegal transportation of catalytic converters if the person purposely or knowingly transports more than one catalytic converter that is not connected to a vehicle exhaust system and the person lacks a nonferrous metal acquisition record as provided in 30-22-102. (2) A person convicted of illegal transportation of catalytic converters shall be fined an amount not to exceed \$5,000 or be imprisoned for a term not to exceed 1 year, or both. History: En. Sec. 2, Ch. 372, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-322. through 45-6-324 reserved

45-6-322 through 45-6-324 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-325. Forgery

45-6-325. Forgery. (1) A person commits the offense of forgery when with purpose to defraud the person knowingly: (a) without authority makes or alters a document or other object apparently capable of being used to defraud another in a manner that it purports to have been made by another or at another time or with different provisions or of different composition; (b) issues or delivers the document or other object knowing it to have been thus made or altered; (c) possesses with the purpose of issuing or delivering any such document or other object knowing it to have been thus made or altered; or (d) possesses with knowledge of its character any plate, die, or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments. (2) A purpose to defraud means the purpose of causing another to assume, create, transfer, alter, or terminate any right, obligation, or power with reference to any person or property. (3) A document or other object capable of being used to defraud another includes but is not limited to one by which any right, obligation, or power with reference to any person or property may be created, transferred, altered, or terminated. (4) (a) A person convicted of the offense of forgery if the value of the property, labor, or services obtained or attempted to be obtained does not exceed \$1,500 shall be fined an amount not to exceed \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year. (b) A person convicted of the offense of forgery for which the value of the property, labor, or services obtained or attempted to be obtained exceeds \$1,500 and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000. (c) A person convicted of the offense of forgery for which the value of the property, labor, or services obtained or attempted to be obtained exceeds \$5,000 in value or is part of a common scheme shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. History: En. 94-6-310 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-310; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 7, Ch. 581, L. 1983; amd. Sec. 9, Ch. 616, L. 1993; amd. Sec. 12, Ch. 397, L. 1999; amd. Sec. 12, Ch. 473, L. 2009; amd. Sec. 13, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-326. Obscuring identity of machine

45-6-326. Obscuring identity of machine. (1) A person commits the offense of obscuring the identity of a machine if the person: (a) removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any machine, vehicle, electrical device, or firearm with the purpose to conceal, misrepresent, or transfer any machine, vehicle, electrical device, or firearm; or (b) possesses with the purpose to conceal, misrepresent, or transfer any machine, vehicle, device, or firearm knowing that the serial number or other identification number or mark has been removed or otherwise obscured. (2) A person convicted of obscuring the identity of a machine shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (3) The fact of possession or transfer of any machine, vehicle, electrical device, or firearm described in subsection (1) creates a presumption that the person knew the serial number or other identification number or mark had been removed or otherwise obscured. History: En. 94-6-311 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 167, L. 1977; R.C.M. 1947, 94-6-311; amd. Sec. 1674, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-327. Illegal branding or altering or obscuring of brand

45-6-327. Illegal branding or altering or obscuring of brand. (1) A person commits the offense of illegal branding or altering or obscuring a brand if the person marks or brands any commonly domesticated hoofed animal or removes, covers, alters, or defaces an existing mark or brand on any commonly domesticated hoofed animal with the purpose of obtaining or exerting unauthorized control over the animal or with the purpose of concealing, misrepresenting, transferring, or preventing identification of the animal. (2) A person convicted of the offense of illegal branding or altering or obscuring a brand shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount of not less than \$5,000 or more than \$50,000, or both. If a prison term is deferred,

the court shall order the offender to perform 416 hours of community service during a 1-year period, in the offender's county of residence. In addition to the fine and imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329. History: En. 94-6-312 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-6-312; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1675, Ch. 56, L. 2009; amd. Sec. 5, Ch. 400, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-328. Forfeiture for theft of commonly domesticated hoofed animal or illegal branding or altering or obscuring of brand

45-6-328. Forfeiture for theft of commonly domesticated hoofed animal or illegal branding or altering or obscuring of brand. (1) The following property is subject to criminal forfeiture under this section: (a) money, raw materials, products, equipment, and other property of any kind that is used or intended for use in the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327; (b) property used or intended for use as a container for property enumerated in subsection (1)(a); (c) except as provided in subsection (2), a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327; (d) books, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327; (e) everything of value furnished or intended to be furnished in exchange for a commonly domesticated hoofed animal in violation of 45-6-301 or 45-6-327 and all proceeds traceable to the exchange; (f) money, negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of 45-6-301 or 45-6-327; and (g) personal property constituting or derived from proceeds obtained directly or indirectly from theft of a commonly domesticated hoofed animal or from illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327. (2) A conveyance is not subject to criminal forfeiture under this section unless the owner or other person in charge of the conveyance knowingly used the conveyance or knowingly consented to its use for the purpose of theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327. (3) Property subject to criminal forfeiture under this section may be seized under the following circumstances: (a) A peace officer who has probable cause to make an arrest for the theft of a commonly domesticated hoofed animal or for illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327 may seize a conveyance obtained with proceeds derived from the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency to be held as evidence until a criminal forfeiture is declared or a release is ordered. (b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property. (c) Seizure without a warrant may be made if: (i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant; (ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding based on Title 44, chapter 12, or this section; (iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or (iv) a peace officer has probable cause to believe that the property was used or is intended to be used during the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand in violation of 45-6-301 or 45-6-327. (4) A forfeiture proceeding under subsection (1) must be commenced within 45 days of the seizure of the property involved. (5) The procedure for forfeiture proceedings in 44-12-207 through 44-12-211 applies to property seized pursuant to this section. (6) Upon conviction, the property subject to criminal forfeiture is forfeited to the state and must be disposed of in accordance with the provisions of 45-6-329. History: En. Sec. 1, Ch. 400, L. 2009; amd. Sec. 10, Ch. 421, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-329. Disposition of property and proceeds of sale

45-6-329. Disposition of property and proceeds of sale. (1) If the court finds that property seized pursuant to the theft of a commonly domesticated hoofed animal or illegal branding or altering or obscuring a brand was not used for the purpose charged or that the property listed in 45-6-328(1) was used without the knowledge or consent of the owner, it shall order the property released to the owner of record as of the date of the seizure. (2) If the court finds that the property was used for the purpose charged and that the property listed in 45-6-328(1) was used with the knowledge or consent of the owner, the property must be disposed of as follows: (a) If proper proof of the claim is presented at the hearing by the holder of a security interest, the court shall order the property released to the holder of the security interest if the amount due the holder of the security interest is equal to or in excess of the value of the property as of the date of seizure. If the amount due the holder of the security interest is less than the value of the property, the property, if it is sold, must be sold at public auction by the department of livestock in the same manner provided by law for the sale of property under execution or the department of livestock may return the property to the holder of the security interest without proceeding with an auction. The property may not be sold to an officer or employee of the department of livestock or to a person related to a department officer or employee by blood or marriage. (b) If no claimant exists and the department of livestock wishes to retain the property for its official use, it may do so. If the property is not to be retained, it must be sold as provided in subsection (2)(a). (c) If a claimant who has presented proper proof of a claim exists and the department of livestock wishes to retain the property for its official use, it may do so if it compensates the claimant in the amount of the security interest outstanding at the time of the seizure. (3) In making a disposition of property under this section, the court may take any action to protect the rights of

innocent persons. (4) Whenever property is seized, forfeited, and sold under the provisions of this section, the net proceeds of the sale must be distributed as follows: (a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the property; and (b) the remainder, if any, to the credit of the department of livestock to be used in enforcement activities related to the theft of commonly domesticated hooved animals and illegal branding or altering or obscuring a brand. History: En. Sec. 2, Ch. 400, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-330. and 45-6-331 reserved

45-6-330 and 45-6-331 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-332. Theft of identity

45-6-332. Theft of identity. (1) A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person. (2) (a) A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than \$1,500 was gained or was attempted to be gained shall be fined an amount not to exceed \$500. If the victim is a minor, the offender shall be fined an amount not to exceed \$3,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5 days or more than 1 year. (b) A person convicted of the offense of theft of identity if an economic benefit that exceeds \$1,500 and does not exceed \$5,000 was gained or was attempted to be gained shall be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. If the victim is a minor, the offender shall be fined an amount not to exceed \$20,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both. A person convicted of a second offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000. (c) A person convicted of theft of identity if an economic benefit exceeding \$5,000 in value was gained or attempted to be gained shall be fined an amount not to exceed \$10,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. (3) As used in this section, "personal identifying information" includes but is not limited to the name, date of birth, address, telephone number, driver's license number, social security number or other federal government identification number, tribal identification card number, place of employment, employee identification number, mother's maiden name, financial institution account number, credit card number, or similar identifying information relating to a person. (4) If restitution is ordered, the court may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant. History: En. Sec. 1, Ch. 378, L. 2001; amd. Sec. 5, Ch. 180, L. 2007; amd. Sec. 13, Ch. 473, L. 2009; amd. Sec. 1, Ch. 175, L. 2015; amd. Sec. 14, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-333. Exploitation of incapacitated person or vulnerable adult

45-6-333. Exploitation of incapacitated person or vulnerable adult. (1) A person commits the offense of exploitation of an incapacitated person or vulnerable adult if the person: (a) purposely or knowingly obtains or uses or attempts to obtain or use an incapacitated person's or vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the incapacitated person or vulnerable adult of the use, benefit, or possession of funds, assets, or property or to benefit someone other than the incapacitated person or vulnerable adult by means of deception, duress, menace, fraud, undue influence, or intimidation; and (b) (i) stands in a position of trust or confidence with the incapacitated person or vulnerable adult; or (ii) has a business relationship with the incapacitated person or vulnerable adult. (2) A person commits the offense of exploitation of an incapacitated person or vulnerable adult if the person: (a) purposely or knowingly obtains personal identifying information of the incapacitated person or vulnerable adult and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the incapacitated person or vulnerable adult without the consent of the incapacitated person or vulnerable adult; and (b) (i) stands in a position of trust or confidence with the incapacitated person or vulnerable adult; or (ii) has a business relationship with the incapacitated person or vulnerable adult. (3) A person convicted of the offense of exploitation of an incapacitated person or vulnerable adult shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both. (4) As used in this section, the following definitions apply: (a) "Incapacitated person" has the meaning provided in 72-5-101. (b) "Vulnerable adult" has the meaning provided in 52-3-803. History: En. Sec. 2, Ch. 180, L. 2015; amd. Sec. 1, Ch. 99, L. 2019; amd. Sec. 7, Ch. 12, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related

Offenses 45-6-334. through 45-6-340 reserved

45-6-334 through 45-6-340 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-341. Money laundering

45-6-341. Money laundering. (1) A person commits the offense of money laundering if the person knowingly: (a) receives or acquires the proceeds of, or engages in transactions involving proceeds of, any activity that is unlawful under the laws of the United States or the state in which the activity occurred; (b) gives, sells, transfers, trades, invests, conceals, transports, or otherwise makes available anything of value that the person knows is intended to be used for the purpose of committing or furthering the commission of any activity that is unlawful under the laws of the United States or the state in which the committing or furthering of the commission of the activity occurs; (c) directs, plans, organizes, initiates, finances, manages, supervises, or facilitates the transportation or transfer of proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred; or (d) conducts a financial transaction involving proceeds that the person knows are derived from any activity that is unlawful under the laws of the United States or the state in which the activity occurred when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds or to avoid a transaction reporting requirement under federal law. (2) A person convicted of money laundering shall be fined an amount not to exceed \$1,500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. If the money laundering is part of a common scheme or if the value of the proceeds or item of value exceeds \$1,500, the person shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 20 years, or both. (3) (a) Upon conviction, the court shall order the following property possessed by a person convicted of money laundering to be forfeited: (i) money, including digital currency, and raw materials, products, equipment of any kind, and any other personal property involved in the money laundering; (ii) personal property constituting or derived from proceeds obtained directly or indirectly from the money laundering; and (iii) real property, including any right, title, and interest in any lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner to commit or facilitate the commission of, or that is derived from or maintained by the proceeds resulting from, the money laundering. (b) The sheriff of the county where forfeited property is located shall sell the property at auction. The proceeds of the sale must be deposited in the state general fund. (4) For purposes of this section, "digital currency" means money represented by digital information that is stored, spent, and transferred electronically by a person as part of a financial transaction. History: En. Sec. 1, Ch. 276, L. 2005; amd. Sec. 14, Ch. 473, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-342. through 45-6-344 reserved

45-6-342 through 45-6-344 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 6. Offenses Against Property Part 3. Theft and Related Offenses 45-6-345. Determination of number of convictions

45-6-345. Determination of number of convictions. For the purpose of determining the number of convictions under 45-6-301, 45-6-309, 45-6-316, 45-6-317, 45-6-325, or 45-6-332, a conviction means: (1) a conviction, as defined in 45-2-101, under the same statute; (2) a conviction for a violation of a similar statute in another state; or (3) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state or another state for a violation of a similar statute, which forfeiture has not been vacated. History: En. Sec. 15, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 1. Bribery and Corrupt Influence 45-7-101. Bribery in official and political matters

45-7-101. Bribery in official and political matters. (1) A person commits the offense of bribery if the person purposely or knowingly offers, confers, or agrees to confer upon another or solicits, accepts, or agrees to accept from another: (a) any pecuniary benefit as a consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter; (b) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding; or (c) any benefit as consideration for a violation of a known duty as a public servant or party official. (2) It is no defense to prosecution under this section that a person whom the offender sought to influence was not qualified to act in the desired way whether because the person had not yet assumed office or lacked jurisdiction or for any other reason. (3) A person convicted of the offense of bribery shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both, and shall forever be disqualified from holding any public office in this state. History: En. 94-7-102 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-102; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1676, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 1. Bribery and Corrupt Influence 45-7-102. Threats and other improper influence in official and political matters

45-7-102. Threats and other improper influence in official and political matters. (1) A person commits an offense under this section if

the person purposely or knowingly: (a) (i) threatens harm to any person, the person's spouse, child, parent, or sibling, or the person's property with the purpose to influence the person's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter; (ii) threatens harm to any public servant, to the public servant's spouse, child, parent, or sibling, or to the public servant's property with the purpose to influence the public servant's decision, opinion, recommendation, vote, or other exercise of discretion in a judicial or administrative proceeding; (iii) threatens harm to any public servant or party official, the person's spouse, child, parent, or sibling, or the person's property with the purpose to influence the person to violate the person's duty or to prevent the public servant or party official from accepting or holding any public office; (iv) privately addresses to any public servant who has or will have official discretion in a judicial or administrative proceeding any representation, entreaty, argument, or other communication designed to influence the outcome on the basis of considerations other than those authorized by law; (v) as a juror or officer in charge of a jury receives or permits to be received any communication relating to any matter pending before the jury, except according to the regular course of proceedings; or (b) injures the person or property of a public servant or injures the servant's spouse, child, parent, or sibling because of the public servant's lawful discharge of the duties of the office or to prevent the public servant from discharging the public servant's official duties. (2) It is no defense to prosecution under subsections (1)(a)(i) through (1)(a)(iv) and (1)(b) that a person whom the offender sought to influence was not qualified to act in the desired way, whether because the person had not yet assumed office or lacked jurisdiction or for any other reason. (3) A person convicted under this section shall be fined not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. History: En. 94-7-103 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 25, Ch. 359, L. 1977; R.C.M. 1947, 94-7-103; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 351, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 1. Bribery and Corrupt Influence 45-7-103. Criminal use of office or position

45-7-103. Criminal use of office or position. (1) An elected official or other public servant commits the offense of criminal use of office or position if the person knowingly solicits, accepts, or agrees to accept any pecuniary benefit accruing to the person, the person's political campaign, or the person's political party for giving or offering to give a decision, opinion, recommendation, or vote favorable to another, for exercising or offering to exercise a discretion in another's favor, or for violating or offering to violate the person's duty. A person commits an offense under this section if the person knowingly offers, confers, or agrees to confer compensation that is prohibited by this section. (2) A person convicted under this section shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-7-104 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 26, Ch. 359, L. 1977; R.C.M. 1947, 94-7-104; amd. Sec. 1677, Ch. 56, L. 2009; amd. Sec. 1, Ch. 98, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 1. Bribery and Corrupt Influence 45-7-104. Gifts to public servants by persons subject to their jurisdiction

45-7-104. Gifts to public servants by persons subject to their jurisdiction. (1) A public servant in any department or agency exercising regulatory function, conducting inspections or investigations, carrying on a civil or criminal litigation on behalf of the government, or having custody of prisoners may not solicit, accept, or agree to accept any pecuniary benefit from a person known to be subject to the regulation, inspection, investigation, or custody or against whom litigation is known to be pending or contemplated. (2) A public servant having any discretionary function to perform in connection with contracts, purchases, payments, claims, or other pecuniary transactions of the government may not solicit, accept, or agree to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any contract, purchase, payment, claim, or transaction. (3) A public servant having judicial or administrative authority and a public servant employed by or in a court or other tribunal having judicial or administrative authority or participating in the enforcement of its decision may not solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before the public servant or tribunal with which the public servant or tribunal is associated. (4) A legislator or public servant employed by the legislature or by any committee or agency of the legislature may not solicit, accept, or agree to accept any pecuniary benefit from a person known to be interested in or likely to become interested in any matter before the legislature or any committee or agency of the legislature. (5) This section does not apply to: (a) fees prescribed by law to be received by a public servant or any other benefit for which the recipient gives legitimate consideration or to which the public servant is otherwise entitled; or (b) trivial benefits incidental to personal, professional, or business contacts and involving no substantial risk of undermining official impartiality. (6) A person may not knowingly confer or offer or agree to confer any benefit prohibited by subsections (1) through (5). (7) A person convicted of an offense under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-7-105 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-105; amd. Sec. 1678, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-201. Perjury

45-7-201. Perjury. (1) A person commits the offense of perjury if in any official proceeding the person knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made when the statement is material. (2) A person convicted of perjury shall be punished by imprisonment in the state prison for any term not to exceed 10 years or be punished by a fine of not more than \$50,000, or both. (3) Falsification is material, regardless of the admissibility of the statement under rules of evidence, if it could have affected the course or outcome of the proceeding. It is no defense that the

declarant mistakenly believed the falsification to be immaterial. Whether a falsification is material in a given factual situation is a question of law. (4) It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not competent to make the statement. A document purporting to be made upon oath or affirmation at any time when the offender presents it as being so verified must be considered to have been sworn or affirmed. (5) A person may not be guilty of an offense under this section if the person retracted the falsification in the course of the proceeding in which it was made before it became manifest that the falsification was or would be exposed and before the falsification substantially affected the proceeding. (6) When the defendant made inconsistent statements under oath or equivalent affirmation, both having been made within the period of the statute of limitations, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and not believed by the defendant. In that case, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false and not believed by the defendant to be true. (7) A person may not be convicted of an offense under this section when proof of falsity rests solely upon the testimony of a single person other than the defendant. History: En. 94-7-202 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-202; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1679, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-202. False swearing

45-7-202. False swearing. (1) A person commits the offense of false swearing if the person knowingly makes a false statement under oath or equivalent affirmation or swears or affirms the truth of a statement previously made when the person does not believe the statement to be true and: (a) the falsification occurs in an official proceeding; (b) the falsification is purposely made to mislead a public servant in performing an official function; or (c) the statement is one that is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths. (2) Subsections (4) through (7) of 45-7-201 apply to this section. (3) A person convicted of false swearing shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-7-203 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-203; amd. Sec. 5, Ch. 407, L. 2007; amd. Sec. 9, Ch. 565, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-203. Unsworn falsification to authorities

45-7-203. Unsworn falsification to authorities. (1) A person commits an offense under this section if, with the purpose to mislead a public servant in performing an official function, the person: (a) makes any written or verbal false statement that the person does not believe to be true; (b) purposely creates a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements from being misleading; (c) submits or invites reliance on any writing that the person knows to be forged, altered, or otherwise lacking in authenticity; or (d) submits or invites reliance on any sample, specimen, map, boundary mark, or other object that the person knows to be false. (2) A person convicted of an offense under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-7-204 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-204; amd. Sec. 1680, Ch. 56, L. 2009; amd. Sec. 3, Ch. 656, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-204. False alarms to agencies of public safety

45-7-204. False alarms to agencies of public safety. (1) A person commits an offense under this section if the person knowingly causes a false alarm of fire or other emergency to be transmitted to or within any organization, official or volunteer, that deals with emergencies involving danger to life or property. (2) A person convicted of an offense under this section shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-7-205 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-205; amd. Sec. 1681, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-205. False reports to peace officers

45-7-205. False reports to peace officers. (1) A person commits an offense under this section if the person knowingly: (a) gives false information to any peace officer with the purpose to implicate another; (b) reports to a peace officer an offense or other incident within the officer's concern knowing that it did not occur; or (c) pretends to furnish a peace officer with information relating to an offense or incident when the person knows that the person has no information relating to the offense or incident. (2) A person convicted under this section shall: (a) if the crime falsely reported was a misdemeanor, be sentenced to not more than 6 months in the county jail or fined not more than \$500, or both; or (b) if the crime falsely reported was a felony, be sentenced to not more than 4 years in the state prison or fined not more than \$10,000, or both. History: En. 94-7-206 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-206; amd. Sec. 1682, Ch. 56, L. 2009; amd. Sec. 1, Ch. 280, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-206. Tampering with witnesses and informants

45-7-206. Tampering with witnesses and informants. (1) A person commits the offense of tampering with witnesses and informants

if, believing that an official proceeding or investigation is pending or about to be instituted, the person purposely or knowingly attempts to induce or otherwise cause a witness or informant to: (a) testify or inform falsely; (b) withhold any testimony, information, document, or thing; (c) elude legal process summoning the witness or informant to testify or supply evidence; or (d) not appear at any proceeding or investigation to which the witness or informant has been summoned. (2) A person convicted of tampering with witnesses or informants shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-7-207 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 27, Ch. 359, L. 1977; R.C.M. 1947, 94-7-207; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1683, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-207. Tampering with or fabricating physical evidence

45-7-207. Tampering with or fabricating physical evidence. (1) A person commits the offense of tampering with or fabricating physical evidence if, believing that an official proceeding or investigation is pending or about to be instituted, the person: (a) alters, destroys, conceals, or removes any record, document, or thing with purpose to impair its verity or availability in the proceeding or investigation; or (b) makes, presents, or uses any record, document, or thing knowing it to be false and with purpose to mislead any person who is or may be engaged in the proceeding or investigation. (2) A person convicted of tampering with or fabricating physical evidence shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-7-208 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-208; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1684, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-208. Tampering with public records or information

45-7-208. Tampering with public records or information. (1) A person commits the offense of tampering with public records or information if the person: (a) knowingly makes a false entry in or false alteration of any record, document, legislative bill or enactment, or thing belonging to or received, issued, or kept by the government for information or record or required by law to be kept by others for information of the government; (b) makes, presents, or uses any record, document, or thing knowing it to be false and with purpose that it be taken as a genuine part of information or records referred to in subsection (1)(a); (c) purposely destroys, conceals, removes, or otherwise impairs the verity or availability of a record, document, or thing; or (d) purposely or knowingly misrepresents the person's identity or the use for which personal information is sought in order to obtain personal information from a motor vehicle record under 61-11-507, 61-11-508, or 61-11-509. (2) A person convicted of the offense of tampering with public records or information shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-7-209 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-209; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 12, Ch. 363, L. 2001.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-209. Impersonation of public servant

45-7-209. Impersonation of public servant. (1) A person commits the offense of impersonating a public servant if the person falsely pretends to hold a position in the public service with the purpose to induce another individual to submit to the pretended official authority or otherwise to act in reliance upon that pretense to the individual's prejudice. (2) A person convicted of impersonating a public servant shall be fined not to exceed \$5,000 or be imprisoned in the state prison for any term not to exceed 5 years, or both. History: En. 94-7-210 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-210; amd. Sec. 2, Ch. 351, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 2. Perjury and Other Falsification in Official Matters 45-7-210. False claim to public agency

45-7-210. False claim to public agency. (1) A person commits an offense under this section if the person knowingly presents for allowance, for payment, or for the purpose of concealing, avoiding, or decreasing an obligation to pay a false or fraudulent claim, bill, account, voucher, or writing to a public agency, public servant, or contractor authorized to allow or pay valid claims presented to a public agency. (2) (a) Except as provided in subsection (2)(b), a person convicted of an offense under this section shall be fined not to exceed \$1,500 or imprisoned in the county jail for a term not to exceed 6 months, or both. (b) If a false or fraudulent claim is knowingly submitted as part of a common scheme or if the value of the claim or the aggregate value of one or more claims exceeds \$1,500, a person convicted of an offense under this section shall be fined not to exceed \$10,000 or imprisoned in the state prison for a term not to exceed 10 years, or both. History: En. Sec. 1, Ch. 151, L. 1981; amd. Sec. 8, Ch. 581, L. 1983; amd. Sec. 10, Ch. 616, L. 1993; amd. Sec. 13, Ch. 397, L. 1999; amd. Sec. 2, Ch. 312, L. 2005; amd. Sec. 15, Ch. 473, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-301. Resisting arrest

45-7-301. Resisting arrest. (1) A person commits the offense of resisting arrest if the person knowingly prevents or attempts to prevent a peace officer from effecting an arrest by: (a) using or threatening to use physical force or violence against the peace officer or another; or (b) using any other means that creates a risk of causing physical injury to the peace officer or another. (2) It is no

defense to a prosecution under this section that the arrest was unlawful, if the peace officer was acting under color of the officer's official authority. (3) A person convicted of the offense of resisting arrest shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. History: En. 94-7-301 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-301; amd. Sec. 1685, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-302. Obstructing peace officer or other public servant

45-7-302. Obstructing peace officer or other public servant. (1) A person commits the offense of obstructing a peace officer or public servant if the person knowingly obstructs, impairs, or hinders the enforcement of the criminal law, the preservation of the peace, or the performance of a governmental function, including service of process. (2) It is no defense to a prosecution under this section that the peace officer was acting in an illegal manner, provided that the peace officer was acting under the peace officer's official authority. (3) A person convicted of the offense of obstructing a peace officer or other public servant, including a person serving process, shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-7-302 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-302; amd. Sec. 2, Ch. 69, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-303. Obstructing justice

45-7-303. Obstructing justice. (1) For the purpose of this section "an offender" means a person who has been or is liable to be arrested, charged, convicted, or punished for a public offense. (2) A person commits the offense of obstructing justice if, knowing another person is an offender, the person purposely: (a) harbors or conceals an offender; (b) warns an offender of impending discovery or apprehension, except this does not apply to a warning given in connection with an effort to bring an offender into compliance with the law; (c) provides an offender with money, transportation, weapon, disguise, or other means of avoiding discovery or apprehension; (d) prevents or obstructs by means of force, deception, or intimidation anyone from performing an act that might aid in the discovery or apprehension of an offender; (e) suppresses by act of concealment, alteration, or destruction any physical evidence that might aid in the discovery or apprehension of an offender; or (f) aids an offender who is subject to official detention to escape from official detention. (3) A person convicted of obstructing justice shall be: (a) imprisoned in the state prison for a term not to exceed 10 years if the offender has been or is liable to be charged with a felony; or (b) fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both, if the offender has been or is liable to be charged with a misdemeanor. History: En. 94-7-303 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-303; amd. Sec. 1686, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-304. Failure to aid peace officer

45-7-304. Failure to aid peace officer. (1) A peace officer may order a person to cooperate when it is reasonable for the peace officer to enlist the cooperation of that person in: (a) effectuating or securing an arrest of another pursuant to 46-6-402; or (b) preventing the commission by another of an offense. (2) A person commits the offense of failure to aid a peace officer if the person knowingly refuses to obey an order described in subsection (1). (3) A person convicted of the offense of failure to aid a peace officer shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-7-304 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-304; amd. Sec. 1687, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-305. Compounding of felony

45-7-305. Compounding of felony. (1) A person commits the offense of compounding a felony if the person knowingly accepts or agrees to accept any pecuniary benefit in consideration for: (a) refraining from seeking prosecution of a felony; or (b) refraining from reporting to law enforcement authorities the commission or suspected commission of any felony or information relating to a felony. (2) A person convicted of compounding a felony shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-7-305 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-305; amd. Sec. 1688, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-306. Escape

45-7-306. Escape. (1) (a) "Official detention" means placement of a person in the legal custody of a municipality, a county, or the state as a result of: (i) a conviction for an offense or of having been charged with an offense; (ii) the actual or constructive restraint or custody of a person by a peace officer pursuant to arrest, transport, or court order; (iii) detention for extradition or deportation; (iv) placement in a community corrections facility or program; (v) supervision while under a supervised release program; (vi) participation in a county jail work program under 7-32-2225 through 7-32-2227; or (vii) any lawful detention for the purpose of the protection of the welfare of the person detained or for the protection of society. (b) Official detention does not include supervision of a person on probation or parole, constraint incidental to release on bail, or an unlawful arrest unless the person arrested employed physical force, a threat of physical force, or a weapon to escape. (2) A person subject to official detention commits the offense of

escape if the person knowingly or purposely eludes official detention or fails to return to official detention following temporary leave granted for a specific purpose or limited time. A person also commits the offense of escape if the person is participating in a county jail work program under 7-32-2225 through 7-32-2227 and knowingly or purposely fails to appear for work at a time and place scheduled for participation in the program. (3) A person convicted of the offense of escape shall be: (a) imprisoned in the state prison for a term not to exceed 20 years if the person escapes by the use or threat of force, physical violence, a weapon, or a simulated weapon; (b) imprisoned in the state prison for a term not to exceed 10 years if the person escapes after having been charged with or convicted of a felony; or (c) fined an amount not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6 months, or both, if the person escapes under circumstances other than those described in subsections (3)(a) and (3)(b). History: En. 94-7-306 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-306; amd. Sec. 1, Ch. 72, L. 1981; amd. Sec. 8, Ch. 583, L. 1981; amd. Sec. 5, Ch. 361, L. 1989; amd. Sec. 1, Ch. 114, L. 1991; amd. Sec. 16, Ch. 554, L. 1991; amd. Sec. 1, Ch. 26, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-307. Transferring illegal articles -- unauthorized communication

45-7-307. Transferring illegal articles -- unauthorized communication. (1) (a) A person commits the offense of transferring illegal articles if the person knowingly or purposely transfers any illegal article or weapon to a person subject to official detention or is transferred any illegal article or weapon by a person subject to official detention. (b) A person convicted of transferring illegal articles or a weapon shall be: (i) imprisoned in a state prison for a term not to exceed 20 years, if the item transferred is a weapon; (ii) imprisoned in a state prison for a term not to exceed 10 years, if the illegal article is a dangerous drug, as defined in 50-32-101; or (iii) imprisoned in a state prison for a term not to exceed 13 months or be fined an amount not more than \$1,500, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a state prison, as defined in 53-30-101, or be fined an amount not more than \$100 or be imprisoned in the county jail for any term not to exceed 10 days, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a place other than a state prison. (c) Subsection (1)(b)(iii) does not apply unless the offender knew or was given sufficient notice so that the offender reasonably should have known that the article conveyed was an illegal article. (2) (a) A person commits the offense of unauthorized communication if the person knowingly or purposely communicates with a person subject to official detention without the consent of the person in charge of the official detention. (b) A person convicted of the offense of unauthorized communication shall be fined an amount not to exceed \$100 or imprisoned in the county jail for any term not to exceed 10 days, or both. History: En. 94-7-307 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 28, Ch. 359, L. 1977; R.C.M. 1947, 94-7-307; amd. Sec. 1, Ch. 413, L. 1987; amd. Sec. 1, Ch. 144, L. 2001; amd. Sec. 22, Ch. 339, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-308. Bail-jumping

45-7-308. Bail-jumping. (1) A person commits the offense of bail-jumping if, having been set at liberty by court order, with or without security, upon condition that the person will subsequently appear at a specified time and place, the person purposely fails without lawful excuse to appear at that time and place. (2) This section may not interfere with the exercise by any court of its power to punish for contempt. (3) This section does not apply to a person set at liberty by court order upon condition that the person will appear in connection with a charge of having committed a misdemeanor, except that it applies when the judge has released the defendant on the defendant's own recognizance. (4) A person convicted of bail-jumping in connection with a felony shall be imprisoned in the state prison for a term not to exceed 10 years. In all other cases, the person shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-7-308 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-308; amd. Sec. 1689, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 3. Obstructing Governmental Operations 45-7-309. Criminal contempt

45-7-309. Criminal contempt. (1) A person commits the offense of criminal contempt when the person knowingly engages in any of the following conduct: (a) disorderly, contemptuous, or insolent behavior committed during the sitting of a court in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority; (b) breach of the peace, noise, or other disturbance directly tending to interrupt a court's proceeding; (c) purposely disobeying or refusing any lawful process or other mandate of a court; (d) unlawfully refusing to be sworn as a witness in any court proceeding or, after being sworn, refusing to answer any legal and proper interrogatory; (e) purposely publishing a false or grossly inaccurate report of a court's proceeding; (f) purposely failing to obey any mandate, process, or notice relative to juries issued pursuant to Title 3, chapter 15; or (g) purposely failing to comply with the requirements of the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, if ordered by a court to participate in the program. (2) A person convicted of the offense of criminal contempt shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-7-309 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-309; amd. Sec. 1690, Ch. 56, L. 2009; amd. Sec. 7, Ch. 318, L. 2011; amd. Sec. 20, Ch. 55, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 4. Official Misconduct 45-7-401. Official misconduct

45-7-401. Official misconduct.(1) A public servant commits the offense of official misconduct when in an official capacity the public servant commits any of the following acts: (a) purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction; (b) knowingly performs an act in an official capacity that the public servant knows is forbidden by law; (c) with the purpose to obtain a personal advantage or an advantage for another, performs an act in excess of the public servant's lawful authority; (d) solicits or knowingly accepts for the performance of any act a fee or reward that the public servant knows is not authorized by law; or (e) knowingly conducts a meeting of a public agency in violation of 2-3-203. (2) A public servant convicted of the offense of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (3) The district court has exclusive jurisdiction in prosecutions under this section. Any action for official misconduct must be commenced by an information filed after leave to file has been granted by the district court or after a grand jury indictment has been found. (4) A public servant who has been charged as provided in subsection (3) may be suspended from office without pay pending final judgment. Upon final judgment of conviction, the public servant shall permanently forfeit the public servant's office. Upon acquittal, the public servant must be reinstated in office and must receive all backpay. (5) This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect an impeachment or removal. History: En. 94-7-401 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 2, Ch. 474, L. 1975; R.C.M. 1947, 94-7-401; amd. Sec. 1691, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 5. Employer Misconduct 45-7-501. Employer misconduct

45-7-501. Employer misconduct.(1) A person who is an employer, as defined in 39-71-117, commits the offense of employer misconduct if the person knowingly or purposely: (a) avoids the person's responsibility to provide coverage for the person's employees as required by 39-71-401; (b) misrepresents or falsifies employment records or information, including but not limited to understating the amount of payroll or the number of the person's employees; or (c) refuses to pay premiums that the person is obligated to pay under compensation plan No. 2, as provided in Title 39, chapter 71, part 22, or compensation plan No. 3, as provided in Title 39, chapter 71, part 23. (2) A person convicted of the offense of employer misconduct shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for any term not to exceed 10 years, or both. History: En. Sec. 2, Ch. 586, L. 1987; amd. Sec. 1692, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 7. Offenses Against Public Administration Part 6. Confidential Criminal Justice Information 45-7-601. Misuse of confidential criminal justice information

45-7-601. Misuse of confidential criminal justice information.(1) A person commits the offense of misuse of confidential criminal justice information if the person is entitled to directly access the criminal justice information network and purposely or knowingly: (a) accesses the criminal justice information network for personal use or financial gain; or (b) disseminates information accessed from the criminal justice information network to any person who is not authorized to receive confidential criminal justice information pursuant to 44-5-303. (2) A person convicted of the offense of misuse of confidential criminal justice information shall be imprisoned in the county jail for a term not to exceed 6 months and be fined an amount not less than \$500. (3) For purposes of this section, the following definitions apply: (a) "Confidential criminal justice information" has the meaning provided in 44-5-103. (b) "Criminal justice information network" has the meaning provided in 44-2-301. History: En. Sec. 1, Ch. 25, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-101. Disorderly conduct

45-8-101. Disorderly conduct.(1) A person commits the offense of disorderly conduct if the person knowingly disturbs the peace by: (a) quarreling, challenging to fight, or fighting; (b) making loud or unusual noises; (c) using threatening, profane, or abusive language; (d) rendering vehicular or pedestrian traffic impassable; (e) rendering the free ingress or egress to public or private places impassable; (f) disturbing or disrupting any lawful assembly or public meeting; (g) transmitting a false report or warning of a fire or other catastrophe in a place where its occurrence would endanger human life; (h) creating a hazardous or physically offensive condition by any act that serves no legitimate purpose; or (i) transmitting a false report or warning of an impending explosion in a place where its occurrence would endanger human life. (2) Except as provided in subsection (3), a person convicted of the offense of disorderly conduct shall be fined an amount not to exceed \$100 or be imprisoned in the county jail for a term not to exceed 10 days, or both. (3) A person convicted of a violation of subsection (1)(i) shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. History: En. 94-8-101 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-101; amd. Sec. 1, Ch. 508, L. 1989; amd. Sec. 8, Ch. 415, L. 1991; amd. Sec. 1693, Ch. 56, L. 2009; amd. Sec. 1, Ch. 250, L. 2013; amd. Sec. 16, Ch. 321, L. 2017; amd. Sec. 2, Ch. 372, L. 2019; amd. Sec. 1, Ch. 767, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-102. Failure of disorderly persons to disperse

45-8-102. Failure of disorderly persons to disperse.(1) Where one or more persons are engaged in disorderly conduct, a peace officer, judge, or mayor may order the participants to disperse. A person who purposely refuses or knowingly fails to obey such an order commits the offense of failure to disperse. (2) A person convicted of the offense of failure to disperse shall be fined an amount

not to exceed \$100 or be imprisoned in the county jail for a term not to exceed 1 day, or both. History: En. 94-8-102 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-102; amd. Sec. 17, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-103. Riot

45-8-103. Riot. (1) A person commits the offense of riot if the person purposely and knowingly disturbs the peace by engaging in an act of violence or threat to commit an act of violence as part of an assemblage of five or more persons and the act or threat presents a clear and present danger of or results in damage to property or injury to persons. (2) Except as provided in subsection (3), a person convicted of the offense of riot shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (3) A person who commits the offense of riot by engaging in an act of violence while incarcerated at any state adult correctional facility or city or county jail shall be imprisoned for not less than 1 year or more than 5 years. History: En. 94-8-103 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-103; amd. Sec. 1, Ch. 54, L. 1983; amd. Sec. 1694, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-104. Incitement to riot

45-8-104. Incitement to riot. (1) A person commits the offense of incitement to riot if the person purposely and knowingly commits an act or engages in conduct that urges other persons to riot. The act or conduct may not include the mere oral or written advocacy of ideas or expression of belief that does not urge the commission of an act of immediate violence. (2) Except as provided in subsection (3), a person convicted of the offense of incitement to riot shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (3) A person who commits the offense of incitement to riot while incarcerated at any state adult correctional facility shall be imprisoned for not less than 1 year or more than 5 years. History: En. 94-8-104 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-104; amd. Sec. 2, Ch. 54, L. 1983; amd. Sec. 1695, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-105. Criminal incitement

45-8-105. Criminal incitement. (1) "Criminal incitement" means the advocacy of crime, malicious damage or injury to property, or violence. (2) A person commits the offense of criminal incitement if the person purposely or knowingly advocates the commission of a criminal offense and the advocacy is: (a) directed to inciting or producing that imminent unlawful, criminal action; and (b) likely to incite or produce that unlawful, criminal action. (3) For purposes of this section, "imminent" means immediate in time, impending, or on the verge of happening. (4) A person convicted of the offense of criminal incitement shall be imprisoned in the state prison for a term not to exceed 10 years. History: En. 94-7-503 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 29, Ch. 359, L. 1977; R.C.M. 1947, 94-7-503; amd. Sec. 1, Ch. 350, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-106. Bringing armed individuals into state

45-8-106. Bringing armed individuals into state. (1) A person commits the offense of bringing armed individuals into the state when the person knowingly brings or aids in bringing into this state an armed individual or armed body of individuals for the purpose of engaging in criminal or socially disruptive activities or to usurp the powers of law enforcement authorities. (2) A person convicted of the offense of bringing armed individuals into the state shall be imprisoned in the state prison for a term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-7-504 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-504; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1696, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-107. Purpose

45-8-107. Purpose. The legislature recognizes every citizen's constitutional right to express beliefs on any subject, to associate with others who share similar beliefs, and to keep or bear arms in defense of home, person, or property. Sections 45-8-107 through 45-8-109 are not intended to interfere with the exercise of rights protected by the United States constitution or the state constitution. The legislature finds that conspiracies and training activities in the furtherance of unlawful acts of violence against persons or property are not constitutionally protected, pose a threat to public order and safety, and are subject to criminal penalties. History: En. Sec. 1, Ch. 492, L. 1991.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-108. Definitions

45-8-108. Definitions. As used in 45-8-107 through 45-8-109, unless the context requires otherwise, the following definitions apply: (1) "Civil disorder" means a public disturbance involving unlawful acts of violence by a group of two or more persons that causes an immediate danger of or results in injury to the property or person of any other individual. (2) "Governmental military force" means: (a) the national guard as defined in 10 U.S.C. 101; (b) the organized militia of a state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia not included in the definition of the national guard; and (c) the armed

forces of the United States. (3) "Law enforcement agency" means a department of public safety, a police department, a sheriff's office, the highway patrol, or a governmental unit of one or more persons employed by the state or federal government or a political subdivision of the state or federal government, for the purpose of detecting and preventing crime and enforcing laws or ordinances, whose employees are authorized to make arrests for crimes while acting in the scope of their authority. (4) "Peace officer" has the meaning given in 45-2-101. History: En. Sec. 2, Ch. 492, L. 1991; amd. Sec. 17, Ch. 36, L. 2005.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-109. Civil disorder -- prohibited activities -- penalties -- exceptions

45-8-109. Civil disorder -- prohibited activities -- penalties -- exceptions. (1) A person is guilty of a crime if, with one or more other persons, the person purposely or knowingly assembles for the purpose of training in, instructing in the use of, or practicing with any technique or means capable of causing property damage, bodily injury, or death, with the purpose of employing the training, instruction, or practice in a civil disorder. (2) A person convicted of violating the provisions of subsection (1) is guilty of a felony and shall be imprisoned in the state prison for a period not to exceed 10 years or be fined not to exceed \$50,000, or both. (3) Subsection (1) does not prohibit: (a) an act protected pursuant to Article II of the Montana constitution; (b) an act of a governmental military force; (c) an act of a peace officer performed in the lawful performance of the officer's duties; (d) an authorized activity of the department of fish, wildlife, and parks; the department of corrections; a law enforcement agency; or the law enforcement academy; (e) training in nonviolent civil disobedience techniques; (f) lawful self-defense or defense of others or an activity intended to teach or practice self-defense or self-defense techniques; or (g) a facility, program, or lawful activity related to firearms instruction or training intended to teach the safe handling and use of firearms or activities or sports related to recreational use or possession of firearms. (4) Sections 45-8-107 through 45-8-109 do not apply to an employer or employees involved in a labor dispute. History: En. Sec. 3, Ch. 492, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 201, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-110. Obstructing health care facility access

45-8-110. Obstructing health care facility access. (1) A person commits the offense of obstructing health care facility access if the person knowingly obstructs, hinders, or blocks another person's entry into or exit from a health care facility. Commission of the offense includes but is not limited to knowingly approaching within 8 feet of a person who is entering or leaving a health care facility to give the person written or oral information, to display a sign, or to protest, counsel, or educate about a health issue, when the person does not consent to that activity and is within 36 feet of an entrance to or exit from the health care facility. (2) A person convicted under this section shall be fined an amount not to exceed \$100. (3) For purposes of this section, "health care facility" means an office of a medical practitioner, as defined in 37-2-101, or any other facility or entity that is licensed, certified, or otherwise authorized by law to administer medical treatment in this state. History: En. Sec. 1, Ch. 331, L. 2005.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-111. Public nuisance

45-8-111. Public nuisance. (1) "Public nuisance" means: (a) a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons; (b) any premises where persons gather for the purpose of engaging in unlawful conduct; or (c) a condition that renders dangerous for passage any public highway or right-of-way or waters used by the public. (2) A person commits the offense of maintaining a public nuisance if the person knowingly creates, conducts, or maintains a public nuisance. (3) Any act that affects an entire community or neighborhood or any considerable number of persons, as specified in subsection (1)(a), is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal. (4) An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a public nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or the commercial establishment has been in operation. (5) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance. (6) A person convicted of maintaining a public nuisance shall be fined an amount not to exceed \$500. Each day of the conduct constitutes a separate offense. History: En. 94-8-107 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 30, Ch. 359, L. 1977; R.C.M. 1947, 94-8-107(1) thru (4); amd. Sec. 2, Ch. 123, L. 1981; amd. Sec. 9, Ch. 415, L. 1991; amd. Sec. 1697, Ch. 56, L. 2009; amd. Sec. 18, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-112. Action to abate public nuisance

45-8-112. Action to abate public nuisance. (1) A public nuisance may be abated and the persons maintaining the nuisance and the possessor of the premises who permits the nuisance to be maintained may be enjoined from the conduct by an action in equity in the name of the state of Montana by the county attorney or any resident of the state. (2) Upon the filing of the complaint in the action, the judge may issue a temporary injunction. (3) In an action, evidence of the general reputation of the premises is admissible for the

purpose of proving the existence of the nuisance. (4) If the existence of the nuisance is established, an order of abatement must be entered as part of the judgment in the case. The judge issuing the order may: (a) confiscate all fixtures used on the premises to maintain the nuisance and either sell them and transmit the proceeds to the county general fund, destroy them, or return them to their rightful ownership; (b) close the premises for any period not to exceed 1 year, during which period the premises must remain in the custody of the court; (c) allow the premises to be opened upon posting bond sufficient in amount to ensure compliance with the order of abatement. The bond must be forfeited if the nuisance is continued or resumed. The procedure for forfeiture or discharge of the bond is as provided in 46-9-502 and 46-9-503. (d) impose any combination of subsections (4)(a) through (4)(c). History: En. 94-8-107 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 30, Ch. 359, L. 1977; R.C.M. 1947, 94-8-107(5); amd. Sec. 1698, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-113. Creating hazard

45-8-113. Creating hazard. (1) A person commits the offense of creating a hazard if the person knowingly: (a) discards in any place where it might attract children a container having a compartment of more than 1 1/2 cubic feet capacity and a door or lid that locks or fastens automatically when closed and cannot easily be opened from the inside and fails to remove the door, lid, or locking or fastening device; (b) being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, mine shaft, or other hole of a depth of 4 feet or more and a top width of 12 inches or more, fails to cover or fence it with a suitable protective construction; (c) tampers with an aircraft without the consent of the owner; (d) being the owner or otherwise having possession of property upon which there is a steam engine or steam boiler, continues to use a steam engine or steam boiler that is in an unsafe condition; (e) being a person in the act of game hunting, acts in a negligent manner or knowingly fails to give all reasonable assistance to any person whom the person has injured; or (f) deposits any hard substance upon or between any railroad tracks that will tend to derail railroad cars or other vehicles. (2) A person convicted of the offense of creating a hazard shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. 94-8-108 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 31, Ch. 359, L. 1977; R.C.M. 1947, 94-8-108; amd. Sec. 1699, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-114. Failure to yield party line

45-8-114. Failure to yield party line. (1) Any person who fails to relinquish a telephone party line or public pay telephone after the person has been requested to do so to permit another to place an emergency call to a fire department or police department or for medical aid or ambulance service shall be imprisoned for a term not to exceed 10 days or be fined not to exceed \$25, or both. (2) It is a defense to prosecution under subsection (1) that the accused did not know or did not have reason to know of the emergency in question or that the accused was using the telephone party line or public pay telephone for an emergency call. (3) Any person who requests another to relinquish a telephone party line or public pay telephone on the pretext that the person needs to place an emergency call, knowing the pretext to be false, shall be imprisoned for a term not to exceed 10 days or be fined not to exceed \$25, or both. (4) Each telephone company doing business in this state shall print a copy of subsections (1), (2), and (3) in each telephone directory published by it. History: En. 94-8-109 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-109; amd. Sec. 1700, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-115. Illegal posting of state and federal land

45-8-115. Illegal posting of state and federal land. (1) A person commits the offense of illegal posting of state or federal land if, without authorization, the person knowingly posts land that is under the ownership or control of the state or federal government to restrict access or use of state or federal land. (2) A person convicted of illegal posting of state or federal land shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. Sec. 1, Ch. 743, L. 1991; amd. Sec. 1701, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-116. Funeral picketing -- penalties

45-8-116. Funeral picketing -- penalties. (1) A person commits the offense of funeral picketing if the person knowingly engages in picketing within 1,500 feet of any property boundary entrance to or exit from a funeral site during the period from 1 hour before the scheduled commencement of the funeral services until 1 hour after the actual completion of the funeral services. (2) A person convicted of funeral picketing shall be fined an amount not less than \$250 and not more than \$1,000 or be imprisoned in the county jail for a term not to exceed 12 months, or both. (3) This section does not affect any proceeding against a person for violation of any other provision of law. A district court may enjoin conduct proscribed by this section. (4) In addition to, and not in lieu of, the penalties provided for in subsection (2), a district court may in a civil action award damages, including punitive damages, attorney fees, and other appropriate relief, to a person who suffers injury as a result of activity that may be a violation of this section. (5) As used in this section, the following definitions apply: (a) "Funeral" or "funeral services" means the ceremonies, rituals, and memorial services held in connection with the memorial of a deceased person or in connection with the burial, cremation, or other disposition of a human body, including the assembly and dispersal of the persons attending the funeral. (b) "Funeral site" means a church,

synagogue, mosque, funeral home, mortuary, cemetery, gravesite, mausoleum, or other public or private place where a funeral is conducted. (c) "Picketing" means the making of any noise or diversion that can reasonably be expected to disturb a funeral by: (i) standing, sitting, or repeated walking, riding, driving, or other similar action by a person displaying or carrying a banner, placard, flag, sign, or similar device that is not a part of the funeral services; (ii) engaging, with or without the use of a sound amplification device, in loud oration, speech, singing, chanting, whistling, or yelling that is not part of the funeral services; (iii) distributing any handbill, pamphlet, leaflet, or other written or printed material other than written material that is distributed as part of the funeral services; or (iv) obstructing or preventing the intended uses of a public street, public sidewalk, or other public space. History: En. Sec. 1, Ch. 10, L. 2007.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-117. Definitions

45-8-117. Definitions. As used in 45-8-117 and 45-8-118, the following definitions apply: (1) "Drag king" means a male or female performer who adopts a flamboyant or parodic male persona with glamorous or exaggerated costumes and makeup. (2) "Drag queen" means a male or female performer who adopts a flamboyant or parodic feminine persona with glamorous or exaggerated costumes and makeup. (3) "Drag story hour" means an event hosted by a drag queen or drag king who reads children's books and engages in other learning activities with minor children present. (4) "Nude" means: (a) entirely unclothed; or (b) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breast below the top of the areola of the breasts if the person is female or any portion of the genitals or buttocks. (5) "Prurient interest in sex" has the same meaning as provided in 45-8-205. (6) "Public property" means any real property owned or leased, in whole or part, by the state or a political subdivision, as defined in 2-9-101, or held in the name of a political subdivision by a department, board, or authority of the state or a political subdivision. (7) "Obscene" has the same meaning as provided in 45-8-201. (8) "Sexually oriented" means any simulation of sexual activity, stripping, salacious dancing, any lewd or lascivious depiction or description of human genitals or of sexual conduct as defined in 45-5-625. (9) "Sexually oriented business" means a nightclub, bar, restaurant, or similar commercial enterprise that: (a) provides for an audience of two or more individuals: (i) live nude entertainment or live nude performances; or (ii) a sexually oriented performance; and (b) authorizes on-premises consumption of alcoholic beverages. (10) "Sexually oriented performance" means a performance that, regardless of whether performed for consideration, is intended to appeal to a prurient interest in sex and features: (a) the purposeful exposure, whether complete or partial, of: (i) a human genital, the pubic region, the human buttocks, or a female breast, if the breast is exposed below a point immediately above the top of the areola; or (ii) prosthetic genitalia, breasts, or buttocks; (b) stripping; or (c) sexual conduct. (11) "Stripping" means removal or simulated removal of clothing in a sexual manner for the entertainment of one or more individuals. History: En. Sec. 1, Ch. 719, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 1. Conduct Disruptive of Public Order 45-8-118. Restrictions on sexually oriented businesses -- penalty

45-8-118. Restrictions on sexually oriented businesses -- penalty. (1) A sexually oriented business may not allow a person under 18 years of age to enter the premises of the business during a sexually oriented performance. (2) The owner, operator, manager, or employee of a sexually oriented business who is convicted of violating this section shall be fined not less than \$1,000 or more than \$5,000 for the first offense, not less than \$2,500 or more than \$5,000 for the second offense, and for third and subsequent offenses be fined \$10,000 and, if applicable, the county or municipality shall revoke the business license held by the offender. (3) Sections 20-7-135, 27-1-521, and 45-8-117 and this section are applicable and uniform throughout the state and any political subdivisions. History: En. Sec. 2, Ch. 719, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-201. Obscenity

45-8-201. Obscenity. (1) A person commits the offense of obscenity when, with knowledge of the obscene nature of the material, the person purposely or knowingly: (a) sells, delivers, or provides or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene to anyone under 18 years of age; (b) presents or directs an obscene play, dance, or other performance, or participates in that portion of the performance that makes it obscene, to anyone under 18 years of age; (c) publishes, exhibits, or otherwise makes available anything obscene to anyone under 18 years of age; (d) performs an obscene act or otherwise presents an obscene exhibition of the person's body to anyone under 18 years of age; (e) creates, buys, procures, or possesses obscene matter or material with the purpose to disseminate it to anyone under 18 years of age; or (f) advertises or otherwise promotes the sale of obscene material or materials represented or held out by the person to be obscene. (2) A thing is obscene if: (a) (i) it is a representation or description of perverted ultimate sexual acts, actual or simulated; (ii) it is a patently offensive representation or description of normal ultimate sexual acts, actual or simulated; or (iii) it is a patently offensive representation or description of masturbation, excretory functions, or lewd exhibition of the genitals; and (b) taken as a whole the material: (i) applying contemporary community standards, appeals to the prurient interest in sex; (ii) portrays conduct described in subsection (2)(a)(i), (2)(a)(ii), or (2)(a)(iii) in a patently offensive way; and (iii) lacks serious literary, artistic, political, or scientific value. (3) In any prosecution for an offense under this section, evidence is admissible to show: (a) the predominant appeal of the material and what effect, if any, it would probably have on the behavior of people; (b) the artistic, literary, scientific, educational, or other merits of the material; (c) the degree of public acceptance of the material in the community; (d) the appeal to prurient interest

or absence of that appeal in advertising or other promotion of the material; or (e) the purpose of the author, creator, publisher, or disseminator. (4) A person convicted of obscenity shall be fined at least \$500 but not more than \$1,000 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (5) Cities, towns, counties, or school districts may adopt ordinances, resolutions, or policies that are more restrictive as to obscenity than the provisions of this section. History: En. 94-8-110 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 1, Ch. 407, L. 1975; R.C.M. 1947, 94-8-110; amd. Sec. 1, I.M. 79, app. Nov. 7, 1978; amd. Sec. 5, Ch. 571, L. 1989; amd. Sec. 1702, Ch. 56, L. 2009; amd. Sec. 1, Ch. 449, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-203. Certain motion picture theater employees not liable for prosecution

45-8-203. Certain motion picture theater employees not liable for prosecution. (1) (a) As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if the person has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, has no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where the person is regularly employed. (b) The term does not include a manager of the motion picture theater. (2) An employee is not liable to prosecution under 45-8-201 and 45-8-206 or under any city or county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of regular employment at a showing open to the public. History: En. 94-8-110.3 by Sec. 1, Ch. 76, L. 1974; R.C.M. 1947, 94-8-110.3; amd. Sec. 6, Ch. 571, L. 1989; amd. Sec. 1703, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-205. Definitions

45-8-205. Definitions. As used in 45-8-205 through 45-8-208, the following definitions apply: (1) "Commercial establishment" means a place of business that invites the general public for the primary purpose of selling goods or offering entertainment. The term does not include a school, library, or museum. (2) "Display or dissemination of obscene material to minors" means that quality of a description, exhibition, presentation, or representation, in whatever form, of sexual conduct or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics: (a) its dominant theme appeals to a minor's prurient interest in sex; (b) it depicts or describes sexual conduct or sadomasochistic abuse in a manner that is patently offensive to contemporary standards in the adult community with respect to what is suitable for minors; and (c) it lacks serious literary, scientific, artistic, or political value for minors. If the court finds that the material or performance has serious literary, scientific, artistic, or political value for a significant percentage of normal older minors, the material or performance may not be found to lack such value for the entire class of minors. (3) "Material" means a book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America). (4) "Minor" means a person under 18 years of age. (5) "Newsstand" means a stand that distributes or sells newspapers or magazines. The term does not include a school, library, or museum. (6) "Performance" means any motion picture, film, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America); phonograph record; compact disk; tape recording; preview; trailer; play; show; skit; dance; or other exhibition played or performed before an audience of one or more, with or without consideration. (7) "Person" means any individual, partnership, association, corporation, or other legal entity of any kind. (8) "Prurient interest in sex" means a shameful or morbid interest in sex or excretion. (9) "Sexual conduct" includes: (a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted. A sexual act is simulated when it gives the appearance of depicting actual sexual activity or the consummation of an ultimate sexual act. (b) masturbation, excretory functions, or lewd exhibition of uncovered genitals or female breasts; (c) sadomasochistic abuse, meaning an act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in a revealing or bizarre costume. (10) "Ultimate sexual act" means vaginal or anal sexual intercourse, fellatio, cunnilingus, or bestiality. History: En. Sec. 1, Ch. 571, L. 1989; amd. Sec. 2, Ch. 449, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-206. Public display or dissemination of obscene material to minors

45-8-206. Public display or dissemination of obscene material to minors. (1) A person having custody, control, or supervision of a commercial establishment or newsstand may not knowingly or purposely: (a) display obscene material to minors in such a way that minors, as a part of the invited public, will be able to view the material. However, a person is considered not to have displayed obscene material to minors if the material is kept behind devices commonly known as blinder racks so that the lower two-thirds of the material is not exposed to view or other reasonable efforts were made to prevent view of the material by a minor. (b) sell, furnish, present, distribute, or otherwise disseminate to a minor or allow a minor to view, with or without consideration, any obscene material; or (c) present to a minor or participate in presenting to a minor, with or without consideration, any performance that is obscene to minors. (2) A person does not violate this section if: (a) the person had reasonable cause to believe the minor was 18 years of age. "Reasonable cause" includes but is not limited to being shown a draft card, driver's license, marriage license, birth certificate, educational identification card, governmental identification card, tribal identification card, or other official or apparently official card or document purporting to establish that the person is 18 years of age; or (b) the person is a retail sales clerk with no financial interest in the material or performance or in the establishment displaying or selling the material or performance. (3) The

offense of public display or dissemination of obscene material to minors under this section is separate from and may not be construed to negate or limit the provisions of 45-8-201 regarding the offense of obscenity. (4) Cities, towns, counties, or school districts may adopt ordinances, resolutions, or policies that are more restrictive as to the display or dissemination of obscene material to minors than the provisions of this section. History: En. Sec. 2, Ch. 571, L. 1989; amd. Sec. 6, Ch. 180, L. 2007; amd. Sec. 3, Ch. 449, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-207. Notice of violation

45-8-207. Notice of violation. Before a county attorney may prosecute a person for a continuing violation of 45-8-206, the county attorney shall determine that the material or performance is obscene to minors, give the alleged violator actual notice of the determination and notice that the person will be prosecuted if the person does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question of whether the material or performance is obscene to minors. The statute of limitations for the offense is tolled while the declaratory judgment or an appeal from it is pending. History: En. Sec. 3, Ch. 571, L. 1989; amd. Sec. 1704, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-208. Penalties

45-8-208. Penalties. (1) A person who is convicted of violating 45-8-206 is guilty of a misdemeanor and may be fined an amount not to exceed \$500 or be imprisoned for a term not to exceed 6 months, or both. (2) For purposes of 45-8-206, multiple copies of the same title, monthly issue, volume and number issue, or other identical material constitutes a single offense. History: En. Sec. 4, Ch. 571, L. 1989.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-209. Harming a police dog -- penalty -- definition

45-8-209. Harming a police dog -- penalty -- definition. (1) A person commits the offense of harming a police dog if the person purposely or knowingly shoots, kills, or otherwise injures a police dog being used by a: (a) law enforcement officer in discharging or attempting to discharge a legal duty in a reasonable and proper manner; or (b) person while the person is under the control of and acting under the direction of an officer of an official law enforcement agency during the performance of the agency's law enforcement or search and rescue duties. (2) A person convicted of the offense of harming a police dog may be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 1 year, or both. (3) As used in this section, the following definitions apply: (a) "Law enforcement officer" means a person who is a peace officer, as defined in 46-1-202, or any other agent of a criminal justice agency. (b) "Police dog" means a dog that is: (i) used by a law enforcement agency, as defined in 44-11-303, in the exercise of its authority; (ii) specifically trained for law enforcement or search and rescue work; and (iii) under the control of a law enforcement officer. History: En. Secs. 1, 2, Ch. 536, L. 1985; amd. Sec. 1, Ch. 258, L. 1989; amd. Sec. 258, Ch. 800, L. 1991; amd. Sec. 1, Ch. 63, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-210. Causing animals to fight -- owners, trainers, and spectators -- penalties -- exception -- definition

45-8-210. Causing animals to fight -- owners, trainers, and spectators -- penalties -- exception -- definition. (1) A person commits the offense of causing animals to fight if the person: (a) owns, possesses, keeps, or trains any animal with the intent that the animal fight or be engaged in an exhibition of fighting with another animal; (b) allows or causes any animal to fight with another animal or causes any animal to menace or injure another animal for the purpose of sport, amusement, or gain; (c) knowingly permits any act in violation of subsection (1)(a) or (1)(b) to take place on any premises under the person's charge or control or aids or abets any act described in subsection (1)(a) or (1)(b); (d) participates in any exhibition in which animals are fighting for the purpose of sport, amusement, or gain. (2) A person convicted of violating this section is guilty of a felony and shall be fined an amount not to exceed \$5,000 or be imprisoned in the state prison for a term of not less than 1 year or more than 5 years, or both. (3) Nothing in this section prohibits the following: (a) accepted husbandry practices used in the raising of livestock or poultry; (b) the use of animals in the normal and usual course of rodeo events; or (c) the use of animals in hunting and training as permitted by law. (4) For purposes of this section, "animal" means any cock, bird, dog, or mammal except a human. History: En. Secs. 2, 3, Ch. 410, L. 1985; amd. Sec. 1705, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-211. Cruelty to animals -- exceptions

45-8-211. Cruelty to animals -- exceptions. (1) A person commits the offense of cruelty to animals if, without justification, the person knowingly or negligently subjects an animal to mistreatment or neglect by: (a) overworking, beating, tormenting, torturing, injuring, or killing the animal; (b) carrying or confining the animal in a cruel manner; (c) failing to provide an animal in the person's custody with: (i) food and water of sufficient quantity and quality to sustain the animal's normal health; (ii) minimum protection for the animal from adverse weather conditions, with consideration given to the species; (iii) in cases of immediate, obvious, serious

illness or injury, licensed veterinary or other appropriate medical care; (d) abandoning any helpless animal or abandoning any animal on any highway, railroad, or in any other place where it may suffer injury, hunger, or exposure or become a public charge; or (e) promoting, sponsoring, conducting, or participating in an animal race of more than 2 miles, except a sanctioned endurance race. (2) (a) A person convicted of the offense of cruelty to animals shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both. A person convicted of a second or subsequent offense of cruelty to animals or of a first or subsequent offense of aggravated animal cruelty shall be fined an amount not to exceed \$2,500 or be sentenced to the department of corrections for a term not to exceed 2 years, or both. (b) If the convicted person is the owner, the person may be required to forfeit any animal affected to the county in which the person is convicted. This provision does not affect the interest of any secured party or other person who has not participated in the offense. (c) For the purposes of this subsection (2), when more than one animal is subject to cruelty to animals, each act may comprise a separate offense. (3) In addition to the sentence provided in subsection (2), the court: (a) shall require the defendant to pay all reasonable costs incurred in providing necessary veterinary attention and treatment for any animal affected, including reasonable costs of care incurred by a public or private animal control agency or humane animal treatment shelter; (b) may require the defendant to pay all reasonable costs of necessary care of the affected animal that are incurred by a public or private animal control agency or humane animal treatment shelter; and (c) shall prohibit or limit the defendant's ownership, possession, or custody of animals, as the court believes appropriate during the term of the sentence. (4) This section does not prohibit: (a) a person humanely destroying an animal for just cause; (b) the use of commonly accepted agricultural and livestock practices on livestock; (c) rodeo activities that meet humane standards of the professional rodeo cowboys association; (d) lawful fishing, hunting, and trapping activities; (e) lawful wildlife management practices; (f) lawful scientific or agricultural research or teaching that involves the use of animals; (g) services performed by a licensed veterinarian; (h) lawful control of rodents and predators and other lawful animal damage control activities; or (i) accepted training and discipline methods. History: En. 94-8-106 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-106; amd. Sec. 1, Ch. 148, L. 1985; amd. Sec. 1, Ch. 410, L. 1985; amd. Sec. 1, Ch. 424, L. 1991; amd. Sec. 1, Ch. 556, L. 1993; amd. Sec. 1, Ch. 358, L. 2003; amd. Sec. 1, Ch. 366, L. 2003.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-212. Criminal defamation

45-8-212. Criminal defamation. (1) Defamatory matter is anything that exposes a person or a group, class, or association to hatred, contempt, ridicule, degradation, or disgrace in society or injury to the person's or its business or occupation. (2) Whoever, with knowledge of its defamatory character, orally, in writing, or by any other means, including by electronic communication, as defined in 45-8-213, communicates any defamatory matter to a third person without the consent of the person defamed commits the offense of criminal defamation and may be sentenced to imprisonment for not more than 6 months in the county jail or a fine of not more than \$500, or both. (3) Violation of subsection (2) is justified if: (a) the defamatory matter is true; (b) the communication is absolutely privileged; (c) the communication consists of fair comment made in good faith with respect to persons participating in matters of public concern; (d) the communication consists of a fair and true report or a fair summary of any judicial, legislative, or other public or official proceedings; or (e) the communication is between persons each having an interest or duty with respect to the subject matter of the communication and is made with the purpose to further the interest or duty. (4) A person may not be convicted on the basis of an oral communication of defamatory matter except upon the testimony of at least two other persons that they heard and understood the oral statement as defamatory or upon a plea of guilty or nolo contendere. History: En. 94-8-111 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-111; amd. Sec. 1, Ch. 230, L. 1997; amd. Sec. 5, Ch. 395, L. 1999; amd. Sec. 3, Ch. 344, L. 2003.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-213. Privacy in communications

45-8-213. Privacy in communications. (1) Except as provided in 69-6-104, a person commits the offense of violating privacy in communications if the person knowingly or purposely: (a) with the purpose to terrify, intimidate, threaten, harass, or injure, communicates with a person by electronic communication and threatens to inflict injury or physical harm to the person or property of the person or makes repeated use of obscene, lewd, or profane language or repeated lewd or lascivious suggestions; (b) uses an electronic communication to attempt to extort money or any other thing of value from a person or to disturb by repeated communications the peace, quiet, or right of privacy of a person at the place where the communications are received; (c) records or causes to be recorded a conversation by use of a hidden electronic or mechanical device that reproduces a human conversation without the knowledge of all parties to the conversation; or (d) with the purpose to terrify, intimidate, threaten, harass, or injure, publishes or distributes printed or electronic photographs, pictures, images, or films of an identifiable person without the consent of the person depicted that show: (i) the visible genitals, anus, buttocks, or female breast if the nipple is exposed; or (ii) the person depicted engaged in a real or simulated sexual act. (2) (a) Subsection (1)(c) does not apply to: (i) elected or appointed public officials or to public employees when the transcription or recording is done in the performance of official duty; (ii) persons speaking at public meetings; (iii) persons given warning of the transcription or recording. If one person provides the warning, either party may record. (iv) a health care facility, as defined in 50-5-101, or a government agency that deals with health care if the recording is of a health care emergency telephone communication made to the facility or agency. (b) Subsection (1)(d) does not apply to: (i) images involving the voluntary exposure of a person's genitals or intimate parts in public or commercial settings; (ii) disclosures made in the public interest, including but not limited to the reporting of unlawful conduct; (iii) disclosures made in the course of

performing duties related to law enforcement, including reporting to authorities, criminal or news reporting, legal proceedings, or medical treatment; or (iv) disclosures concerning historic, artistic, scientific, or educational materials. (3) Except as provided in 69-6-104, a person commits the offense of violating privacy in communications if the person purposely intercepts an electronic communication. This subsection does not apply to elected or appointed public officials or to public employees when the interception is done in the performance of official duty or to persons given warning of the interception. (4) (a) A person convicted of the offense of violating privacy in communications shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both. (b) On a second conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be imprisoned in the county jail for a term not to exceed 1 year or be fined an amount not to exceed \$1,000, or both. (c) On a third or subsequent conviction of subsection (1)(a), (1)(b), or (1)(d), a person shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$10,000, or both. (5) Nothing in this section may be construed to impose liability on an interactive computer service for content provided by another person. (6) As used in this section, the following definitions apply: (a) "Electronic communication" means any transfer between persons of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. (b) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the internet and this type of service or system as operated or offered by a library or educational institution. History: En. 94-8-114 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 33, Ch. 359, L. 1977; R.C.M. 1947, 94-8-114; amd. Sec. 1, Ch. 356, L. 1979; amd. Sec. 1, Ch. 177, L. 1991; amd. Sec. 3, Ch. 354, L. 1999; amd. Sec. 8, Ch. 77, L. 2001; amd. Sec. 4, Ch. 344, L. 2003; amd. Sec. 1, Ch. 435, L. 2005; amd. Sec. 1, Ch. 214, L. 2007; amd. Sec. 1, Ch. 56, L. 2019; amd. Sec. 1, Ch. 243, L. 2019.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-214. Bribery in contests

45-8-214. Bribery in contests. (1) A person commits the offense of bribery in contests if the person purposely or knowingly offers, confers, or agrees to confer upon another or solicits, accepts, or agrees to accept from another: (a) any pecuniary benefit as a consideration for the recipient's failure to use the recipient's best efforts in connection with any professional or amateur athletic contest, sporting event, or exhibition; or (b) any benefit as consideration for a violation of a known duty as a person participating in, officiating, or connected with any professional or amateur athletic contest, sporting event, or exhibition. (2) A person convicted of the offense of bribery in contests shall be fined not to exceed \$5,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both. History: En. 94-8-112 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-8-112; amd. Sec. 1706, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-215. Desecration of flags

45-8-215. Desecration of flags. (1) In this section, the term "flag" means anything that is or purports to be the official flag of the United States, the United States shield, the United States coat of arms, the Montana state flag, or a copy, picture, or representation of any of the described articles. (2) A person commits the offense of desecration of flags if the person purposely or knowingly: (a) publicly mutilates, defiles, or casts contempt upon the flag; (b) places on or attaches to the flag any work, mark, design, or advertisement not properly a part of the flag or exposes to public view a flag so altered; (c) manufactures or exposes to public view an article of merchandise or a wrapper or receptacle for merchandise upon which the flag is depicted; or (d) uses the flag for commercial advertising purposes. (3) A person convicted of the offense of desecration of flags shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. (4) This section does not apply to flags depicted on written or printed documents or periodicals or on stationery, ornaments, pictures, or jewelry if there are not unauthorized words or designs on the flags and if the flag is not connected with any advertisement. History: En. 94-7-502 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-7-502; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1707, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and Inhumane Conduct 45-8-216. Unlawful automated telephone solicitation -- exceptions -- penalties

45-8-216. Unlawful automated telephone solicitation -- exceptions -- penalties. (1) A person may not use an automated telephone system, device, or facsimile machine for the selection and dialing of telephone numbers and playing of recorded messages if a message is completed to the dialed number for the purpose of: (a) offering goods or services for sale; (b) conveying information on goods or services in soliciting sales or purchases; (c) soliciting information; (d) gathering data or statistics; or (e) promoting a political campaign or any use related to a political campaign. (2) This section does not prohibit the use of an automated telephone system, device, or facsimile machine described under subsection (1) for purposes of informing purchasers of the receipt, availability for delivery, delay in delivery, or other pertinent information on the status of any purchased goods or services, of responding to an inquiry initiated by any person, or of providing any other pertinent information when there is a preexisting business relationship. This section does not prohibit the use of an automated telephone system or device if the permission of the called party is obtained by a live operator before the recorded message is delivered. (3) A person violating subsection (1) is subject to a fine of not more than \$2,500. History: En. Sec. 1, Ch. 230, L. 1991.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 2. Offensive, Indecent, and

Inhumane Conduct**45-8-217. Aggravated animal cruelty**

45-8-217. Aggravated animal cruelty. A person commits the offense of aggravated animal cruelty if the person purposely or knowingly: (1) kills or inflicts cruelty to an animal with the purpose of terrifying, torturing, or mutilating the animal; or (2) inflicts cruelty to animals on a collection, kennel, or herd of 10 or more animals. History: En. Sec. 2, Ch. 366, L. 2003.

2024 Montana Code Annotated**Title 45. Crimes****Chapter 8. Offenses Against Public Order****Part 2. Offensive, Indecent, and Inhumane Conduct****45-8-218. Deviate sexual conduct**

45-8-218. Deviate sexual conduct. (1) A person who knowingly engages in deviate sexual relations or who causes another to engage in deviate sexual relations commits the offense of deviate sexual conduct. (2) A person convicted of the offense of deviate sexual conduct shall be imprisoned in the state prison for any term not to exceed 10 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-5-505 by Sec. 1, Ch. 513, L. 1973; R.C.M. 1947, 94-5-505; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 175, L. 1991; amd. Sec. 7, Ch. 687, L. 1991; amd. Sec. 5, Ch. 225, L. 2013; Sec. 45-5-505, MCA 2011; redes. 45-8-218 by Sec. 8, Ch. 225, L. 2013.

2024 Montana Code Annotated**Title 45. Crimes****Chapter 8. Offenses Against Public Order****Part 2. Offensive, Indecent, and Inhumane Conduct****45-8-219. reserved**

45-8-219 reserved.

2024 Montana Code Annotated**Title 45. Crimes****Chapter 8. Offenses Against Public Order****Part 2. Offensive, Indecent, and Inhumane Conduct****45-8-220. Criminal invasion of personal privacy**

45-8-220. Criminal invasion of personal privacy. (1) Except as provided in subsection (2), a person commits the offense of invasion of personal privacy if the person knowingly or purposely obtains or attempts to obtain personal or confidential information about an individual while posing as the individual. A person convicted under this section shall be incarcerated for a term not to exceed 1 year or fined an amount not to exceed \$10,000, or both. (2) Subsection (1) does not apply to a person who poses as another individual with the express consent of that other individual. History: En. Sec. 1, Ch. 404, L. 2007.

2024 Montana Code Annotated**Title 45. Crimes****Chapter 8. Offenses Against Public Order****Part 2. Offensive, Indecent, and Inhumane Conduct****45-8-221. Predatory loitering by sexual offender**

45-8-221. Predatory loitering by sexual offender. (1) A person commits the offense of predatory loitering if the person: (a) was previously convicted of a predatory sexual offense or sexual abuse of children; (b) purposely or knowingly loiters: (i) in the vicinity of a residence, school, church, or place of work of the person's previous victim; or (ii) in the vicinity of any school, park, playground, church, bicycle or multiuse path, or other place frequented by minors of an age similar to the age of the victim of the previous sexual offense if the sexual offense concerned a minor; and (c) has previously been requested by a person in authority to: (i) leave the area in which the person loiters; or (ii) leave any area in which the person has loitered. (2) Proof of the offense of predatory loitering must also include proof that the person in authority has made a report of the request to the law enforcement agency with jurisdiction over the area, and the agency has documented the report. (3) A person convicted of the offense of predatory loitering may be fined not more than \$500 or be imprisoned for not more than 6 months, or both. A person convicted of a second or subsequent offense of predatory loitering may be fined not more than \$1,000 or be imprisoned for not more than 1 year, or both. (4) As used in this section, the following definitions apply: (a) "Person in authority" includes a peace officer or: (i) for the purposes of a school or playground, a principal, teacher, school staff member, parent or other adult relative of a child attending the school or playground, or other supervisor of minors; (ii) for the purposes of a church, a minister, priest, rabbi, deacon, or other ecclesiastical official, a church staff member, or a parent or other adult relative of a child attending the church; (iii) for the purposes of a park, playground, or bicycle or multiuse path, a person specified in subsection (3)(a)(i) or a park warden, guard, or host; or (iv) for purposes of a place of work, a person employed at the place of work. (b) "Predatory sexual offense" has the meaning provided in 46-23-502. (c) "Sexual abuse of children" means commission of the offense provided in 45-5-625. History: En. Sec. 1, Ch. 274, L. 2011.

2024 Montana Code Annotated**Title 45. Crimes****Chapter 8. Offenses Against Public Order****Part 3. Weapons****45-8-301. Uniformity of interpretation**

45-8-301. Uniformity of interpretation. Sections 45-8-302 through 45-8-305 and 45-8-307 must be interpreted and construed to effectuate their general purpose to make uniform the law of those states that enact them. History: En. Sec. 11, Ch. 43, L. 1935; re-en. Sec. 11317.10, R.C.M. 1935; Sec. 94-3110, R.C.M. 1947; redes. 94-8-209 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-209; amd. Sec. 1, Ch. 466, L. 1999.

2024 Montana Code Annotated**Title 45. Crimes****Chapter 8. Offenses Against Public Order****Part 3. Weapons****45-8-302. Definitions**

45-8-302. Definitions. In 45-8-303 through 45-8-305 and 45-8-307, the following definitions apply: (1) "Crime of violence" means any of the following crimes or an attempt to commit any of the crimes: any forcible felony, robbery, burglary, and criminal trespass.

(2) "Machine gun" means a firearm designed to discharge more than one shot by a single function of the trigger. (3) "Person" includes a firm, partnership, association, or corporation. History: En. Sec. 1, Ch. 43, L. 1935; re-en. Sec. 11317.1, R.C.M. 1935; Sec. 94-3101, R.C.M. 1947; redes. 94-8-201 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 34, Ch. 359, L. 1977; R.C.M. 1947, 94-8-201; amd. Sec. 2, Ch. 466, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-303. Possession or use of machine gun in connection with a crime

45-8-303. Possession or use of machine gun in connection with a crime. Possession or use of a machine gun in the perpetration or attempted perpetration of a crime of violence is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than 20 years. History: En. Sec. 2, Ch. 43, L. 1935; re-en. 11317.2, R.C.M. 1935; Sec. 94-3102, R.C.M. 1947; redes. 94-8-202 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-202.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-304. Possession or use of machine gun for offensive purpose

45-8-304. Possession or use of machine gun for offensive purpose. Possession or use of a machine gun for offensive or aggressive purpose is hereby declared to be a crime punishable by imprisonment in the state penitentiary for a term of not less than 10 years. History: En. Sec. 3, Ch. 43, L. 1935; re-en. Sec. 11317.3, R.C.M. 1935; Sec. 94-3103, R.C.M. 1947; redes. 94-8-203 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-203.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-305. Presumption of offensive or aggressive purpose

45-8-305. Presumption of offensive or aggressive purpose. Possession or use of a machine gun must be presumed to be for an offensive or aggressive purpose when the machine gun is in the possession of or used by a person who has been convicted of a crime of violence in any court of record, state or federal, in the United States of America or its territories or insular possessions. History: En. Sec. 4, Ch. 43, L. 1935; re-en. Sec. 11317.4, R.C.M. 1935; Sec. 94-3104, R.C.M. 1947; amd. and redes. 94-8-204 by Sec. 26, Ch. 513, L. 1973; amd. Sec. 35, Ch. 359, L. 1977; R.C.M. 1947, 94-8-204; amd. Sec. 3, Ch. 466, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-307. Exceptions

45-8-307. Exceptions. Sections 45-8-301 through 45-8-305 and this section do not prohibit or interfere with: (1) the manufacture of machine guns for and sale of machine guns to the military forces or the peace officers of the United States or of any political subdivision of the United States or transportation required for that purpose; (2) the possession of a machine gun for a scientific purpose or the possession of a machine gun not usable as a weapon and possessed as a curiosity, ornament, or keepsake; (3) the possession of a machine gun for a purpose manifestly not aggressive or offensive. History: En. Sec. 6, Ch. 43, L. 1935; re-en. Sec. 11317.6, R.C.M. 1935; Sec. 94-3106, R.C.M. 1947; redes. 94-8-206 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-206; amd. Sec. 4, Ch. 466, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-310. Policy

45-8-310. Policy. It is the policy of the state that the citizens of the state should be aware of, understand, and comply with any restrictions on the right to keep or bear arms that the people have reserved to themselves in Article II, section 12, of the Montana constitution, and that to minimize confusion the legislature withholds from local governments the power to restrict or regulate the possession of firearms. History: En. Sec. 1, Ch. 218, L. 2019.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-311. reserved
45-8-311 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-312. Enhanced permit to carry concealed weapon -- temporary restricted enhanced permit for individuals 18 to 20 years of age

45-8-312. Enhanced permit to carry concealed weapon -- temporary restricted enhanced permit for individuals 18 to 20 years of age. (1) To obtain an optional enhanced permit to carry a concealed weapon, an applicant shall submit an application to the sheriff of the county in which the applicant resides. The permit is valid for 5 years from the date of issuance and may be renewed pursuant to subsection (6). (2) An application for an enhanced permit must include: (a) a copy of the applicant's fingerprints for submission to the federal bureau of investigation, or to any government agency or entity authorized to receive the information, for a state, national, and international criminal background check; (b) an authorization from the applicant to run a fingerprint background check; and (c) proof that the applicant: (i) has successfully completed a qualifying handgun course, as defined in subsection (5), within the preceding 12 months; or (ii) is a current or former law enforcement officer and has, within the preceding 12 months, qualified or requalified on a certified shooting course administered by a firearms instructor approved by a law enforcement agency. (3) An applicant for an enhanced concealed carry permit must be: (a) a United States citizen or permanent lawful resident; (b) 21 years of

age or older; (c) the holder of a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified; and (d) a resident of the state for at least 6 months on the date of application. (4) A county sheriff who receives an application for an enhanced permit to carry a concealed weapon shall: (a) conduct or cause to be conducted the criminal background checks required pursuant to subsection (2); (b) retain the application and other documents until the sheriff receives the results of the background checks required pursuant to subsection (2); and (c) after receiving satisfactory background check results and verification that an applicant has met the requirements of subsection (2)(c)(i) or (2)(c)(ii) and subsection (3), issue a permit clearly designated as enhanced within 60 days after the filing of the application. (5) A qualifying handgun course is any handgun course approved by a law enforcement agency that includes instruction in each of the following: (a) laws relating to firearms and the use of force; (b) the basic concepts of the safe and responsible use of handguns; (c) self-defense principles; and (d) live fire training, including the firing of at least 98 rounds of ammunition by the student. (6) A person who holds an enhanced permit to carry a concealed weapon may renew the permit through the sheriff of the county in which the person resides. The period for renewal begins 180 days before the permit expires and ends 30 days after the permit expires. To renew an enhanced permit, a person shall: (a) pass a criminal background check; and (b) present proof that: (i) during the period of renewal, the applicant successfully completed a live fire component of a qualifying handgun course pursuant to subsection (5)(d); or (ii) the applicant is a current or former law enforcement officer and has, within the preceding 12 months, qualified or requalified on a certified shooting course administered by a firearms instructor approved by a law enforcement agency. (7) (a) If a person fails to renew an enhanced permit to carry a concealed weapon during the period set forth in subsection (6), the enhanced permit is deemed to be invalid. (b) To obtain an enhanced permit after a previous enhanced permit has become invalid, a person shall submit a new application and meet all requirements for an initial enhanced permit. (8) Except as provided in subsection (9), an enhanced permit to carry a concealed weapon may not be denied to a qualified applicant unless the applicant: (a) is ineligible under Montana or federal law to own, possess, or receive a firearm; (b) has been charged and is awaiting judgment in any state or federal crime that is punishable by incarceration for 1 year or more; (c) subject to the provisions of subsection (10), has been convicted in any state or federal court of: (i) a crime punishable by more than 1 year of incarceration; or (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent; (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years have elapsed since the date of the conviction; (e) has a warrant of any state or the federal government out for the applicant's arrest; (f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is otherwise under state supervision; (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill, mentally disordered, or mentally disabled and is still subject to a disposition order of that court; or (h) was dishonorably discharged from the United States armed forces. (9) A county sheriff may deny an applicant an enhanced permit to carry a concealed weapon if the sheriff has reasonable cause to believe that the applicant is mentally ill, mentally disordered, or mentally disabled or otherwise may be a threat to the peace and good order of the community to the extent that the applicant should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written statement of the reasonable cause on which the denial is based. (10) Except for a person referred to in subsection (8)(c)(ii), a person who has been convicted of a felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to issuance of an enhanced concealed weapons permit if otherwise eligible. (11) The fee for issuance of an enhanced permit is \$75. The fee for an enhanced permit must be paid to the county sheriff. The county sheriff shall forward the appropriate amount of the fee to the department of justice to cover the costs of background checks and fingerprinting. (12) The sheriff of the county in which the permittee resides may revoke the enhanced permit or deny its renewal under 45-8-323. (13) A denial or revocation of an enhanced permit or a refusal to renew an enhanced permit may be appealed under 45-8-324. (14) The immunity from liability provided under 45-8-326 applies to the grant of, renewal of, or failure to revoke an enhanced permit. (15) (a) An applicant between 18 and 20 years of age who otherwise meets the requirements of subsections (2) and (3) and any other specified requirements and qualifications, on approval from the sheriff of the county where the applicant submitted the application, must be issued a temporary restricted enhanced permit that clearly designates the restricted enhanced permit is for individuals who are 18 to 20 years of age. (b) An individual holding an unexpired restricted enhanced permit who has reached the age of 21 may submit a written request to the sheriff of the county in which the individual resides for an unrestricted enhanced permit. The unrestricted enhanced permit must be issued at no additional cost. History: En. Sec. 1, Ch. 526, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-313. Unlawful possession of firearm by convicted person

45-8-313. Unlawful possession of firearm by convicted person. (1) A person commits the offense of unlawful possession of a firearm by a convicted person if the person purposely or knowingly purchases or possesses a firearm after the person has been convicted of: (a) a felony for which the person received an additional sentence under 46-18-221; (b) an offense under the law of another state or of the United States that is equivalent to an offense that when committed in Montana is subject to an additional sentence under 46-18-221; or (c) a felony for which the person is currently required to register for the sexual or violent offender registry. (2) A person convicted of unlawful possession of a firearm by a convicted person shall be imprisoned in a state prison for not less than 2 years or more than 10 years. (3) A person who has been issued a permit under 45-8-314 may not be convicted of a violation of this

section. History: En. Sec. 2, Ch. 555, L. 1995; amd. Sec. 1, Ch. 386, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-314. Lifetime firearms supervision of certain convicted persons

45-8-314. Lifetime firearms supervision of certain convicted persons. (1) For the purposes of rehabilitation and public protection, a person convicted of an offense referred to in 45-8-313 shall, as part of the sentence imposed, be sentenced to life supervision by the state for the purpose of restricting the person's right to purchase and possess firearms. Active supervision by a probation or parole officer is not required but may be imposed by the court. "Supervision" means that the person may not violate 45-8-313 and must comply with other state and federal law restrictions on the purchase and possession of firearms. (2) (a) A person subject to subsection (1) may apply to the district court for the county in which the person resides for a permit to purchase and possess one or more firearms. The person shall show good cause for the possession of each firearm sought to be purchased and possessed. The grant or denial of the application does not prevent the person from making another application, except that if an application is denied, another application may not be made for the next 12 months. (b) The application must contain the following information: (i) the person's full name and any past or present aliases; (ii) the person's date and place of birth; (iii) the person's address; (iv) the person's occupation; (v) the make and model of each firearm sought to be purchased and possessed; (vi) the date and place of each conviction of an offense referred to in 45-8-313, the name of the offense, the state and county in which the offense occurred, the sentence imposed, the place or places of incarceration, and the date of discharge from supervision for the last offense; (vii) the name and business address of the person's last probation or parole officer; and (viii) any other information considered necessary by the court. (c) The person shall, at the time of filing the application with the court, mail a copy to the county attorney and county sheriff. (d) The county attorney or county sheriff may file a written objection with the court. If no objection is filed, the court may grant the permit if it finds that the person has shown good cause to purchase and possess the firearm or firearms listed in the application. If an objection is filed, a hearing must be held within 60 days after the filing of the objection. If the court first finds that the person has shown good cause to purchase and possess the firearm or firearms listed in the application and that, but for the objection, the court would have granted a permit, the court shall decide whether the objection is valid and overrides the good cause showing and requires denial of the permit. History: En. Sec. 3, Ch. 555, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-315. Definition

45-8-315. Definition. "Concealed weapon" means a firearm that is wholly or partially covered by the clothing or wearing apparel of the person carrying or bearing the weapon. History: En. Sec. 6, Ch. 74, L. 1919; re-en. Sec. 11307, R.C.M. 1921; re-en. Sec. 11307, R.C.M. 1935; Sec. 94-3530, R.C.M. 1947; redes. 94-8-215 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-215; amd. Sec. 9, Ch. 759, L. 1991; amd. Sec. 1, Ch. 230, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-316. Carrying concealed firearms -- exemption

45-8-316. Carrying concealed firearms -- exemption. (1) A person who carries or bears concealed upon the individual's person a firearm shall be punished by a fine not exceeding \$500 or by imprisonment in the county jail for a period not exceeding 6 months, or both. (2) A person who has previously been convicted of an offense, committed on a different occasion than the offense under this section, in this state or any other jurisdiction for which a sentence to a term of imprisonment in excess of 1 year could have been imposed and who carries or bears concealed upon the individual's person a firearm shall be punished by a fine not exceeding \$1,000 or be imprisoned in the state prison for a period not exceeding 5 years, or both. (3) This section does not apply to a person eligible to possess a firearm under state or federal law. History: En. Sec. 1, Ch. 74, L. 1919; re-en. Sec. 11302, R.C.M. 1921; re-en. Sec. 11302, R.C.M. 1935; Sec. 94-3525, R.C.M. 1947; redes. 94-8-210 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 36, Ch. 359, L. 1977; amd. Sec. 1, Ch. 411, L. 1977; R.C.M. 1947, 94-8-210; amd. Sec. 1708, Ch. 56, L. 2009; amd. Sec. 2, Ch. 230, L. 2017; amd. Sec. 9, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-318. Possession of deadly weapon by prisoner or youth in facility

45-8-318. Possession of deadly weapon by prisoner or youth in facility. (1) A person commits the offense of possession of a deadly weapon by a prisoner if the person purposely or knowingly possesses or carries or has under the person's custody or control without lawful authority a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife, razor not including a safety razor, or other deadly weapon while the person is: (a) a person committed to a state prison or incarcerated in a county jail, city jail, or regional jail and is: (i) at a state prison, a state prison farm or ranch, or jail; (ii) being conveyed to or from a place listed in this subsection (1)(a); or (iii) under the custody of prison or jail officials, officers, or employees; or (b) a person in a youth detention facility, secure detention facility, regional detention facility, short-term detention center, correctional facility, or shelter care facility, as those terms are defined in 41-5-103, and is at the facility, being conveyed to or from the facility, or under the custody of the facility officials, officers, or employees. (2) A person convicted of the offense of possession of a deadly weapon by a prisoner shall be punished by imprisonment in the state prison for a term not less than 5 years or

more than 15 years, by a fine of not more than \$50,000, or by both fine and imprisonment. (3) The youth court has jurisdiction of any violation of subsection (1)(b) unless the charge is filed in district court, in which case the district court has jurisdiction. History: En. Sec. 1, Ch. 131, L. 1961; Sec. 94-3527.1, R.C.M. 1947; redes. 94-8-213 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-213; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 424, L. 1987; amd. Sec. 1, Ch. 168, L. 1997; amd. Sec. 78, Ch. 550, L. 1997; amd. Sec. 3, Ch. 491, L. 1999; amd. Sec. 23, Ch. 339, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-321. Permit to carry concealed weapon

45-8-321. Permit to carry concealed weapon. (1) A county sheriff shall, within 60 days after the filing of an application, issue a permit to carry a concealed weapon to the applicant. The permit is valid for 5 years from the date of issuance. An applicant must be a United States citizen or permanent lawful resident who is 18 years of age or older and who holds a valid Montana driver's license or other form of identification issued by the state that has a picture of the person identified. An applicant must have been a resident of the state for at least 6 months. Except as provided in subsection (2), this privilege may not be denied an applicant unless the applicant: (a) is ineligible under Montana or federal law to own, possess, or receive a firearm; (b) has been charged and is awaiting judgment in any state or federal crime that is punishable by incarceration for 1 year or more; (c) subject to the provisions of subsection (6), has been convicted in any state or federal court of: (i) a crime punishable by more than 1 year of incarceration; or (ii) regardless of the sentence that may be imposed, a crime that includes as an element of the crime an act, attempted act, or threat of intentional homicide, serious bodily harm, unlawful restraint, sexual abuse, or sexual intercourse or contact without consent; (d) has been convicted under 45-8-327 or 45-8-328, unless the applicant has been pardoned or 5 years have elapsed since the date of the conviction; (e) has a warrant of any state or the federal government out for the applicant's arrest; (f) has been adjudicated in a criminal or civil proceeding in any state or federal court to be an unlawful user of an intoxicating substance and is under a court order of imprisonment or other incarceration, probation, suspended or deferred imposition of sentence, treatment or education, or other conditions of release or is otherwise under state supervision; (g) has been adjudicated in a criminal or civil proceeding in any state or federal court to be mentally ill, mentally disordered, or mentally disabled and is still subject to a disposition order of that court; or (h) was dishonorably discharged from the United States armed forces. (2) The sheriff may deny an applicant a permit to carry a concealed weapon if the sheriff has reasonable cause to believe that the applicant is mentally ill, mentally disordered, or mentally disabled or otherwise may be a threat to the peace and good order of the community to the extent that the applicant should not be allowed to carry a concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the subject of an active criminal investigation, give the applicant a written statement of the reasonable cause upon which the denial is based. (3) An applicant for a permit under this section must, as a condition to issuance of the permit, be required by the sheriff to demonstrate familiarity with a firearm by: (a) completion of a hunter education or safety course approved or conducted by the department of fish, wildlife, and parks or a similar agency of another state; (b) completion of a firearms safety or training course approved or conducted by the department of fish, wildlife, and parks, a similar agency of another state, a national firearms association, a law enforcement agency, an institution of higher education, or an organization that uses instructors certified by a national firearms association; (c) completion of a law enforcement firearms safety or training course offered to or required of public or private law enforcement personnel and conducted or approved by a law enforcement agency; (d) possession of a license from another state to carry a firearm, concealed or otherwise, that is granted by that state upon completion of a course described in subsections (3)(a) through (3)(c); or (e) evidence that the applicant, during military service, was found to be qualified to operate firearms, including handguns. (4) A photocopy of a certificate of completion of a course described in subsection (3), an affidavit from the entity or instructor that conducted the course attesting to completion of the course, or a copy of any other document that attests to completion of the course and can be verified through contact with the entity or instructor that conducted the course creates a presumption that the applicant has completed a course described in subsection (3). (5) If the sheriff and applicant agree, the requirement in subsection (3) of demonstrating familiarity with a firearm may be satisfied by the applicant's passing, to the satisfaction of the sheriff or of any person or entity to which the sheriff delegates authority to give the test, a physical test in which the applicant demonstrates the applicant's familiarity with a firearm. (6) A person, except a person referred to in subsection (1)(c)(ii), who has been convicted of a felony and whose rights have been restored pursuant to Article II, section 28, of the Montana constitution is entitled to issuance of a concealed weapons permit if otherwise eligible. History: En. Sec. 1, Ch. 759, L. 1991; amd. Sec. 1, Ch. 408, L. 1995; amd. Sec. 3, Ch. 581, L. 1999; amd. Sec. 7, Ch. 332, L. 2009; amd. Sec. 9, Ch. 161, L. 2015; amd. Sec. 1, Ch. 171, L. 2017; amd. Sec. 1, Ch. 474, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-322. Application, renewal, permit, and fees

45-8-322. Application, renewal, permit, and fees. (1) The application form must be readily available at the sheriff's office and must read as follows: CONCEALED WEAPON PERMIT APPLICATION To be completed by each person making application: RESIDENT OF MONTANA AT LEAST 6 MONTHS () Yes () No CITIZEN OF THE UNITED STATES () Yes () No 18 YEARS OF AGE OR OLDER () Yes () No PLEASE TYPE OR PRINT Full name: Alias/Maiden/Nickname: Social Security # (optional): Sex Ht. Wt. Eyes Hair LIST EACH FORMER EMPLOYER OR BUSINESS ENGAGED IN FOR THE LAST 5 YEARS: LIST EACH PLACE IN WHICH YOU HAVE LIVED FOR THE LAST 5 YEARS: HAVE YOU EVER BEEN ARRESTED FOR OR CONVICTED OF A CRIME OR FOUND GUILTY IN A COURT-MARTIAL PROCEEDING? () YES () NO IF YES, COMPLETE THE FOLLOWING (Exceptions: minor traffic violations) (Attach additional

sheet if necessary): LIST THREE PERSONS WHOM YOU HAVE KNOWN FOR AT LEAST 5 YEARS THAT WILL BE CREDIBLE WITNESSES TO YOUR GOOD MORAL CHARACTER AND PEACEABLE DISPOSITION (DO NOT include relatives or present/past employers): PLEASE EXPLAIN YOUR REASONS FOR REQUESTING THIS PERMIT (Attach additional sheet if necessary): I, the undersigned applicant, swear that the foregoing information is true and correct to the best of my knowledge and belief and is given with the full knowledge that any misstatement may be sufficient cause for denial or revocation of a permit to carry a concealed weapon. I authorize any person having information concerning me that relates to the information requested by this application and the requirements for a concealed weapon permit, either public record or otherwise, to furnish it to the sheriff to whom this application is made. Signature Date of application This application must be signed in the presence of the sheriff or a designee. (2) The application must be in triplicate. The applicant must be given the original at the time the completed application is filed with the sheriff, the sheriff shall keep a copy for at least 4 years, and a copy must, within 7 days of the sheriff's receipt of the application, be mailed to the chief of police if the applicant resides in a city or town with a police force. (3) The fee for issuance of a permit is \$50. The permit must be renewed for additional 4-year periods upon payment of a \$25 fee for each renewal and upon request for renewal made within 90 days before expiration of the permit with a 30-day grace period after the expiration. The permit and each renewal must be in triplicate, in a form prescribed by the department of justice, and must, at a minimum, include the name, address, physical description, signature, driver's license number, state identification card number, or tribal identification card number, and a picture of the permittee. A person in the United States armed forces satisfies the requirement of submitting a picture if the person submits pictures of the front of the person's military identification card and the person's Montana driver's license. The permit must state that federal and state laws on possession of firearms and other weapons differ and that a person who violates the federal law may be prosecuted in federal court and the Montana permit will not be a defense. The permittee must be given the original, and the sheriff shall keep a copy and send a copy to the department of justice, which shall keep a central repository record of all permits. Replacement of a lost permit must be treated as a renewal under this subsection. (4) The sheriff shall conduct a background check of an applicant to determine whether the applicant is eligible for a permit under 45-8-321, may require an applicant to submit the applicant's fingerprints, and may charge the applicant \$5 for fingerprinting. A renewal does not require repeat fingerprinting. (5) Permit, background, and fingerprinting fees may be retained by the sheriff and used to implement 45-8-321 through 45-8-324. (6) A state or local government law enforcement agency or other agency or any of its officers or employees may not request a permittee to voluntarily submit information in addition to that required on an application and permit. (7) All of the information on the application is confidential, and the sheriff shall treat the confidential information on the application as confidential criminal justice information pursuant to Title 44, chapter 5. History: En. Sec. 2, Ch. 759, L. 1991; amd. Sec. 4, Ch. 581, L. 1999; amd. Sec. 7, Ch. 180, L. 2007; amd. Sec. 1, Ch. 111, L. 2013; amd. Sec. 1, Ch. 134, L. 2015; amd. Sec. 1, Ch. 44, L. 2019; amd. Sec. 1, Ch. 121, L. 2019; amd. Sec. 1, Ch. 290, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-323. Denial of renewal -- revocation of permit

45-8-323. Denial of renewal -- revocation of permit. A permit to carry a concealed weapon may be revoked or its renewal denied by the sheriff of the county in which the permittee resides if circumstances arise that would require the sheriff to refuse to grant the permittee an original license. A decision to deny an applicant a renewal must be made within 60 days after the filing of an application. History: En. Sec. 3, Ch. 759, L. 1991; amd. Sec. 2, Ch. 134, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-324. Appeal

45-8-324. Appeal. The denial or revocation of a permit to carry a concealed weapon or refusal of a renewal is subject to appeal to the district court, which may consider and determine facts as well as law and which is not bound by any factual, legal, or other determination of the sheriff, and from that court to the Montana supreme court. To the extent applicable, Title 25, chapter 33, governs the appeal. History: En. Sec. 4, Ch. 759, L. 1991; amd. Sec. 2, Ch. 408, L. 1995.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-326. Immunity from liability

45-8-326. Immunity from liability. A sheriff, employee of a sheriff's office, or county is not liable for damages in a civil action by a person or entity claiming death, personal injury, or property damage arising from alleged wrongful or improper grant of, renewal of, or failure to revoke a permit to carry a concealed weapon, except for actions that constitute willful misconduct or gross negligence. History: En. Sec. 6, Ch. 759, L. 1991.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-327. Carrying concealed weapon while under influence

45-8-327. Carrying concealed weapon while under influence. A person commits the offense of carrying a concealed weapon while under the influence if the person purposely or knowingly carries a concealed weapon while under the influence of an intoxicating substance. It is not a defense that the person had a valid permit to carry a concealed weapon. A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed \$500, or both. History: En. Sec. 7, Ch. 759, L. 1991; amd. Sec. 1710, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-328.

Carrying concealed weapon in prohibited place -- penalty

45-8-328. Carrying concealed weapon in prohibited place -- penalty. (1) Except for a person issued a permit pursuant to 45-8-321 or 45-8-312 or a person recognized pursuant to 45-8-329, a person commits the offense of carrying a concealed weapon in a prohibited place if the person purposely or knowingly carries a concealed weapon in portions of a building used for state or local government offices and related areas in the building that have been restricted. (2) A person convicted of the offense shall be imprisoned in the county jail for a term not to exceed 6 months or fined an amount not to exceed \$500, or both. History: En. Sec. 8, Ch. 759, L. 1991; amd. Sec. 1, Ch. 572, L. 1999; amd. Sec. 2, Ch. 384, L. 2011; amd. Sec. 10, Ch. 3, L. 2021; amd. Sec. 2, Ch. 526, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-329.

Concealed weapon permits from other states recognized

45-8-329. Concealed weapon permits from other states recognized. (1) A concealed weapon permit from another state is valid in this state if: (a) the person issued the permit has the permit in the person's immediate possession; (b) the person bearing the permit is also in possession of an official photo identification of the person, whether on the permit or on other identification; and (c) the state that issued the permit requires a criminal records background check of permit applicants prior to issuance of a permit. (2) The attorney general shall develop and maintain a list of states from which permits are recognized under this section for the use by law enforcement agencies in this state. (3) A determination or declaration of a Montana government entity, official, or employee is not necessary to the existence and exercise of the privilege granted by this section. History: En. Sec. 3, Ch. 408, L. 1995; amd. Sec. 2, Ch. 476, L. 1999; amd. Sec. 1, Ch. 104, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-330.

Exemption of concealed weapon permittee from federal handgun purchase background check and waiting period

45-8-330. (Temporary) Exemption of concealed weapon permittee from federal handgun purchase background check and waiting period. A person possessing a concealed weapon permit or an enhanced concealed weapon permit is: (1) considered to have a permit constituting completion of the background check required by 18 U.S.C. 921 through 925A; and (2) exempt from that act's 5-day waiting period for the purchase of a handgun. (Subsections (1) and (2) terminate contingent on the elimination of federal statutory or case law requirements--sec. 5, Ch. 408, L. 1995.) History: En. Sec. 4, Ch. 408, L. 1995; amd. Sec. 3, Ch. 526, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-332.

Definitions

45-8-332. Definitions. (1) "Destructive device", as used in this chapter, includes but is not limited to the following weapons: (a) a projectile containing an explosive or incendiary material or any other similar chemical substance, including but not limited to that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns; (b) a bomb, grenade, explosive missile, or similar device or a launching device therefor; (c) a weapon of a caliber greater than .60 caliber which fires fixed ammunition or any ammunition therefor, other than a shotgun or shotgun ammunition; (d) a rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch or a launching device therefor and a rocket, rocket-propelled projectile, or similar device containing an explosive or incendiary material or any other similar chemical substance other than the propellant for the device, except devices designed primarily for emergency or distress signaling purposes; (e) a breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and which has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination. (2) "Explosive", as used in this chapter, means any explosive defined in rules adopted by the department of justice pursuant to 50-3-102(3). History: En. Sec. 1, Ch. 304, L. 1971; Sec. 69-1931, R.C.M. 1947; amd. and redes. 94-8-209.1 by Sec. 72, Ch. 359, L. 1977; R.C.M. 1947, 94-8-209.1; amd. Sec. 1, Ch. 187, L. 1985; amd. Sec. 1, Ch. 706, L. 1991.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-333. Reckless or malicious use of explosives

45-8-333. Reckless or malicious use of explosives. A person who recklessly or maliciously uses, handles, or has in the person's possession any blasting powder, giant or Hercules powder, giant caps, or other highly explosive substance through which any human being is intimidated, terrified, or endangered is guilty of a misdemeanor. History: En. Sec. 713, Pen. C. 1895; re-en. Sec. 8551, Rev. C. 1907; re-en. Sec. 2812, R.C.M. 1921; re-en. Sec. 2812, R.C.M. 1935; R.C.M. 1947, 69-1927; amd. Sec. 1712, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-334.

Possession of destructive device

45-8-334. Possession of destructive device. (1) A person who, with the purpose to commit a felony, has in the person's possession any destructive device on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of the offense of possession of a destructive device. (2) A person convicted of the offense of possession of a destructive device shall be imprisoned in the state prison for a period of not more than 10 years or

be fined an amount of not more than \$50,000, or both. History: En. Sec. 2, Ch. 304, L. 1971; Sec. 69-1932, R.C.M. 1947; amd. and redes. 94-8-209.2 by Sec. 73, Ch. 359, L. 1977; R.C.M. 1947, 94-8-209.2; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1713, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-335.
Possession of explosives

45-8-335. Possession of explosives. (1) A person commits the offense of possession of explosives if the person possesses, manufactures, transports, buys, or sells an explosive compound, flammable material, or timing, detonating, or similar device for use with an explosive compound or incendiary device and: (a) has the purpose to use the explosive, material, or device to commit an offense; or (b) knows that another has the purpose to use the explosive, material, or device to commit an offense. (2) A person convicted of the offense of possession of explosives shall be imprisoned in the state prison for any term not to exceed 20 years or be fined an amount not to exceed \$50,000, or both. History: En. 94-6-105 by Sec. 1, Ch. 513, L. 1973; Sec. 94-6-105, R.C.M. 1947; amd. and redes. 94-8-209.3 by Sec. 74, Ch. 359, L. 1977; R.C.M. 1947, 94-8-209.3; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1714, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-336.
Possession of silencer

45-8-336. Possession of silencer. (1) A person commits the offense of possession of a silencer if the person possesses, manufactures, transports, buys, or sells a silencer and has the purpose to use it to commit an offense or knows that another person has such a purpose. (2) A person convicted of the offense of possession of a silencer is punishable by imprisonment in the state prison for a term of not less than 5 years or more than 30 years or by a fine of not less than \$1,000 or more than \$20,000, or both. History: En. 94-8-209.4 by Sec. 75, Ch. 359, L. 1977; R.C.M. 1947, 94-8-209.4; amd. Sec. 1715, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-337.
Possession of unregistered silencer or of bomb or similar device prima facie evidence of unlawful purpose

45-8-337. Possession of unregistered silencer or of bomb or similar device prima facie evidence of unlawful purpose. Possession of a silencer that is not registered under federal law or of a bomb or similar device charged or filled with one or more explosives is prima facie evidence of a purpose to use the same to commit an offense. History: En. 94-8-209.5 by Sec. 76, Ch. 359, L. 1977; R.C.M. 1947, 94-8-209.5; amd. Sec. 5, Ch. 466, L. 1999; amd. Sec. 5, Ch. 581, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-338.
Firearms certificates for qualified retired law enforcement officers

45-8-338. Firearms certificates for qualified retired law enforcement officers. (1) The purpose of this section is to establish a process for issuing proof of firearms qualifications to a resident of the state who is otherwise a qualified retired law enforcement officer as defined in 7-32-201, or a peace officer as defined in 46-1-202, under the Federal Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926B and 926C, for the purpose of satisfying the qualification requirements contained in that act. (2) A retired law enforcement officer or peace officer satisfies the federal certification requirements if the officer possesses a valid firearms qualification certificate that: (a) uses a current target from any law enforcement agency in the state that may be used by a certified firearms instructor that is qualified to conduct a firearms qualification test for active-duty officers within the state that indicates that the individual has, not less than 1 year before the date the individual is carrying the concealed firearm, been tested or otherwise found by the state or a certified firearms instructor that is qualified to conduct a firearms qualification test for active duty officers within the state to have met the requirements under the Federal Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926B and 926C; (b) provides that either a law enforcement agency as defined in 7-32-201 or an individual or entity licensed to provide firearms training as provided in 37-60-101 acknowledges that the bearer has been found qualified or otherwise found to meet the standards established by the firearms qualification for the peace officer basic course at the Montana law enforcement academy; and (c) complies with the time restrictions provided under subsection (3). (3) The firearms certification is valid for a period of 1 year from the date that the law enforcement agency or individual or entity verified that the firearms qualification standards were met by the bearer on an equivalency course of fire established by any law enforcement agency in the state as an appropriate standard duty qualification course as it would relate to qualified retired officers. The date of the successful qualification must be on the certification card. (4) The retired law enforcement officer or peace officer is responsible for paying the costs of the firearms qualification required under subsection (2). History: En. Sec. 1, Ch. 301, L. 2021; amd. Sec. 18, Ch. 481, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-340.
Sawed-off firearm -- penalty

45-8-340. Sawed-off firearm -- penalty. (1) A person commits the offense of possession of a sawed-off firearm if the person knowingly possesses a rifle or shotgun that when originally manufactured had a barrel length of: (a) 16 inches or more and an overall length of 26 inches or more in the case of a rifle; or (b) 18 inches or more and an overall length of 26 inches or more in the case of a shotgun; and (c) the firearm has been modified in a manner so that the barrel length, overall length, or both, are less than

specified in subsection (1)(a) or (1)(b). (2) The barrel length is the distance from the muzzle to the rear-most point of the chamber. (3) This section does not apply to firearms possessed: (a) by a peace officer of this state or one of its political subdivisions; (b) by an officer of the United States government authorized to carry weapons; (c) by a person in actual service as a member of the national guard; (d) by a person called to the aid of one of the persons named in subsections (3)(a) through (3)(c); (e) for educational or scientific purposes in which the firearms are incapable of being fired; (f) by a person who has a valid federal tax stamp for the firearm, issued by the bureau of alcohol, tobacco, firearms and explosives; or (g) by a bona fide collector of firearms if the firearm is a muzzleloading, sawed-off firearm manufactured before 1900. (4) A person convicted of the offense of possession of a sawed-off firearm shall be fined not less than \$200 or more than \$500 or be imprisoned in the county jail for not less than 5 days or more than 6 months, or both, upon a first conviction. If a person has one or more prior convictions under this section or one or more prior felony convictions under a law of this state, another state, or the United States, the person shall be fined an amount not to exceed \$1,000 or be imprisoned in the state prison for a term not to exceed 5 years, or both. History: En. Sec. 1, Ch. 334, L. 1989; amd. Sec. 1717, Ch. 56, L. 2009; amd. Sec. 15, Ch. 275, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-343. Firing firearms

45-8-343. Firing firearms. (1) Except as provided in subsections (2) and (3), every person who willfully shoots or fires off a gun, pistol, or any other firearm within the limits of any town or city or of any private enclosure which contains a dwelling house is punishable by a fine not exceeding \$25 or such greater fine or a term of imprisonment, or both, as the town or city may impose. (2) Firearms may be discharged at an indoor or outdoor rifle, pistol, or shotgun shooting range located within the limits of a town or city or in a private dwelling if the shooting range is approved by the local governing body. (3) Subsection (1) does not apply if the discharge of a firearm is justifiable under Title 45, chapter 3, part 1. History: En. Secs. 1, 2, p. 46, Ex. L. 1873; re-en. Sec. 185, 4th Div. Rev. Stat. 1879; re-en. Sec. 228, 4th Div. Comp. Stat. 1887; amd. Sec. 1161, Pen. C. 1895; re-en. Sec. 8834, Rev. C. 1907; re-en. Sec. 11530, R.C.M. 1921; re-en. Sec. 11530, R.C.M. 1935; Sec. 94-3578, R.C.M. 1947; redes. 94-8-218 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 39, Ch. 359, L. 1977; R.C.M. 1947, 94-8-218; amd. Sec. 1, Ch. 20, L. 1981; amd. Sec. 1, Ch. 618, L. 1983.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-344. Use of firearms by children under 14 years of age prohibited -- exceptions

45-8-344. Use of firearms by children under 14 years of age prohibited -- exceptions. It is unlawful for a parent, guardian, or other person having charge or custody of a minor child under the age of 14 years to permit the minor child to carry or use in public any firearms, except when the child is accompanied by a person having charge or custody of the child or under the supervision of a qualified firearms safety instructor or an adult who has been authorized by the parent or guardian. History: En. Sec. 1, Ch. 111, L. 1907; Sec. 8879, Rev. C. 1907; re-en. Sec. 11565, R.C.M. 1921; re-en. Sec. 11565, R.C.M. 1935; Sec. 94-3579, R.C.M. 1947; amd. Sec. 1, Ch. 139, L. 1963; redes. 94-8-221 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 40, Ch. 359, L. 1977; R.C.M. 1947, 94-8-221; amd. Sec. 1, Ch. 600, L. 1993.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-345. Criminal liability of parent or guardian -- prosecution

45-8-345. Criminal liability of parent or guardian -- prosecution. (1) Any parent, guardian, or other person violating the provisions of 45-8-344 shall be guilty of a misdemeanor. (2) The county attorney, on complaint of any person, must prosecute violations of 45-8-344. History: En. Sec. 2, Ch. 111, L. 1907; Sec. 8880, Rev. C. 1907; re-en. Sec. 11566, R.C.M. 1921; re-en. Sec. 11566, R.C.M. 1935; Sec. 94-3580, R.C.M. 1947; redes. 94-8-222 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 94-8-222.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-346. through 45-8-350 reserved

45-8-346 through 45-8-350 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-351. Restriction on local government regulation of firearms

45-8-351. Restriction on local government regulation of firearms. (1) Except as provided in subsection (2), a county, city, town, consolidated local government, or other local government unit may not prohibit, register, tax, license, or regulate the purchase, sale or other transfer (including delay in purchase, sale, or other transfer), ownership, possession, transportation, use, or unconcealed carrying of any weapon, including a rifle, shotgun, handgun, or concealed handgun. (2) (a) For public safety purposes, a city or town may regulate the discharge of rifles, shotguns, and handguns. A county, city, town, consolidated local government, or other local government unit has power to prevent and suppress the carrying of unpermitted concealed weapons or the carrying of unconcealed weapons to a publicly owned and occupied building under its jurisdiction. (b) Nothing contained in this section allows any government to prohibit the legitimate display of firearms at shows or other public occasions by collectors and others or to prohibit the legitimate transportation of firearms through any jurisdiction, whether in airports or otherwise. History: En. Sec. 1, Ch. 589, L. 1985; amd. Sec. 11, Ch. 759, L. 1991; amd. Sec. 3, Ch. 384, L. 2011; amd. Sec. 3, Ch. 218, L. 2019; amd. Sec. 11, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-352. Restriction on local government regulation of knives

45-8-352. Restriction on local government regulation of knives. (1) Except as provided in subsection (2), local governments may not enact or enforce an ordinance, rule, or regulation that restricts or prohibits the ownership, use, possession, or sale of any type of knife that is not specifically prohibited by state law. (2) Subsection (1) does not apply to a local government ordinance, rule, or regulation prohibiting the possession of a knife on property or in a building owned, leased, or possessed by the local government entity. History: En. Sec. 1, Ch. 119, L. 2019.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-353. Purpose

45-8-353. Purpose. The purpose of Chapter 3, Laws of 2021, is to enhance the safety of people by expanding their legal ability to provide for their own defense by reducing or eliminating government-mandated places where only criminals are armed and where citizens are prevented from exercising their fundamental right to defend themselves and others. History: En. Sec. 1, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-354. Legislative intent

45-8-354. Legislative intent. It is the intent of the legislature to reduce or remove provisions of law that limit or prohibit the ability of citizens to defend themselves by restricting with prior restraint the right to keep or bear arms that the people have reserved to themselves in the Montana constitution and to further establish that the right to defense of a person's life, liberty, or property is a fundamental right. History: En. Sec. 2, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-355. Legislative findings

45-8-355. Legislative findings. The legislature declares and finds as follows: (1) Nowhere in Article X, section 9(2)(a), of the Montana constitution is any power granted to amend, suspend, alter, or abolish the Montana constitution, nor is any power granted to affect or interfere with the rights the people have reserved to themselves specifically from interference by government entities and government actors in Article II of the Montana constitution. (2) The Montana university system was created and is controlled by the Montana constitution and the land and buildings occupied by the university system are public property and not private property and are therefore clearly government entities. (3) Any significant prohibition upon the possession of firearms at or on the various campuses of the Montana university system calls into question the rights that the people have reserved to protect themselves from government interference under Article II, section 12, of the Montana constitution. (4) Zones where guns are prohibited provide an increased risk to the health and safety of citizens because these zones create an unreasonable expectation of government-provided safety, while that safety cannot be provided or ensured. (5) In *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. City of Chicago*, 561 U.S. 742 (2010), the United States supreme court affirmed that the second amendment to the United States constitution reserves to individuals the fundamental right to keep and bear arms for self-defense and is applicable as a restriction upon state and local governments and all political subdivisions of state and local government through the 14th amendment to the United States constitution. History: En. Sec. 3, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-356. Where concealed weapon may be carried -- exceptions

45-8-356. Where concealed weapon may be carried -- exceptions. A person with a current and valid permit issued pursuant to 45-8-321 or 45-8-312 or recognized pursuant to 45-8-329 may not be prohibited or restricted from exercising that permit anywhere in the state, except: (1) in a correctional, detention, or treatment facility operated by or contracted with the department of corrections or a secure treatment facility operated by the department of public health and human services; (2) in a detention facility or secure area of a law enforcement facility owned and operated by a city or county; (3) at or beyond a security screening checkpoint regulated by the transportation security administration in a publicly owned, commercial airport; (4) in a building owned and occupied by the United States; (5) on a military reservation owned and managed by the United States; (6) on private property where the owner of the property or the person who possesses or is in control of the property, including a tenant or lessee of the property, expressly prohibits firearms; (7) within a courtroom or an area of a courthouse in use by court personnel pursuant to an order of a justice of the peace or judge; or (8) in a school building as determined by a school board pursuant to 45-8-361. History: En. Sec. 4, Ch. 3, L. 2021; amd. Sec. 4, Ch. 526, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-357. Prohibition on infringement of constitutional rights

45-8-357. Prohibition on infringement of constitutional rights. The board of regents and all university system employees subject to the authority of the board of regents are prohibited from enforcing or coercing compliance with any rule or regulation that diminishes or restricts the rights of the people to keep or bear arms as reserved to them in Article II of the Montana constitution, especially those rights reserved in Article II, sections 4 through 12, notwithstanding any authority of the board of regents under Article X, section 9(2)(a), of the Montana constitution. History: En. Sec. 5, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-358. Regulation of firearms prohibited for certain people -- exceptions

45-8-358. Regulation of firearms prohibited for certain people -- exceptions. (1) Except as provided in subsection (2), the board of regents and any unit of the university system may not regulate, restrict, or place an undue burden on the possession, transportation, or storage of firearms on or within university system property by a person eligible to possess a firearm under state or federal law and meeting the minimum safety and training requirements in 45-8-321(3). (2) The board of regents or a unit of the university system may prohibit or regulate the following: (a) the discharge of a firearm on or within university system property unless the discharge is done in self-defense; (b) the removal of a firearm from a gun case or holster unless the removal is done in self-defense or within the domicile on campus of the lawful possessor of the firearm; (c) the pointing of a firearm at another person unless the lawful possessor is acting in self-defense; (d) the carrying of a firearm outside of a domicile on campus unless the firearm is within a case or holster; (e) the failure to secure a firearm with a locking device whenever the firearm is not in the possession of or under the immediate control of the lawful possessor of the firearm; (f) the possession or storage of a firearm in an on-campus dormitory or housing unit without the express permission of any roommate of the lawful possessor of the firearm; (g) the possession or storage of a firearm by any individual who has a history of adjudicated university system discipline arising out of the individual's interpersonal violence or substance abuse; (h) the possession of a firearm at an event on campus where campus authorities have authorized alcohol to be served and consumed; and (i) the possession of a firearm at an athletic or entertainment event open to the public with controlled access and armed security on site. History: En. Sec. 6, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-359. Remedy for violations

45-8-359. Remedy for violations. Any person that suffers deprivation of rights enumerated under 45-8-353 through 45-8-358 has a cause of action against any governmental entity, as defined in 2-9-101. The cause of action must be filed in district court. If a person asserting a deprivation of rights prevails, the person may be awarded reasonable costs, attorney fees, and damages. History: En. Sec. 7, Ch. 3, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-360. Establishment of individual licensure

45-8-360. Establishment of individual licensure. In consideration that the right to keep and bear arms is protected and reserved to the people in Article II, section 12, of the Montana constitution, a person who has not been convicted of a violent, felony crime and who is lawfully able to own or to possess a firearm under the Montana constitution is considered to be individually licensed and verified by the state of Montana within the meaning of the provisions regarding individual licensure and verification in the federal Gun-Free School Zones Act. History: En. Sec. 1, Ch. 317, L. 1995; amd. Sec. 1, Ch. 29, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions

45-8-361. Possession or allowing possession of weapon in school building -- exceptions -- penalties -- seizure and forfeiture or return authorized -- definitions. (1) A person commits the offense of possession of a weapon in a school building if the person purposely and knowingly possesses, carries, or stores a weapon in a school building. (2) A parent or guardian of a minor commits the offense of allowing possession of a weapon in a school building if the parent or guardian purposely and knowingly permits the minor to possess, carry, or store a weapon in a school building. (3) (a) Subsection (1) does not apply to law enforcement personnel or to a school marshal in the school district where the school marshal is contracted or employed. (b) The trustees of a district may grant persons and entities advance permission to possess, carry, or store a weapon in a school building. (4) (a) A person convicted under this section shall be fined an amount not to exceed \$500, imprisoned in the county jail for a term not to exceed 6 months, or both. The court shall consider alternatives to incarceration that are available in the community. (b) (i) A weapon in violation of this section may be seized and, upon conviction of the person possessing or permitting possession of the weapon, may be forfeited to the state or returned to the lawful owner. (ii) If a weapon seized under the provisions of this section is subsequently determined to have been stolen or otherwise taken from the owner's possession without permission, the weapon must be returned to the lawful owner. (5) As used in this section: (a) "school building" means all buildings owned or leased by a local school district that are used for instruction or for student activities. The term does not include a home school provided for in 20-5-109. (b) "weapon" means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, or brass or other metal knuckles. The term also includes any other article or instrument possessed with the purpose to commit a criminal offense. History: En. Sec. 1, Ch. 435, L. 1997; amd. Sec. 6, Ch. 581, L. 1999; amd. Sec. 5, Ch. 541, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-362. through 45-8-364 reserved

45-8-362 through 45-8-364 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-365. Short title

45-8-365. Short title. Sections 45-8-365 through 45-8-368 may be cited as the "Montana Federal Firearm, Magazine, and Ammunition Ban Enforcement Prohibition Act". History: En. Sec. 1, Ch. 282, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-366. Declaration of authority

45-8-366. Declaration of authority. Sections 45-8-365 through 45-8-368 are done under the authority of the 2nd and 10th amendments to the United States constitution, Article II, section 12, of the Montana constitution, Montana's compact with the United States, and *Printz v. U.S.*, 521 U.S. 898 (1997). History: En. Sec. 2, Ch. 282, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-367. Definitions

45-8-367. Definitions. As used in 45-8-365 through 45-8-368, the following definitions apply: (1) "Federal ban" means a federal law, executive order, rule, regulation that is enacted, adopted, or becomes effective on or after January 1, 2021, or a new and more restrictive interpretation of a law that existed on January 1, 2021, that infringes upon, calls in question, or prohibits, restricts, or requires individual licensure for or registration of the purchase, ownership, possession, transfer, or use of any firearm, any magazine or other ammunition feeding device, or other firearm accessory. (2) "Firearm" means any self-loading rifle, pistol, revolver, or shotgun or any manually loaded rifle, pistol, revolver, or shotgun. (3) "Peace officer" has the meaning provided in 45-2-101, except that 45-8-365 through 45-8-368 do not apply to federal employees. (4) "Political subdivision" means a city, town, county, consolidated government, or other political subdivision of the state. History: En. Sec. 3, Ch. 282, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 3. Weapons 45-8-368. Prohibition of enforcement

45-8-368. Prohibition of enforcement. (1) A peace officer, state employee, or employee of a political subdivision is prohibited from enforcing, assisting in the enforcement of, or otherwise cooperating in the enforcement of a federal ban on firearms, magazines, or ammunition and is also prohibited from participating in any federal enforcement action implementing a federal ban on firearms, magazines, or ammunition. (2) An employee of the state or a political subdivision may not expend public funds or allocate public resources for the enforcement of a federal ban on firearms, magazines, or ammunition. (3) Nothing in this section may be construed to prohibit or otherwise limit a peace officer, state employee, or employee of a political subdivision from cooperating, communicating, or collaborating with a federal agency if the primary purpose is not: (a) law enforcement activity related to a federal ban; or (b) the investigation of a violation of a federal ban. History: En. Sec. 4, Ch. 282, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-401. Short title

45-8-401. Short title. This part may be cited as the "Montana Street Terrorism Enforcement and Prevention Act". History: En. Sec. 1, Ch. 285, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-402. Definitions

45-8-402. Definitions. As used in this part, the following definitions apply: (1) "Criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in 45-8-405, having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal street gang activity. (2) "Pattern of criminal street gang activity" has the meaning provided in 45-8-405. History: En. Sec. 2, Ch. 285, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-403. Use of threat to coerce gang membership -- use of violence to coerce gang membership

45-8-403. Use of threat to coerce gang membership -- use of violence to coerce gang membership. (1) A person commits the offense of use of threat to coerce criminal street gang membership if the person purposely or knowingly threatens a person under 18 years of age with physical violence on two or more separate occasions with the intent to coerce, induce, or solicit the minor to actively participate in any criminal street gang whose members engage in a pattern of criminal street gang activity. (2) A person commits the offense of use of violence to coerce criminal street gang membership if the person purposely or knowingly uses physical violence to coerce, induce, or solicit a person under 18 years of age to actively participate in any criminal street gang whose members engage in a pattern of criminal street gang activity. (3) (a) A person convicted of the offense of use of threat to coerce criminal street gang membership shall be imprisoned in the county jail for a term not to exceed 1 year. (b) A person convicted of the offense of use of violence to coerce criminal street gang membership shall be imprisoned in a state prison for a term not to exceed 3 years. (4) A

person who is 16 years of age or older and less than 18 years of age who is named in a petition filed in youth court alleging delinquency for the alleged commission of the offense of use of threat to coerce criminal street gang membership or the offense of use of violence to coerce criminal street gang membership is subject to transfer of the case to district court under 41-5-206 or, if the case is not transferred to district court under 41-5-206, to the provisions of Title 41, chapter 5. (5) This section may not be construed to limit prosecution under any other provision of law. (6) A person may not be convicted of violating this section based on speech alone, except on a showing that the speech itself threatened violence against a specific person, that the defendant had the apparent ability to carry out the threat, and that physical harm was imminently likely to occur. History: En. Sec. 3, Ch. 285, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-404. Additional sentence for criminal street gang-related felony

45-8-404. Additional sentence for criminal street gang-related felony. (1) (a) A person who is convicted of a felony that the person committed for the benefit of, at the direction of, or in association with any criminal street gang for the purpose of promoting, furthering, or assisting any criminal conduct by criminal street gang members shall, in addition to the punishment provided for the commission of the underlying offense, be sentenced to a term of imprisonment in a state prison of not less than 1 year or more than 3 years, except as provided in 46-18-222. (b) If the underlying felony described in subsection (1)(a) is committed on the grounds of, or within 1,000 feet of, a public school, as defined in 20-6-501, during hours when the facility is open for classes or school-related programs or when minors are using the facility, the additional term provided for in subsection (1) is 2 to 4 years. (2) The imposition or execution of the minimum sentences prescribed by this section may not be deferred or suspended, except as provided in 46-18-222. (3) An additional sentence prescribed by this section shall run consecutively to the sentence provided for the underlying offense. History: En. Sec. 4, Ch. 285, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-405. Pattern of criminal street gang activity

45-8-405. Pattern of criminal street gang activity. (1) For purposes of this part, "pattern of criminal street gang activity" means the commission, solicitation, conspiracy, or attempt, the adjudication as a delinquent youth for the commission, attempt, or solicitation, or the conviction of two or more of the offenses listed in subsection (2) within a 3-year period, which offenses were committed on separate occasions. (2) The offenses that form a pattern of criminal street gang activity include: (a) deliberate homicide, as defined in 45-5-102; (b) assault with a weapon, as defined in 45-5-213; (c) intimidation, as defined in 45-5-203; (d) kidnapping, as defined in 45-5-302; (e) aggravated kidnapping, as defined in 45-5-303; (f) robbery, as defined in 45-5-401; (g) sexual intercourse without consent, as defined in 45-5-503; (h) aggravated sex trafficking, as defined in 45-5-706; (i) child sex trafficking, as defined in 45-5-711; (j) criminal mischief, as defined in 45-6-101; (k) arson, as defined in 45-6-103; (l) burglary, as defined in 45-6-204; (m) theft, as defined in 45-6-301; (n) forgery, as defined in 45-6-325; (o) tampering with witnesses and informants, as defined in 45-7-206; (p) bringing armed individuals into the state, as defined in 45-8-106; (q) unlawful possession of a firearm by a convicted person, as defined in 45-8-313; (r) carrying a concealed weapon, as defined in 45-8-316; (s) possession of a deadly weapon by a prisoner, as defined in 45-8-318; (t) possession of a destructive device, as defined in 45-8-334; (u) possession of explosives, as defined in 45-8-335; (v) possession of a sawed-off firearm, as defined in 45-8-340; (w) the sale, possession for sale, transportation, manufacture, offer for sale, offer to manufacture, or other offense involving a dangerous drug as prohibited by Title 45, chapter 9; (x) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership provided in 45-8-403. History: En. Sec. 5, Ch. 285, L. 1997; amd. Sec. 10, Ch. 432, L. 1999; amd. Sec. 1718, Ch. 56, L. 2009; amd. Sec. 21, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-406. Supplying of firearms to criminal street gang

45-8-406. Supplying of firearms to criminal street gang. (1) A person commits the offense of supplying firearms to a criminal street gang if the person purposely or knowingly supplies, sells, or gives possession or control of any firearm to another, and the person has actual knowledge that the other person will use the firearm to commit an offense enumerated in 45-8-405 while actively participating in any criminal street gang whose members engage in a pattern of criminal street gang activity. (2) Subsection (1) does not apply to a person who is convicted as a principal to the offense committed by the person to whom the firearm was supplied, sold, or given. (3) A person convicted of the offense of supplying firearms to a criminal street gang shall be imprisoned in the county jail for a term not to exceed 1 year or be fined an amount not to exceed \$1,000, or both. History: En. Sec. 6, Ch. 285, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-407. Exceptions

45-8-407. Exceptions. This part does not apply to employees engaged in lawful concerted activities for their mutual aid and protection or to the lawful activities of labor organizations or their members or agents. History: En. Sec. 7, Ch. 285, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 8. Offenses Against Public Order Part 4. Montana Street Terrorism Enforcement and Prevention Act 45-8-408. Adoption of local regulations

45-8-408. Adoption of local regulations. This part does not prevent a local government from adopting and enforcing ordinances or resolutions consistent with this part relating to criminal street gangs and criminal street gang violence. History: En. Sec. 8, Ch. 285, L. 1997.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-101. Criminal distribution of dangerous drugs

45-9-101. Criminal distribution of dangerous drugs. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal distribution of dangerous drugs if the person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous drug, as defined in 50-32-101. (2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing any dangerous drug, as defined in 50-32-101, shall be sentenced as provided in 45-9-102. (3) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in subsection (1), (2), (4), (5), or (6) shall be imprisoned in the state prison for a term not to exceed 25 years or be fined an amount of not more than \$50,000, or both. (4) A person who was an adult at the time of distribution and who is convicted of criminal distribution of dangerous drugs to a minor shall be sentenced as follows: (a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40 years and may be fined not more than \$50,000. (b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term not to exceed life and may be fined not more than \$50,000. (5) If the offense charged results in the death of an individual from the use of any dangerous drug that was distributed, the person shall be imprisoned in the state prison for a term of not more than 100 years and may be fined not more than \$100,000. (6) A person convicted of criminal distribution of dangerous drugs that involves distribution of fentanyl, carfentanil, sufentanil, alfentanil, or a fentanyl derivative, and who possessed or distributed a mixture containing one or more of these substances in a combined amount greater than 100 pills or a combined weight greater than 10 grams in a form such as a powder, solid, or liquid, inclusive of any additives or cutting agents, shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years or may be fined not more than \$50,000, or both. The court may not suspend execution or defer imposition of the first 2 years of the sentence, except as provided in 46-18-222(1) through (4), and during the first 2 years of imprisonment, the offender is not eligible for parole. (7) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section. History: En. Sec. 4, Ch. 314, L. 1969; amd. Sec. 1, Ch. 55, L. 1973; amd. Sec. 24, Ch. 412, L. 1973; amd. Sec. 1, Ch. 258, L. 1974; amd. Sec. 1, Ch. 359, L. 1977; amd. Sec. 1, Ch. 584, L. 1977; R.C.M. 1947, 54-132; amd. Sec. 1, Ch. 587, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 9, Ch. 583, L. 1981; amd. Sec. 1, Ch. 393, L. 1983; amd. Sec. 16, Ch. 3, L. 1985; amd. Sec. 1, Ch. 478, L. 1987; amd. Sec. 1, Ch. 575, L. 1989; amd. Sec. 3, Ch. 448, L. 1993; amd. Sec. 11, Ch. 432, L. 1999; amd. Sec. 87, Ch. 114, L. 2003; amd. Sec. 11, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 2, Ch. 156, L. 2011; amd. Sec. 1, Ch. 135, L. 2013; amd. Sec. 19, Ch. 321, L. 2017; amd. Sec. 41, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 295, L. 2021; amd. Sec. 69, Ch. 576, L. 2021; amd. Sec. 1, Ch. 543, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-102. Criminal possession of dangerous drugs

45-9-102. Criminal possession of dangerous drugs. (1) Except as provided in Title 16, chapter 12, or 50-32-609, a person commits the offense of criminal possession of dangerous drugs if the person possesses any dangerous drug, as defined in 50-32-101, [in an amount] greater than permitted or for which a penalty is not specified under Title 16, chapter 12. (2) A person convicted of criminal possession of dangerous drugs shall be imprisoned in the state prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both. (3) A person convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence or imprisonment. (4) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section. History: En. Sec. 5, Ch. 314, L. 1969; amd. Sec. 1, Ch. 228, L. 1971; amd. Sec. 26, Ch. 412, L. 1973; amd. Sec. 1, Ch. 174, L. 1974; amd. Sec. 2, Ch. 359, L. 1977; amd. Sec. 2, Ch. 584, L. 1977; R.C.M. 1947, 54-133; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 2, Ch. 612, L. 1983; amd. Sec. 17, Ch. 3, L. 1985; amd. Sec. 1, Ch. 42, L. 1991; amd. Sec. 1, Ch. 100, L. 2001; amd. Sec. 88, Ch. 114, L. 2003; amd. Sec. 12, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 2, Ch. 277, L. 2005; amd. Sec. 3, Ch. 156, L. 2011; amd. Sec. 2, Ch. 135, L. 2013; amd. Sec. 14, Ch. 253, L. 2017; amd. Sec. 20, Ch. 321, L. 2017; amd. Sec. 42, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 70, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-103. Criminal possession with intent to distribute

45-9-103. Criminal possession with intent to distribute. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal possession with intent to distribute if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101 in an amount greater than permitted or for which a penalty is not specified under Title 16, chapter 12. (2) Except as provided in subsection (3), a person convicted of criminal possession with intent to distribute shall be imprisoned in the state prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both. (3) A person convicted of criminal possession with intent to distribute fentanyl shall be imprisoned in the state prison for a term of not less than 2 years or more than 40 years or may be fined not more than \$50,000, or both. The court may not suspend execution or defer imposition of the first 2 years of the sentence, except as provided in 46-18-222(1) through (4), and during the first 2 years of imprisonment, the offender is not eligible for parole. (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section. History: En. 54-133.1 by Sec. 1, Ch. 545, L. 1975; amd. Sec. 3, Ch. 584, L. 1977;

R.C.M. 1947, 54-133.1; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 18, Ch. 3, L. 1985; amd. Sec. 1, Ch. 162, L. 1987; amd. Sec. 12, Ch. 432, L. 1999; amd. Sec. 89, Ch. 114, L. 2003; amd. Sec. 13, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 3, Ch. 135, L. 2013; amd. Sec. 21, Ch. 321, L. 2017; amd. Sec. 43, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 71, Ch. 576, L. 2021; amd. Sec. 2, Ch. 543, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-104. Fraudulently obtaining dangerous drugs

45-9-104. Fraudulently obtaining dangerous drugs. A person commits the offense of fraudulently obtaining dangerous drugs if the person obtains or attempts to obtain a dangerous drug, as defined in 50-32-101, by: (1) fraud, deceit, misrepresentation, or subterfuge; (2) falsely assuming the title of or representing that the person is a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other person authorized to possess dangerous drugs; (3) the use of a forged, altered, or fictitious prescription; (4) the use of a false name or a false address on a prescription; (5) the concealment of a material fact; (6) knowingly or purposefully failing to disclose to a practitioner, as defined in 50-32-101, that the person has received the same or a similar dangerous drug or prescription for a dangerous drug from another source within the prior 30 days; or (7) knowingly or purposefully communicating false or incomplete information to a practitioner with the intent to procure the administration of or a prescription for a dangerous drug. A communication of this information for the purpose provided in this subsection is not a privileged communication. History: En. Sec. 6, Ch. 314, L. 1969; amd. Sec. 3, Ch. 359, L. 1977; R.C.M. 1947, 54-134; amd. Sec. 1719, Ch. 56, L. 2009; amd. Sec. 2, Ch. 194, L. 2011.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-105. Altering labels on dangerous drugs

45-9-105. Altering labels on dangerous drugs. (1) A person commits the offense of altering labels on dangerous drugs if the person affixes a false, forged, or altered label to or otherwise misrepresents a package or receptacle containing a dangerous drug, as defined in 50-32-101. (2) The offense of altering labels on dangerous drugs includes falsely labeling or otherwise misrepresenting marijuana or a marijuana product, as those terms are defined in 16-12-102, as hemp, as defined in 80-18-101. History: En. Sec. 7, Ch. 314, L. 1969; amd. Sec. 4, Ch. 359, L. 1977; R.C.M. 1947, 54-135; amd. Sec. 1720, Ch. 56, L. 2009; amd. Sec. 10, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-106. Penalty for fraudulently obtaining dangerous drugs or altering labels of dangerous drugs

45-9-106. Penalty for fraudulently obtaining dangerous drugs or altering labels of dangerous drugs. (1) A person convicted of altering labels on dangerous drugs shall be imprisoned in the county jail for a term not to exceed 6 months. (2) A person convicted of fraudulently obtaining dangerous drugs included in Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V in 50-32-222, 50-32-224, 50-32-226, 50-32-229, or 50-32-232 shall: (a) upon a first conviction be imprisoned in the state prison for a term of not less than 1 year or not more than 5 years or be fined an amount not to exceed \$50,000, or both; (b) upon a second conviction be imprisoned in the state prison for a term of not less than 5 years or not more than 10 years or be fined an amount not to exceed \$50,000, or both. History: En. Sec. 8, Ch. 314, L. 1969; R.C.M. 1947, 54-136; amd. Sec. 1, Ch. 389, L. 1981; amd. Sec. 1, Ch. 179, L. 1991; amd. Sec. 1721, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-107. Criminal possession of precursors to dangerous drugs

45-9-107. Criminal possession of precursors to dangerous drugs. (1) Except as provided in 50-32-609, a person commits the offense of criminal possession of precursors to dangerous drugs if: (a) the person possesses any material, compound, mixture, or preparation that contains any combination of the following with intent to manufacture dangerous drugs: (i) phenyl-2-propanone (phenylacetone); (ii) piperidine in conjunction with cyclohexanone; (iii) ephedrine; (iv) lead acetate; (v) methylamine; (vi) methylformamide; (vii) n-methylephedrine; (viii) phenylpropanolamine; (ix) pseudoephedrine; (x) anhydrous ammonia; (xi) hydriodic acid; (xii) red phosphorus; (xiii) iodine in conjunction with ephedrine, pseudoephedrine, or red phosphorus; (xiv) lithium in conjunction with anhydrous ammonia; or (b) the person knowingly possesses anhydrous ammonia for the purpose of manufacturing dangerous drugs. (2) A person convicted of criminal possession of precursors to dangerous drugs shall be imprisoned in the state prison for a term not less than 2 years or more than 20 years or be fined an amount not to exceed \$50,000, or both. History: En. Sec. 1, Ch. 291, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 202, L. 1989; amd. Sec. 1, Ch. 24, L. 1999; amd. Sec. 2, Ch. 137, L. 2005; amd. Sec. 15, Ch. 253, L. 2017.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-108. Exemptions

45-9-108. Exemptions. (1) The provisions of 45-9-107 do not apply to: (a) a drug manufacturer licensed by the state; (b) a person authorized by rules adopted by the board of pharmacy to possess the combination of substances; (c) a person employed by or enrolled as a student in a college or university within the state who possesses any combination of substances listed in 45-9-107 for the purposes of teaching or research that is authorized by the college or university. (2) The board of pharmacy shall adopt, amend, or

repeal rules in accordance with the Montana Administrative Procedure Act to authorize the processing of any combination of the substances listed in 45-9-107 whenever it determines that there is a legitimate need and that the substances will be used for a lawful purpose. (3) The provisions of 45-9-102, 45-9-103, and 45-9-110 do not apply to 80-18-102. History: En. Secs. 2, 3, Ch. 291, L. 1979; amd. Sec. 171, Ch. 575, L. 1981; amd. Sec. 1, Ch. 247, L. 1983; amd. Sec. 8, Ch. 360, L. 2001.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-109. Criminal distribution of dangerous drugs on or near school property -- penalty -- affirmative defense

45-9-109. Criminal distribution of dangerous drugs on or near school property -- penalty -- affirmative defense. (1) A person commits the offense of criminal distribution of dangerous drugs on or near school property if the person violates 45-9-101 in, on, or within 1,000 feet of the real property comprising a public or private elementary or secondary school. (2) Except as provided in 46-18-222, a person convicted of criminal distribution of dangerous drugs on or near school property: (a) shall be imprisoned in the state prison for a term of not less than 3 years or more than life; and (b) may be fined an amount of not more than \$50,000. (3) It is not a defense to prosecution under subsection (1) that the person did not know the distance involved. (4) It is an affirmative defense to prosecution for a violation of this section that: (a) the prohibited conduct took place entirely within a private residence; and (b) no person 17 years of age or younger was present in the private residence at any time during the commission of the offense. History: En. Sec. 1, Ch. 519, L. 1991; amd. Sec. 13, Ch. 432, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-110. Criminal production or manufacture of dangerous drugs

45-9-110. Criminal production or manufacture of dangerous drugs. (1) Except as provided in Title 16, chapter 12, a person commits the offense of criminal production or manufacture of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates, compounds, or processes a dangerous drug, as defined in 50-32-101. (2) A person convicted of criminal production or manufacture of dangerous drugs, as defined in 50-32-101, shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an amount not to exceed \$50,000. (3) A person convicted of production of marijuana or tetrahydrocannabinol in an amount greater than permitted or for which a penalty is not specified under Title 16, chapter 12, or manufacture without the appropriate license pursuant to Title 16, chapter 12, shall be imprisoned in the state prison for a term of not more than 5 years and may be fined an amount not to exceed \$5,000, except that if the total weight is more than a pound or the number of plants is more than 30, the person shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an amount not to exceed \$50,000. "Weight" means the weight of the dry plant and includes the leaves and stem structure but does not include the root structure. (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a professional practice are exempt from this section. History: En. Sec. 1, Ch. 448, L. 1993; amd. Sec. 90, Ch. 114, L. 2003; amd. Sec. 14, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 4, Ch. 156, L. 2011; amd. Sec. 4, Ch. 135, L. 2013; amd. Sec. 22, Ch. 321, L. 2017; amd. Sec. 44, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 72, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-111. Imitation dangerous drugs -- definitions

45-9-111. Imitation dangerous drugs -- definitions. As used in 45-9-111 through 45-9-116 and 45-9-202, the following definitions apply: (1) "Dangerous drug" has the meaning given to that term in 50-32-101. (2) "Imitation dangerous drug" means a substance that is not a dangerous drug but that is expressly or impliedly represented to be a dangerous drug or to simulate the effect of a dangerous drug and the appearance of which, including the color, shape, size, and markings, would lead a reasonable person to believe that the substance is a dangerous drug. (3) "Person" includes any individual, business association, partnership, or corporation. History: En. Sec. 1, Ch. 451, L. 1983; amd. Sec. 19, Ch. 3, L. 1985.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-112. Criminal distribution of imitation dangerous drug -- penalty

45-9-112. Criminal distribution of imitation dangerous drug -- penalty. (1) A person commits the offense of criminal distribution of an imitation dangerous drug if the person knowingly or purposely sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any imitation dangerous drug. (2) A person convicted of criminal distribution of an imitation dangerous drug to a person 18 years of age or older shall be imprisoned in the state prison for a term of not more than 5 years and may be fined not more than \$50,000. (3) A person convicted of criminal distribution of an imitation dangerous drug to a person under the age of 18 shall be imprisoned in the state prison for a term of not more than 10 years and may be fined not more than \$50,000. History: En. Sec. 2, Ch. 451, L. 1983; amd. Sec. 14, Ch. 432, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-113. Criminal possession of imitation dangerous drug with the purpose to distribute -- penalty

45-9-113. Criminal possession of imitation dangerous drug with the purpose to distribute -- penalty. (1) A person commits the offense of criminal possession of an imitation dangerous drug with the purpose to distribute if the person possesses with the purpose to distribute any imitation dangerous drug. (2) A person convicted of criminal possession of an imitation dangerous drug with the

purpose to distribute shall be imprisoned in the state prison for a term of not more than 5 years and may be fined not more than \$50,000. (3) A person under 18 years of age convicted of a first violation under this section is presumed to be entitled to a deferred imposition of sentence. History: En. Sec. 3, Ch. 451, L. 1983; amd. Sec. 15, Ch. 432, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-114. Criminal advertisement of imitation dangerous drug -- penalty

45-9-114. Criminal advertisement of imitation dangerous drug -- penalty. (1) A person commits the offense of criminal advertisement of an imitation dangerous drug if the person knowingly or purposely places in any newspaper, magazine, handbill, or other publication or posts or distributes any advertisement or solicitation to promote the manufacture, sale, exchange, or distribution of an imitation dangerous drug. (2) A person convicted of criminal advertisement of an imitation dangerous drug under this section is punishable by a fine not to exceed \$100,000 or by imprisonment in the state prison for a term of not more than 10 years, or both. History: En. Sec. 4, Ch. 451, L. 1983; amd. Sec. 1722, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-115. Criminal manufacture of imitation dangerous drug -- penalty

45-9-115. Criminal manufacture of imitation dangerous drug -- penalty. (1) A person commits the offense of criminal manufacture of an imitation dangerous drug if the person knowingly or purposely manufactures, prepares, or cultivates any imitation dangerous drug. (2) A person convicted of criminal manufacture of an imitation dangerous drug is punishable by a fine not to exceed \$100,000 or by imprisonment in the state prison for a term of not more than 10 years, or both. History: En. Sec. 5, Ch. 451, L. 1983; amd. Sec. 1723, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-116. Imitation dangerous drugs -- exemptions -- rules

45-9-116. Imitation dangerous drugs -- exemptions -- rules. (1) Sections 45-9-111 through 45-9-115 do not apply to: (a) a person authorized by rules adopted by the board of pharmacy to possess with purpose to sell or sell imitation dangerous drugs; (b) law enforcement personnel selling or possessing with purpose to sell imitation dangerous drugs while acting within the scope of their employment; and (c) a person registered under the provisions of Title 50, chapter 32, part 3, who sells, or possesses with purpose to sell an imitation dangerous drug for use as a placebo, by that person or any other person so registered, in the course of professional practice or research. (2) The board of pharmacy shall adopt, amend, or repeal rules in accordance with the Montana Administrative Procedure Act to authorize the possession with purpose to sell or sale of imitation dangerous drugs whenever it determines that there is a legitimate need and that the drugs will be used for a lawful purpose. History: En. Sec. 6, Ch. 451, L. 1983; amd. Sec. 1, Ch. 247, L. 1983; amd. Sec. 20, Ch. 3, L. 1985.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-117. through 45-9-120 reserved

45-9-117 through 45-9-120 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-121. Criminal possession of toxic substance -- penalty

45-9-121. Criminal possession of toxic substance -- penalty. (1) A person commits the offense of criminal possession of a toxic substance if the person inhales or ingests or possesses with the purpose to inhale or ingest, for the purpose of altering the person's mental or physical state, any substance with toxic effects that is not manufactured for human consumption or inhalation, including but not limited to glue, fingernail polish, paint and paint thinners, petroleum products, aerosol propellants, and chemical solvents. (2) The provisions of subsection (1) do not apply to a bona fide institution of higher education conducting research with human volunteers pursuant to guidelines adopted by the institution or any federal or state agency. (3) A person convicted under this section shall be imprisoned in the county jail for a term not to exceed 6 months or be fined an amount not to exceed \$500, or both. (4) The youth court has jurisdiction of any violation of subsection (1) by a person under 18 years of age. History: En. Sec. 1, Ch. 482, L. 1983; amd. Sec. 1724, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-122. through 45-9-124 reserved

45-9-122 through 45-9-124 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-125. Continuing criminal enterprise -- penalty

45-9-125. Continuing criminal enterprise -- penalty. (1) A person who engages in a continuing criminal enterprise is guilty of a crime and upon conviction is punishable by a term of imprisonment and a fine not exceeding two times those authorized for the underlying offense. For purposes of this subsection, a person is engaged in a continuing criminal enterprise if: (a) the person violates any

provision of this chapter that is a felony; and (b) the violation is a part of a continuing series of two or more violations of this chapter on separate occasions: (i) that are undertaken by the person in concert with five or more other persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management; and (ii) from which the person obtained substantial income or resources. (2) A person who violates the provisions of subsection (1) after a previous judgment of conviction under that subsection has become final is punishable by a term of imprisonment not exceeding three times that authorized for the underlying offense. (3) A sentence for a conviction under this section runs consecutively with the conviction for the underlying offense. Mandatory minimum sentences must be multiplied as provided in this section and may not be waived or suspended. History: En. Sec. 1, Ch. 113, L. 1991.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-126. reserved

45-9-126 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-127. Carrying dangerous drugs on train -- penalty

45-9-127. Carrying dangerous drugs on train -- penalty. (1) Except as provided in Title 16, chapter 12, a person commits the offense of carrying dangerous drugs on a train in this state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train. (2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties provided in 45-9-102. History: En. Secs. 2, 3, Ch. 601, L. 1991; amd. Sec. 15, I.M. No. 148, approved Nov. 2, 2004; amd. Sec. 1725, Ch. 56, L. 2009; amd. Sec. 45, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 73, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-128. and 45-9-129 reserved

45-9-128 and 45-9-129 reserved.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-130. Mandatory fine for possession and storage of dangerous drugs -- disposition of proceeds

45-9-130. Mandatory fine for possession and storage of dangerous drugs -- disposition of proceeds. (1) In addition to the punishments and fines set forth in this part, the court shall fine each person found to have possessed or stored dangerous drugs 35% of the market value of the drugs as determined by the court. (2) The fines collected pursuant to subsection (1) during each calendar year must be transmitted by the clerk of court to the department of revenue no later than 10 days following the end of the calendar year. The department shall deposit the fines in the state general fund. History: En. Sec. 1, Ch. 446, L. 1995; amd. Sec. 23, Ch. 257, L. 2001.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-131. Definitions

45-9-131. Definitions. As used in 45-9-132 and this section, the following definitions apply: (1) "Booby trap" means any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. "Booby trap" includes: (a) guns, ammunition, or explosive devices that are attached to trip wires or other triggering mechanisms; (b) sharpened stakes, nails, spikes, electrical devices, lines, or wires with hooks attached; and (c) devices for the production of toxic fumes or gases. (2) "Equipment" or "laboratory equipment" means all products, components, or materials of any kind when used, intended for use, or designed for use in the manufacture, preparation, production, compounding, conversion, or processing of a dangerous drug as defined in 50-32-101. Equipment or laboratory equipment includes but is not limited to: (a) a reaction vessel; (b) a separatory funnel or its equivalent; (c) a glass condenser; (d) an analytical balance or scale; or (e) a heating mantle or other heat source. (3) "Precursor to dangerous drugs" means, except as exempted by 45-9-108, any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107(1)(a) or anhydrous ammonia knowingly possessed for the purpose of manufacturing dangerous drugs. History: En. Sec. 1, Ch. 260, L. 2001; amd. Sec. 3, Ch. 137, L. 2005.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 1. Offenses Involving Dangerous Drugs 45-9-132. Operation of unlawful clandestine laboratory -- penalties

45-9-132. Operation of unlawful clandestine laboratory -- penalties. (1) A person commits the offense of operation of an unlawful clandestine laboratory if the person purposely or knowingly engages in: (a) the procurement, possession, or use of chemicals, precursors to dangerous drugs, supplies, equipment, or a laboratory location for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110; (b) the transportation of or arranging for the transportation of chemicals, precursors to dangerous drugs, supplies, or equipment for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110; or (c) the setting up of equipment or supplies in preparation for the criminal production or manufacture of dangerous drugs as prohibited by 45-9-110. (2) Except as provided in subsections (3) and (4), a person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$25,000, be imprisoned in a state prison for a term not to exceed 40

years, or both. (3) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$50,000, be imprisoned in a state prison for a term not to exceed 50 years, or both, if 46-1-401 is complied with and the operation of an unlawful clandestine laboratory or any phase of the operation: (a) created a substantial risk of death of or serious bodily injury to another; (b) took place within 500 feet of a residence, business, church, or school; or (c) took place in the presence of a person less than 18 years of age. (4) A person convicted of operation of an unlawful clandestine laboratory shall be fined an amount not to exceed \$100,000, be imprisoned in a state prison for a term not to exceed 50 years, or both, if 46-1-401 is complied with and the operation of an unlawful clandestine laboratory or any phase of the operation involved the use of a firearm or booby trap. History: En. Sec. 2, Ch. 260, L. 2001; amd. Sec. 1, Ch. 146, L. 2003.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 2. Procedural Provisions 45-9-202. Alternative sentencing authority

45-9-202. Alternative sentencing authority. (1) A person convicted of a dangerous drug felony offense under this chapter may, in lieu of imprisonment, be sentenced according to the alternatives provided in subsection (2). (2) If the court determines, either from the face of the record or from a presentence investigation and report, that incarceration of the defendant is not appropriate, the court may, as a condition of a suspended or deferred sentence, impose one or more of the following alternatives: (a) imposition of a fine not to exceed the maximum amount provided by statute for those offenses that specify a fine as part of the penalty or \$1,000 for those offenses that do not specify a fine; (b) commitment to a residential drug treatment facility licensed and approved by the state for rehabilitative treatment for not less than the minimum recommended time determined necessary by the facility and not more than 1 year; (c) mandatory service of not more than 2,000 hours in a community-based drug treatment or drug education program with compliance to be monitored by the probation and parole bureau of the department of corrections based upon information provided by the treatment or education program; (d) if recommended by the probation and parole bureau, placement in a program of intensive probation that requires, at a minimum, that the defendant comply with all of the following conditions: (i) maintain employment or full-time student status at an approved school, making progress satisfactory to the probation officer, or be involved in supervised job searches and community service work designated by the probation officer; (ii) pay probation supervision fees through the department of corrections of not less than \$50 a month to be deposited in the account established in 46-23-1031; (iii) find a place to reside approved by the probation officer that may not be changed without the officer's approval; (iv) remain at the residence at all times except to go to work, to attend school, or to perform community service or as otherwise specifically allowed by the probation officer; (v) remain drug free and submit to drug and alcohol tests administered randomly not less than once each month by or under supervision of the probation officer; (vi) perform not less than 10 hours of community service each month as approved by the probation officer, except that full-time students may be exempted or required to perform fewer hours of community service; (vii) enroll or make satisfactory effort to seek enrollment in an approved drug rehabilitation program; and (viii) comply with any other conditions imposed by the court to meet the needs of the community and the defendant; (e) suspension or revocation of the defendant's driver's license issued under Title 61, chapter 5, subject to the following terms and conditions: (i) upon the first conviction of an offense under this chapter, the driver's license must be suspended for 6 months; (ii) upon the second conviction, the driver's license must be revoked for 1 year; (iii) upon a third or subsequent conviction, the driver's license must be revoked for 3 years. History: En. Sec. 9, Ch. 314, L. 1969; amd. Sec. 5, Ch. 359, L. 1977; R.C.M. 1947, 54-137; amd. Sec. 7, Ch. 451, L. 1983; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 1, Ch. 802, L. 1991; amd. Sec. 202, Ch. 546, L. 1995; amd. Sec. 1, Ch. 473, L. 2005.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 2. Procedural Provisions 45-9-203. Surrender of license

45-9-203. Surrender of license. (1) If a court suspends or revokes a driver's license under 45-9-202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to the department for issuance of a probationary license under 61-2-302. (2) If a person with a registry identification card or license issued pursuant to 16-12-203 or 16-12-503 is convicted of an offense under this chapter, the court shall: (a) at the time of sentencing, require the person to surrender the registry identification card; and (b) notify the department of revenue of the conviction in order for the department to carry out its duties under 16-12-109 or 16-12-523. History: En. Sec. 2, Ch. 802, L. 1991; amd. Sec. 28, Ch. 419, L. 2011; amd. Sec. 21, Ch. 55, L. 2015; amd. Sec. 1, I.M. No. 182, approved Nov. 8, 2016; amd. Sec. 74, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 2. Procedural Provisions 45-9-204. Immunity from liability

45-9-204. Immunity from liability. (1) Except as provided in subsections (2) and (3), if a court imposes mandatory service under 45-9-202(2)(c) or community service under 45-9-202(2)(d), a public or private agency supervising the service, treatment, or education program in which the defendant is participating and the officers, agents, and employees of the public or private agency are immune from liability to the defendant for any acts or omissions alleged to have occurred within the course and scope of supervision. (2) The immunity provided in subsection (1) does not extend to acts or omissions alleged to constitute gross negligence or intentional acts. (3) The immunity provided in subsection (1) for a public agency does not extend to claims for workers' compensation benefits when the defendant is injured while performing community service. History: En. Sec. 3, Ch. 802, L. 1991.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 2. Procedural Provisions 45-9-205.

Exemption from mandatory minimum sentences

45-9-205. Exemption from mandatory minimum sentences. If a sentencing judge imposes any of the sentencing alternatives specified in 45-9-202, the mandatory minimum sentences provided in 46-18-205(2) do not apply. History: En. Sec. 4, Ch. 802, L. 1991; amd. Sec. 4, Ch. 125, L. 1995; amd. Sec. 1, Ch. 52, L. 1999.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 2. Procedural Provisions 45-9-206. Use or possession of property subject to criminal forfeiture -- property subject to criminal forfeiture

45-9-206. Use or possession of property subject to criminal forfeiture -- property subject to criminal forfeiture. (1) A person commits the offense of use or possession of property subject to criminal forfeiture if the person knowingly possesses, owns, uses, or attempts to use property that is subject to criminal forfeiture under this section. A person convicted of the offense of use or possession of property subject to criminal forfeiture shall be imprisoned in the state prison for a term not to exceed 10 years. Upon conviction, the property subject to criminal forfeiture is forfeited to the state and must be disposed of in accordance with the provisions of 44-12-212 and 44-12-213. (2) A person charged with an offense pursuant to this section may request a pretrial forfeiture hearing pursuant to 44-12-209. (3) The following property is subject to criminal forfeiture under this section: (a) money, raw materials, products, equipment, and other property of any kind that is used or intended for use in manufacturing, preparing, cultivating, compounding, processing, delivering, importing, or exporting a dangerous drug in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; (b) property used or intended for use as a container for property enumerated in subsection (3)(a); (c) a conveyance, including an aircraft, vehicle, or vessel, used or intended for use to facilitate a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; (d) books, records, research products and materials, formulas, microfilm, tapes, and data used or intended for use in connection with a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; (e) (i) everything of value furnished or intended to be furnished in exchange for a dangerous drug in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; and (ii) all proceeds traceable to such an exchange; (f) money, negotiable instruments, securities, and weapons used or intended to be used to facilitate a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; (g) personal property constituting or derived from proceeds obtained directly or indirectly from a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110; and (h) real property, including any right, title, and interest in a lot or tract of land and any appurtenances or improvements, that is directly used or intended to be used in any manner to facilitate a violation of or that is derived from or maintained by proceeds resulting from a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110. (4) Property subject to criminal forfeiture under this section may be seized under the following circumstances: (a) A peace officer who has probable cause to make an arrest for a violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy was a violation of 45-9-101, 45-9-103, or 45-9-110 may seize a conveyance obtained with proceeds of the violation or used to facilitate the violation and shall immediately deliver the conveyance to the peace officer's law enforcement agency, to be held as evidence until a criminal forfeiture is declared or release ordered. (b) Property subject to criminal forfeiture under this section may be seized by a peace officer under a search warrant issued by a court having jurisdiction over the property. (c) Seizure without a warrant may be made if: (i) the seizure is incident to an arrest or a search under a search warrant issued for another purpose or an inspection under an administrative inspection warrant; (ii) the property was the subject of a prior judgment in favor of the state in a criminal proceeding or a criminal forfeiture proceeding based on this section or on Title 44, chapter 12; (iii) a peace officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or (iv) a peace officer has probable cause to believe that the property was used or is intended to be used in violation of 45-9-101, 45-9-103, or 45-9-110 or of 45-4-102 when the object of the conspiracy is a violation of 45-9-101, 45-9-103, or 45-9-110. (5) As used in this section, "dangerous drug" means a substance designated as a dangerous drug under Title 50, chapter 32, parts 1 and 2. (6) A prosecution under subsection (1) must be commenced within 45 days of the seizure of the property involved. (7) A bona fide security interest is not subject to forfeiture unless the person claiming a security interest had actual knowledge, as defined in 44-12-101, that the property was subject to forfeiture at the time that the property was seized under this chapter. A person claiming a security interest bears the burden of production and must establish the validity of the interest by clear and convincing evidence. (8) The property of an innocent owner is not subject to forfeiture under this section. A property owner or person with an ownership interest in property subject to forfeiture must be declared an innocent owner if: (a) the property owner or person with an ownership interest in the property can establish a legal right, title, or interest in the seized property; and (b) the state is unable to prove by clear and convincing evidence that the owner or person with an ownership interest in the property had actual knowledge, as defined in 44-12-101, of the crime associated with a forfeiture proceeding. History: En. Sec. 1, Ch. 537, L. 1995; amd. Sec. 11, Ch. 421, L. 2015.

2024 Montana Code Annotated Title 45. Crimes Chapter 9. Dangerous Drugs Part 2. Procedural Provisions 45-9-207. reserved
45-9-207 reserved.

Title: title-46

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 1. Purpose and Application of Title 46-1-103. Scope -- purpose -- construction

46-1-103. Scope -- purpose -- construction. (1) This title governs the practice and procedure in all criminal proceedings in the courts of Montana except where provision for a different procedure is specifically provided by law. (2) This title is intended to provide for the just determination of every criminal proceeding. The purposes of this title are to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. (3) Any irregularity in a proceeding specified by this title that does not affect the substantial rights of the accused must be disregarded. History: En. Sec. 1, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1101. Short title

46-1-1101. Short title. This part may be cited as the "Drug Offender Accountability and Treatment Act". History: En. Sec. 1, Ch. 282, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1102. Purpose

46-1-1102. Purpose. The purpose of this part is to recognize that state courts have a jurisdictional basis to implement drug treatment courts to reduce recidivism and restore drug offenders to being productive, law-abiding, and taxpaying citizens. History: En. Sec. 2, Ch. 282, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1103. Definitions

46-1-1103. Definitions. As used in this part, the following definitions apply: (1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is a drug offender under this part and would benefit from the provisions of this part. (2) "Continuum of care" means a seamless and coordinated course of substance abuse education and treatment designed to meet the needs of drug offenders as they move through the criminal justice system and beyond, maximizing self-sufficiency. (3) "Drug" includes: (a) a controlled substance, which is a drug or other substance for which a medical prescription or other legal authorization is required for purchase or possession; (b) an illegal drug, which is a drug whose manufacture, sale, use, or possession is forbidden by law; or (c) a harmful substance, which is a misused substance otherwise legal to possess, including alcohol. (4) "Drug offender" means a person charged with a drug-related offense or an offense in which substance abuse is determined to have been a significant factor in the commission of an offense. (5) "Drug treatment court" means a court established by a court pursuant to this part implementing a program of incentives and sanctions intended to assist a participant to end the participant's addiction to drugs and to cease criminal behavior associated with drug use and addiction. (6) "Drug treatment court coordinator" means an individual who, under the direction of the drug treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the drug treatment court. (7) "Drug treatment court team" means a group of individuals appointed by the drug treatment court that may consist of the following members: (a) the judge, which may include a magistrate or other hearing officer; (b) the prosecutor; (c) the defense attorney; (d) a law enforcement officer; (e) the drug treatment court coordinator; (f) a probation and parole officer; (g) substance abuse treatment providers; (h) a representative from the department of public health and human services; and (i) any other person selected by the drug treatment court. (8) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure. (9) "Recidivism" has the meaning provided in 1-1-207. (10) "Staff meeting" means the meeting before a drug offender's appearance in drug treatment court in which the drug treatment court team discusses a coordinated response to the drug offender's behavior. (11) "Substance abuse" means the illegal or improper consumption of a drug as defined in this section. (12) "Substance abuse treatment" means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance use. History: En. Sec. 3, Ch. 282, L. 2005; amd. Sec. 1, Ch. 9, L. 2013; amd. Sec. 7, Ch. 641, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1104. Drug treatment court structure

46-1-1104. Drug treatment court structure. (1) Each judicial district or court of limited jurisdiction may establish a drug treatment court under which drug offenders may be processed to address an identified substance abuse problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other release from a detention or correctional facility. (2) Participation in drug treatment court is voluntary and is subject to the consent of the prosecutor, the defense attorney, and the court pursuant to a written agreement. (3) A drug treatment court and governmental entities that refer an offender to a drug treatment court shall adopt an evidence-based program evaluation tool that measures how closely the drug treatment court programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders. (4) A drug treatment court may grant reasonable incentives under a written agreement if the court finds that a drug offender is performing satisfactorily in drug treatment court, is benefiting from education, treatment, and rehabilitation, has not engaged in criminal conduct, and has not violated the terms and conditions of the agreement. Reasonable incentives may include but are not limited to: (a) graduation certificates; (b) early graduation; (c) fee reduction or waiver of fees; (d) record

expungement of the underlying case; or (e) reduced contact with a probation officer. (5) The court may impose reasonable sanctions under the agreement, including incarceration or termination from the drug treatment court, if the court finds that the drug offender is not performing satisfactorily in drug treatment court, is not benefiting from education, treatment, or rehabilitation, has engaged in conduct rendering the offender unsuitable for the program, has otherwise violated the terms and conditions of the agreement, or is for any reason unable to participate. Sanctions may include but are not limited to: (a) a short-term jail sentence; (b) fines; (c) extension of time in the program; (d) peer review; (e) geographical restrictions; (f) termination; or (g) contempt of court. (6) Upon successful completion of drug treatment court, a drug offender's case must be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the drug treatment court. This may include but is not limited to pretrial diversion under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended sentencing, or a reduced period of incarceration. A drug offender who successfully completes the program may be given credit for the time the offender served in the drug treatment program by the judge upon disposition. (7) Each local jurisdiction that intends to establish a drug treatment court or to continue the operation of an existing drug treatment court shall establish a local drug treatment court team. (8) The drug treatment court team shall, when practicable, conduct a staff meeting prior to each drug treatment court session to discuss and provide updated information regarding drug offenders. After determining the offender's progress or lack of progress, the court, with input from the drug treatment court team, shall determine the appropriate incentive or sanction to be applied. (9) The provisions of this part apply only to offenders who qualify for participation based on qualifications established by each drug treatment court. The provisions of this part do not apply to drug offenders who have been convicted of a sexual offense, as defined in 46-23-502. This part does not confer a right or expectation of a right to participate in a drug treatment court and does not obligate a drug treatment court to accept any offender. The establishment of a drug treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case that the prosecutor considers advisable to prosecute. Each drug treatment court judge may establish rules and may make special orders and necessary rules that do not conflict with rules adopted by the Montana supreme court. (10) Each drug offender shall contribute to the cost of drug treatment court in accordance with 46-1-1112(2). (11) A drug treatment court coordinator is responsible for the general administration of a drug treatment court under the direction of the drug treatment court judge. (12) The supervising agency shall timely forward information to the drug treatment court concerning the drug offender's progress and compliance with any court-imposed terms and conditions. (13) A department of corrections probation and parole officer may participate in a drug treatment court team if authorized by the department. The department may authorize participation if it determines, in its discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a change in caseloads, the department may withdraw authorization for participation by its probation and parole officers in a drug treatment court. The department of corrections may not authorize its probation and parole officers to supervise a participant of a drug treatment court program who has not been convicted of a felony offense and committed to the supervision of the department. History: En. Sec. 4, Ch. 282, L. 2005; amd. Sec. 1, Ch. 282, L. 2017; amd. Sec. 8, Ch. 456, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1105. through 46-1-1109 reserved

46-1-1105 through 46-1-1109 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1110. Treatment and support services

46-1-1110. Treatment and support services. (1) As part of a diagnostic assessment, each jurisdiction shall establish a system to ensure that drug offenders are placed into a clinically approved substance abuse treatment program. To accomplish this, the program conducting the individual assessment shall make specific recommendations to the drug treatment court team regarding the type of treatment program and durations necessary so that a drug offender's individualized needs are addressed. The assessments and recommendations must be based upon objective medical diagnostic criteria. Treatment recommendations accepted by the court pursuant to this part must be considered to be reasonable and necessary. (2) An adequate continuum of care for drug offenders must be established in response to this part. (3) The drug treatment court shall, when practicable, ensure that one agency may not provide both assessment and treatment services for the drug treatment court to avoid potential conflicts of interest or the appearance that a diagnostic assessment agency might benefit by determining that an offender is in need of the particular form of treatment that the agency provides. (4) A drug treatment court making a referral for substance abuse treatment shall refer the drug offender to a program that is licensed, certified, or approved by the court. (5) The court shall determine which treatment programs are authorized to provide the recommended treatment to drug offenders. The relationship between the treatment program and the court must be governed by a memorandum of understanding, which must include the timely reporting of the drug offender's progress or lack of progress to the drug treatment court. (6) Offenders must be provided with adequate support services and aftercare. (7) The length of stay in treatment must be determined by the drug treatment court team based on individual needs and accepted practices. History: En. Sec. 5, Ch. 282, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1111. Drug testing

46-1-1111. Drug testing. (1) The drug treatment court team shall ensure fair, accurate, and reliable drug testing procedures. (2) A drug offender must be ordered to submit to frequent, random, and observed drug testing to monitor abstinence. (3) The results of all

drug tests must be provided to the drug treatment court team as soon as practicable but, in the event of a positive drug test, not later than 7 days from the test. (4) Anyone in receipt of drug test results shall maintain the information in confidentiality. (5) A drug offender is responsible for costs, pursuant to 46-1-1112(2). History: En. Sec. 6, Ch. 282, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1112. Funding

46-1-1112. Funding. (1) There is a drug treatment court federal resources account in the federal special revenue fund that is administered by the office of the supreme court administrator. Any federal money received for funding drug treatment courts must be deposited in the drug treatment court federal resources account and may be used only for purposes of this part. The money in the fund may not be transferred at the end of each year but must remain deposited to the credit of the drug treatment court federal resources account. (2) A drug offender shall pay the total cost or a reasonable portion of the cost to participate. The cost paid by a drug offender may not exceed \$300 a month. The costs assessed must be compensatory and not punitive in nature and must take into account the drug offender's ability to pay. Upon a showing of indigency, the drug treatment court may reduce or waive costs under this subsection (2). Any fees received by the court from an offender are not court costs, charges, or fines. (3) All federal funds received from grants for purposes of funding drug treatment courts must be exhausted before money is spent from other appropriations for that purpose. (4) This part does not prohibit drug treatment court teams from obtaining supplemental funds. (5) This part does not supplant funds currently utilized by drug treatment courts. History: En. Sec. 7, Ch. 282, L. 2005; amd. Sec. 1, Ch. 3, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1113. Statutory construction

46-1-1113. Statutory construction. The provisions of this part must be construed to effectuate its remedial purposes. History: En. Sec. 8, Ch. 282, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1114. Enforcement

46-1-1114. Enforcement. A violation of this part must be referred to the appropriate court or other responsible governing body for resolution. History: En. Sec. 9, Ch. 282, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 11. Drug Offender Accountability and Treatment 46-1-1115. Treatment court support account -- distribution of funds -- report

46-1-1115. Treatment court support account -- distribution of funds -- report. (1) There is a treatment court support account in the state special revenue fund for purposes provided in subsection (3). (2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The court administrator shall give priority to funding programs or services in rural or underserved areas of the state or that address opioid abuse. (3) Money in the treatment court support account must be used to expand the capacity and quality of existing treatment courts and extend treatment courts to areas of the state that are unserved by a treatment court. District, local, and tribal treatment courts are eligible to receive treatment court support account funds. Funding from the account may be used solely to fund services required for participants, drug and alcohol testing, case management services, treatment court staff, technology, program evaluation, or other needs identified by the supreme court administrator related to efficient and effective operation of treatment courts. The court administrator may use account funds to hire a grant writer or contract for grant writing services. History: En. Sec. 3, Ch. 413, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1201. Short title

46-1-1201. Short title. This part may be cited as the "Mental Health Treatment Court Act". History: En. Sec. 1, Ch. 514, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1202. Purpose

46-1-1202. Purpose. The purpose of this part is to recognize that state courts have a jurisdictional basis to implement mental health treatment courts to reduce recidivism and restore persons with a mental disorder who are charged with a criminal offense to being productive, law-abiding, and taxpaying citizens. History: En. Sec. 2, Ch. 514, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1203. Definitions

46-1-1203. Definitions. As used in this part, the following definitions apply: (1) "Assessment" means a diagnostic evaluation to determine whether and to what extent a person is an offender with a mental disorder under this part and would benefit from the provisions of this part. (2) "Continuum of care" means a seamless and coordinated course of mental health counseling and treatment designed to meet the needs of participants as they move through the criminal justice system and beyond, maximizing

self-sufficiency. (3) "Drug" has the meaning provided in 46-1-1103. (4) "Memorandum of understanding" means a written document setting forth an agreed-upon procedure. (5) "Mental health treatment court" means a court established by a court pursuant to this part implementing a program of incentives and sanctions intended to assist a participant, whose conduct has resulted in a criminal violation, in receiving the needed treatment and life skills to prevent further criminal behavior associated with a mental disorder. (6) "Mental health treatment court coordinator" means an individual who, under the direction of the mental health treatment court judge, is responsible for coordinating the establishment, staffing, operation, evaluation, and integrity of the mental health treatment court. (7) "Mental health treatment court team" means a group of individuals appointed by the mental health treatment court that: (a) must include the following members: (i) the judge, which may include a magistrate or other hearing officer; (ii) the prosecutor; (iii) the defense attorney; (iv) the participant; and (v) the mental health treatment court coordinator; and (b) may include the following additional members: (i) a law enforcement officer; (ii) a probation and parole officer; (iii) a mental health professional; (iv) a substance abuse treatment provider; (v) a representative from the department of public health and human services; (vi) a mental health advocate; and (vii) any other person selected by the mental health treatment court. (8) "Mental health treatment program" means a program designed by the mental health treatment court team to provide prevention, education, and therapy directed toward ending criminal behavior and preventing a return to a condition leading to criminal behavior. Mental health treatment programs may consist of but are not limited to housing assistance, job training, mental health counseling, and psychiatric treatment. (9) "Participant" means a person charged with a criminal offense or an offense in which a mental disorder, as defined in 53-21-102, is determined to have been a significant factor in the commission of the offense. (10) "Staff meeting" means the meeting before a participant's appearance in mental health treatment court in which the mental health treatment court team discusses a coordinated response to the participant's behavior. (11) "Substance abuse" means the illegal or improper consumption of a drug, but does not include inadvertent error in the use of medication. (12) "Substance abuse treatment" means a program designed to provide prevention, education, and therapy directed toward ending substance abuse and preventing a return to substance use. History: En. Sec. 3, Ch. 514, L. 2007; amd. Sec. 2, Ch. 9, L. 2013.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1204. Mental health treatment court structure

46-1-1204. Mental health treatment court structure. (1) Each judicial district or court of limited jurisdiction may establish a mental health treatment court under which persons with a mental disorder who are charged with a criminal offense may be processed to address an identified mental health problem as a condition of pretrial release, pretrial diversion under 46-16-130, probation, incarceration, parole, or other release from a detention or correctional facility. (2) Participation in a mental health treatment court is voluntary and is subject to the consent of the prosecutor, the defense attorney, and the court pursuant to a written agreement. (3) A mental health treatment court may grant reasonable incentives under a written agreement. Reasonable incentives may include but are not limited to: (a) graduation certificates; (b) early graduation; (c) fee reduction or waiver of fees; (d) record expungement of the underlying case; or (e) reduced contact with a probation officer. (4) The court may impose reasonable sanctions under the agreement for failure to comply with the agreement. Prior to imposition of a sanction, the mental health treatment court team shall review the participant's individual treatment program and the participant's conduct. If the mental health treatment court team determines that the participant's failure to comply: (a) was not willful, was a symptom of a mental disorder, or was a result of an inappropriate treatment plan, the court may impose sanctions, including but not limited to: (i) fines; (ii) extension of time in the program; (iii) peer review; or (iv) geographical restrictions; or (b) was willful, not a symptom of a mental disorder, and not the result of an inappropriate treatment plan, the court may impose sanctions, including: (i) a short-term jail sentence; (ii) termination of participation in the program; or (iii) contempt of court. (5) Upon successful completion of mental health treatment court, a participant's case must be disposed of by the judge in the manner prescribed by the agreement and by the applicable policies and procedures adopted by the mental health treatment court. This may include but is not limited to pretrial diversion under 46-16-130, dismissal of criminal charges, probation, deferred sentencing, suspended sentencing, or a reduced period of incarceration. A participant who successfully completes the program must be given credit for the time the participant served in the mental health treatment program by the judge upon disposition. (6) Each local jurisdiction that intends to establish a mental health treatment court or to continue the operation of an existing mental health treatment court shall establish a local mental health treatment court team. (7) The mental health treatment court team shall, when practicable, conduct a staff meeting prior to each mental health treatment court session to discuss and provide updated information regarding participants. After determining the participant's progress or lack of progress, the court, with input from the mental health treatment court team, shall determine the appropriate incentive or sanction to be applied. The provisions of this part apply only to persons with a mental disorder who are charged with a criminal offense and who qualify for participation based on qualifications established by each mental health treatment court. The provisions of this part do not apply to participants who have been convicted of a sexual offense, as defined in 46-23-502. This part does not confer a right or expectation of a right to participate in a mental health treatment court and does not obligate a mental health treatment court to accept any offender. The establishment of a mental health treatment court may not be construed as limiting the discretion of a prosecutor to act on any criminal case that the prosecutor considers advisable to prosecute. Each mental health treatment court judge may establish rules and may make special orders and necessary rules that do not conflict with rules adopted by the Montana supreme court. (8) Each participant shall contribute to the cost of treatment and the program in accordance with 46-1-1212(2). A mental health treatment court coordinator is responsible for the general administration of a mental health treatment court under the direction of the mental health treatment court judge. The supervising agency shall timely forward information to the mental health treatment court

concerning the participant's progress and compliance with any court-imposed terms and conditions. (9) A department of corrections probation and parole officer may participate in a mental health treatment court team if authorized by the department. The department may authorize participation if it determines, in its discretion, that the caseloads of local probation and parole officers permit participation. If necessitated by a change in caseloads, the department may withdraw authorization for participation by its probation and parole officers in a mental health treatment court. The department of corrections may not authorize its probation and parole officers to supervise a participant of a mental health treatment program who has not been convicted of a felony offense and committed to the supervision of the department. History: En. Sec. 4, Ch. 514, L. 2007; amd. Sec. 2, Ch. 282, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1205. through 46-1-1210 reserved

46-1-1205 through 46-1-1210 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1211. Treatment and support services

46-1-1211. Treatment and support services. (1) As part of a diagnostic assessment, each jurisdiction shall establish a system to ensure that participants are placed into a clinically approved mental health treatment program. To accomplish this, the program conducting the individual assessment shall make specific recommendations to the mental health treatment court team regarding the type of treatment program and duration necessary so that a participant's individualized needs are addressed. The assessments and recommendations must be based upon evidence-based treatment principles. The mental health treatment court and governmental entities that refer an offender to a mental health treatment court shall adopt an evidence-based program evaluation tool that measures how closely the mental health treatment court programs meet the known principles of effective intervention. The tool must measure program content and capacity to ensure the delivery of effective interventions for offenders. Treatment recommendations accepted by the mental health treatment court pursuant to this part must be considered to be reasonable and necessary and be evidence-based or research-driven. (2) An adequate continuum of care for participants must be established in response to this part. (3) The mental health treatment court shall, when practicable, ensure that one agency may not provide both assessment and treatment services for the mental health treatment court to avoid potential conflicts of interest or the appearance that a diagnostic assessment agency might benefit by determining that a participant is in need of the particular form of treatment that the agency provides. (4) A mental health treatment court making a referral for mental health services or substance abuse treatment shall refer the participant to a program that is licensed, certified, or approved by the court. (5) The court shall determine which treatment programs are authorized to provide the recommended treatment to participants. The relationship between the treatment program and the court must be governed by a memorandum of understanding, which must include the timely reporting of the participant's progress or lack of progress to the mental health treatment court. History: En. Sec. 5, Ch. 514, L. 2007; amd. Sec. 9, Ch. 456, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1212. Funding

46-1-1212. Funding. (1) There is a mental health treatment court federal resources account in the federal special revenue fund that is administered by the office of court administrator. Any federal money received for funding mental health treatment courts must be deposited in the mental health treatment court federal resources account and may be used only for purposes of this part. The money in the fund may not be transferred at the end of each year but must remain deposited to the credit of the mental health treatment court federal resources account. (2) A participant shall pay the total cost or a reasonable portion of the cost to participate. The cost paid by a participant may not exceed \$300 a month. The costs assessed must be compensatory and not punitive in nature and must take into account the participant's ability to pay. Upon a showing of indigency, the mental health treatment court may reduce or waive costs under this subsection. Any fees received by the court from a participant are not court costs, charges, or fines. (3) All federal funds received from grants for purposes of funding mental health treatment courts must be exhausted before money is spent from other appropriations for that purpose. (4) This part does not prohibit mental health treatment court teams from obtaining supplemental funds. History: En. Sec. 6, Ch. 514, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1213. Statutory construction -- combination with drug treatment court

46-1-1213. Statutory construction -- combination with drug treatment court. (1) The provisions of this part must be construed to effectuate its remedial purposes. (2) A mental health treatment court may be combined with a drug treatment court authorized in Title 46, chapter 1, part 11, and a mental health treatment court may serve an individual with co-occurring disorders. History: En. Sec. 7, Ch. 514, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 12. Mental Health Treatment Court 46-1-1214. Enforcement by removal to criminal court

46-1-1214. Enforcement by removal to criminal court. Failure of the participant to comply with the terms of the mental health treatment program will be referred upon the order of the mental health treatment court judge to the appropriate criminal court.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 2. Definitions 46-1-202. Definitions

46-1-202. Definitions. As used in this title, unless the context requires otherwise, the following definitions apply: (1) "Advanced practice registered nurse" means an individual certified as an advanced practice registered nurse provided for in 37-8-202, with a clinical specialty in psychiatric mental health nursing. (2) "Arraignment" means the formal act of calling the defendant into open court to enter a plea answering a charge. (3) "Arrest" means taking a person into custody in the manner authorized by law. (4) "Arrest warrant" means a written order from a court directed to a peace officer or to some other person specifically named commanding that officer or person to arrest another. The term includes the original warrant of arrest and a copy certified by the issuing court. (5) "Bail" means the security given for the primary purpose of ensuring the presence of the defendant in a pending criminal proceeding. (6) "Charge" means a written statement that accuses a person of the commission of an offense, that is presented to a court, and that is contained in a complaint, information, or indictment. (7) "Conviction" means a judgment or sentence entered upon a guilty or nolo contendere plea or upon a verdict or finding of guilty rendered by a legally constituted jury or by a court of competent jurisdiction authorized to try the case without a jury. (8) "Court" means a place where justice is judicially administered and includes the judge of the court. (9) "Included offense" means an offense that: (a) is established by proof of the same or less than all the facts required to establish the commission of the offense charged; (b) consists of an attempt to commit the offense charged or to commit an offense otherwise included in the offense charged; or (c) differs from the offense charged only in the respect that a less serious injury or risk to the same person, property, or public interest or a lesser kind of culpability suffices to establish its commission. (10) "Judge" means a person who is vested by law with the power to perform judicial functions. (11) "Judgment" means an adjudication by a court that the defendant is guilty or not guilty, and if the adjudication is that the defendant is guilty, it includes the sentence pronounced by the court. (12) "Make available for examination and reproduction" means to make material and information that is subject to disclosure available upon request at a designated place during specified reasonable times and to provide suitable facilities or arrangements for reproducing it. The term does not mean that the disclosing party is required to make copies at its expense, to deliver the materials or information to the other party, or to supply the facilities or materials required to carry out tests on disclosed items. The parties may by mutual consent make other or additional arrangements. (13) "New trial" means a reexamination of the issue in the same court before another jury after a verdict or finding has been rendered. (14) "Notice to appear" means a written direction that is issued by a peace officer and that requests a person to appear before a court at a stated time and place to answer a charge for the alleged commission of an offense. (15) "Offense" means a violation of any penal statute of this state or any ordinance of its political subdivisions. (16) "Parole" means the release to the community of a prisoner by a decision of the board of pardons and parole prior to the expiration of the prisoner's term subject to conditions imposed by the board of pardons and parole and the supervision of the department of corrections. (17) "Peace officer" means any person who by virtue of the person's office or public employment is vested by law with a duty to maintain public order and make arrests for offenses while acting within the scope of the person's authority. (18) "Persistent felony offender" means an offender who has previously been convicted of two separate felonies and who is presently being sentenced for a third felony committed on a different occasion than either of the first two felonies, except for an offender who was on conditional release, felony probation, or felony parole at the time the felony for which the offender is presently being sentenced was committed. At least one of the three felonies must be a sexual offense or a violent offense as those terms are defined in 46-23-502. An offender is considered to have previously been convicted of two separate felonies if: (a) the two previous felonies were for offenses that were committed in this state or any other jurisdiction for which a sentence of imprisonment in excess of 1 year could have been imposed; (b) less than 5 years have elapsed between the commission of the present offense and either: (i) the most recent of the two felony convictions; or (ii) the offender's release on parole or otherwise from prison or other commitment imposed as a result of a previous felony conviction; and (c) the offender has not been pardoned on the ground of innocence and the conviction has not been set aside at a postconviction hearing. (19) (a) "Persistent felony offender under supervision" means an offender who: (i) was on conditional release, felony probation, or felony parole at the time the offense for which the offender is presently being sentenced was committed; (ii) has previously been convicted of two separate felonies; and (iii) is presently being sentenced for a third felony, except as provided in subsection (19)(c). (b) An offender is considered to have previously been convicted of two separate felonies if: (i) the two previous felonies were for offenses that were committed in this state or any other jurisdiction for which a sentence of imprisonment in excess of 1 year could have been imposed; (ii) less than 5 years have elapsed between the commission of the present offense and either: (A) the most recent of the two felony convictions; or (B) the offender's release on parole or otherwise from prison or other commitment imposed as a result of a previous felony conviction; and (iii) the offender has not been pardoned on the ground of innocence and the conviction has not been set aside at a postconviction hearing. (c) A third felony may not include criminal possession of dangerous drugs pursuant to 45-9-102, a fourth or subsequent offense of driving under the influence pursuant to 61-8-1002, or failure to register pursuant to Title 46, chapter 23. (20) "Place of trial" means the geographical location and political subdivision in which the court that will hear the cause is situated. (21) "Preliminary examination" means a hearing before a judge for the purpose of determining if there is probable cause to believe a felony has been committed by the defendant. (22) "Probation" means release by the court without imprisonment of a defendant found guilty of a crime. The release is subject to the supervision of the department of corrections upon direction of the court. (23) "Prosecutor" means an elected or appointed attorney who is vested by law with the power to initiate and carry out criminal proceedings on behalf of the state or a political subdivision. (24) "Same transaction" means conduct consisting of a series

of acts or omissions that are motivated by: (a) a purpose to accomplish a criminal objective and that are necessary or incidental to the accomplishment of that objective; or (b) a common purpose or plan that results in the repeated commission of the same offense or effect upon the same person or the property of the same person. (25) "Search warrant" means an order that is: (a) in writing; (b) in the name of the state; (c) signed by a judge; (d) a particular description of the place, object, or person to be searched and the evidence, contraband, or person to be seized; and (e) directed to a peace officer and commands the peace officer to search for evidence, contraband, or persons. (26) "Sentence" means the judicial disposition of a criminal proceeding upon a plea of guilty or nolo contendere or upon a verdict or finding of guilty. (27) "Statement" means: (a) a writing signed or otherwise adopted or approved by a person; (b) a video or audio recording of a person's communications or a transcript of the communications; and (c) a writing containing a summary of a person's oral communications or admissions. (28) "Summons" means a written order issued by the court that commands a person to appear before a court at a stated time and place to answer a charge for the offense set forth in the order. (29) "Superseded notes" means handwritten notes, including field notes, that have been substantially incorporated into a statement. The notes may not be considered a statement and are not subject to disclosure except as provided in 46-15-324. (30) "Temporary road block" means any structure, device, or means used by a peace officer for the purpose of controlling all traffic through a point on the highway where all vehicles may be slowed or stopped. (31) "Witness" means a person whose testimony is desired in a proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding. (32) "Work product" means legal research, records, correspondence, reports, and memoranda, both written and oral, to the extent that they contain the opinions, theories, and conclusions of the prosecutor, defense counsel, or their staff or investigators. History: En. Sec. 2, Ch. 800, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 1, Ch. 262, L. 1993; amd. Sec. 203, Ch. 546, L. 1995; amd. Sec. 6, Ch. 395, L. 1999; amd. Sec. 1, Ch. 303, L. 2001; amd. Sec. 23, Ch. 321, L. 2017; amd. Sec. 1, Ch. 649, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 3. Notice to Attorney General 46-1-301. Notice to be given to attorney general when state department or board initiates or intervenes in an action

46-1-301. Notice to be given to attorney general when state department or board initiates or intervenes in an action. When a department or board of this state initiates or intervenes in an action in any court, a copy of the complaint, counterclaim, or cross-claim must be served on the attorney general. History: En. Sec. 1, Ch. 91, L. 1979.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 3. Notice to Attorney General 46-1-302. Notice of appeal to be served on attorney general

46-1-302. Notice of appeal to be served on attorney general. When a department or board of this state appeals from a judgment or order entered in any court of this state, a copy of the notice of appeal must be served on the attorney general. History: En. Sec. 2, Ch. 91, L. 1979.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 4. Incarceration Enhancement 46-1-401. Penalty enhancement -- pleading, proof, and mental state requirements

46-1-401. Penalty enhancement -- pleading, proof, and mental state requirements. (1) A court may not impose a penalty enhancement specified in Title 45, Title 46, or any other provision of law unless: (a) the enhancing act, omission, or fact was charged in the information, complaint, or indictment, with a reference to the statute or statutes containing the enhancing act, omission, or fact and the penalty for the enhancing act, omission, or fact; (b) if the case was tried before a jury, the jury unanimously found in a separate finding that the enhancing act, omission, or fact occurred beyond a reasonable doubt; (c) if the case was tried to the court without a jury, the court finds beyond a reasonable doubt that the enhancing act, omission, or fact occurred; and (d) a defendant who knowingly and voluntarily pleaded guilty to an offense also admitted to the enhancing act, omission, or fact. (2) The enhancement issue may be submitted to a jury on a form separate from the verdict form or may be separately stated on the verdict form. The jury must be instructed that it is to reach a verdict on the offense charged in the information, complaint, or indictment before the jury can consider whether the enhancing act, omission, or fact occurred. (3) An enhancing act, omission, or fact is an act, omission, or fact, whether stated in the statute defining the charged offense or stated in another statute, that is not included in the statutory definition of the elements of the charged offense and that allows or requires a sentencing court to add to, as provided by statute, a penalty provided by statute for the charged offense or to impose the death penalty instead of a statutory incarceration period provided by statute for the charged offense. Except as provided in subsection (4), the aggravating circumstances contained in 46-18-303 are enhancing acts, omissions, or facts. (4) Use of the fact of one or more prior convictions for the same type of offense or for one or more other types of offenses to enhance the penalty for a charged offense is not subject to the requirements of this section. History: En. Sec. 1, Ch. 524, L. 2001; amd. Sec. 1, Ch. 154, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 5. Mediation of Criminal Proceedings 46-1-501. Definitions

46-1-501. Definitions. As used in this part, the following definitions apply: (1) "Mediation" has the meaning provided in 26-1-813(1). (2) "Party" means any one of the following, and "parties" means all of the following: (a) the defendant; (b) a victim of the crime; or (c) the county attorney or other prosecuting attorney. History: En. Sec. 1, Ch. 203, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 5. Mediation of Criminal

Proceedings 46-1-502. Mediation

46-1-502. Mediation. (1) At any time after the commencement of a prosecution and before the verdict, the court may, at its suggestion or upon motion of a party and with the consent of all the parties, refer the proceeding to mediation by a mediator chosen by the court. (2) The proceeding may not be referred for mediation if the offense charged is: (a) deliberate homicide, as described in 45-5-102; (b) mitigated deliberate homicide, as described in 45-5-103; (c) intimidation, as described in 45-5-203; (d) partner or family member assault, as described in 45-5-206; (e) assault on a minor, as described in 45-5-212; (f) strangulation of a partner or family member, as described in 45-5-215; (g) stalking, as described in 45-5-220; (h) aggravated kidnapping, as described in 45-5-303; (i) a sex crime, as described in 45-5-502, 45-5-503, 45-5-504, or 45-5-507; (j) endangering the welfare of children, as described in 45-5-622; (k) sexual abuse of children, as described in 45-5-625; or (l) ritual abuse of a minor, as described in 45-5-627. (3) Any aspect of or issue in the proceeding may be the subject of the mediation, including but not limited to the charge, a plea bargain, or a recommended sentence. (4) At any point during mediation, a party may withdraw from the mediation without penalty or sanction. (5) This section does not prohibit the parties from engaging in traditional plea negotiations. History: En. Sec. 2, Ch. 203, L. 2007; amd. Sec. 6, Ch. 225, L. 2013; amd. Sec. 8, Ch. 394, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 5. Mediation of Criminal Proceedings 46-1-503. Factors to use in determining appropriateness of mediation

46-1-503. Factors to use in determining appropriateness of mediation. In deciding whether mediation is appropriate, the court may consider: (1) the nature of the offense; (2) any special circumstances or characteristics of the defendant or any victim; (3) whether the defendant previously participated in mediation in the current or a prior proceeding; (4) whether it is probable that the defendant will cooperate with the mediator; (5) the recommendation of any victim or victims; (6) the recommendation of any involved law enforcement agency; (7) whether a qualified mediator is available; (8) the type of sentence, including any treatment, that the defendant would most likely be amenable to, whether the best interests of the defendant and the security of the public may require that the defendant be placed in secure detention or under supervision, and whether there are facilities available for treatment and rehabilitation of the defendant; (9) whether there is evidence that the charged offense included violence or was otherwise committed in an aggressive and premeditated manner; (10) the motivation for the commission of the charged offense; (11) the age of the defendant and of any codefendant or victim; (12) the previous history of the defendant, including any criminal history and any other prior antisocial behavior or pattern of physical violence; (13) the sophistication and maturity of the defendant as determined by factors such as home, employment, school activities, emotional attitude, and pattern of living; (14) whether any victim wishes to address the parties and mediator during mediation; and (15) other matters that the court believes are relevant. History: En. Sec. 3, Ch. 203, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 5. Mediation of Criminal Proceedings 46-1-504. Procedure following mediation

46-1-504. Procedure following mediation. (1) If mediation is successful, the mediator shall inform the court of the results of the mediation and of any agreement reached. (2) If mediation is unsuccessful or if one of the parties withdraws from the mediation, the mediator shall notify the court and the prosecutor may proceed with the prosecution of the defendant. (3) After a successful mediation, the results of the mediation and any agreement reached by the parties to the mediation are subject to the approval of the court. History: En. Sec. 4, Ch. 203, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 5. Mediation of Criminal Proceedings 46-1-505. Privilege and confidentiality

46-1-505. Privilege and confidentiality. Mediation communications and documents are privileged and confidential and may not be disclosed in any judicial or administrative proceeding except when: (1) the parties to the mediation agree, in writing, to disclosure; (2) a written agreement by the parties to mediate permits disclosure; (3) a communication or document provides evidence of an ongoing or future criminal activity; (4) disclosure is necessary to prevent an action or event that is reasonably likely to result in death, serious bodily harm, or substantial injury to the financial interests or property of another; (5) a communication or document is necessary to defend against a legal malpractice claim by the defendant against the defendant's attorney; or (6) a communication or document is relevant to determining the existence of an agreement that resulted from the mediation or to the enforcement of an agreement. History: En. Sec. 5, Ch. 203, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 5. Mediation of Criminal Proceedings 46-1-506. Right to speedy trial

46-1-506. Right to speedy trial. Time spent in mediation may not be counted in determining whether a defendant's right to a speedy trial has been violated. History: En. Sec. 6, Ch. 203, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 1. General Provisions Part 5. Mediation of Criminal Proceedings 46-1-507. Costs

46-1-507. Costs. The mediation costs must be paid equally by the defendant and the prosecution, except that if a defendant is eligible

for a public defender, the public defender shall pay the mediation costs. History: En. Sec. 7, Ch. 203, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 10. Preliminary Examination Part 1. General Provisions 46-10-102. Renumbered 46-10-106

46-10-102. Renumbered 46-10-106. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 10. Preliminary Examination Part 1. General Provisions 46-10-103. and 46-10-104 reserved

46-10-103 and 46-10-104 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 10. Preliminary Examination Part 1. General Provisions 46-10-105. Preliminary examination -- when held

46-10-105. Preliminary examination -- when held. After the initial appearance, in all cases in which the charge is triable in district court, the justice's court shall, within a reasonable time, hold a preliminary examination unless: (1) the defendant waives a preliminary examination; (2) the district court has granted leave to file an information; (3) an indictment has been returned; or (4) the case is triable in justice's court. History: En. 95-902 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-902(part); amd. Sec. 89, Ch. 800, L. 1991; Sec. 46-7-103, MCA 1989; redes. 46-10-105 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 10. Preliminary Examination Part 1. General Provisions 46-10-106. Waiver

46-10-106. Waiver. If the defendant waives the preliminary examination, the judge shall hold the defendant to answer to the court having jurisdiction of the offense. History: En. 95-1202 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1202(b); amd. Sec. 9, Ch. 116, L. 1979; amd. Sec. 90, Ch. 800, L. 1991; Sec. 46-10-102, MCA 1989; redes. 46-10-106 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 10. Preliminary Examination Part 2. Procedure at Preliminary Examination 46-10-202. Presentation of evidence

46-10-202. Presentation of evidence. (1) The defendant may not enter a plea. The judge shall hear the evidence without unnecessary delay. All witnesses must be examined in the presence of the defendant. The defendant may cross-examine witnesses against the defendant and may introduce evidence in the defendant's own behalf. For purposes of this section, a preliminary examination conducted by the use of two-way electronic audio-video communication that allows all of the participants to be observed and heard by all other participants and that allows the defendant to cross-examine witnesses is considered to be an examination of a witness in the presence of the defendant. Two-way electronic audio-video communication may not be used unless the defendant's counsel is physically present with the defendant, unless this requirement is waived by the defendant. (2) During the examination of a witness or when the defendant is making a statement or testifying, the judge may, and on the request of the defendant or state shall, exclude all other witnesses. The judge may also cause the witnesses to be kept separate and to be prevented from communicating with each other until all are examined. (3) An objection to evidence on the ground that it has been acquired by unlawful means is not properly made at the preliminary examination. Motions to suppress must be made to the trial court as provided in 46-13-302. (4) For purposes of a hearing under this chapter, a defendant may, in the discretion of the court, appear before the court either by physical appearance or by two-way electronic audio-video communication. The audio-video communication must operate so that the defendant and the judge can see each other simultaneously and converse with each other, so that the defendant and the defendant's counsel, if any, can communicate privately, and so that the defendant and the defendant's counsel are both physically present in the same place during the two-way electronic audio-video communication. The defendant may waive the requirement that counsel be in the defendant's physical presence during the two-way electronic audio-video communication. A judge may order a defendant's physical appearance in court for a preliminary examination. History: En. Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1202(part), 95-1203; amd. Sec. 11, Ch. 116, L. 1979; amd. Sec. 4, Ch. 710, L. 1991; amd. Sec. 91, Ch. 800, L. 1991; amd. Sec. 13, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 10. Preliminary Examination Part 2. Procedure at Preliminary Examination 46-10-203. Disposition of defendant

46-10-203. Disposition of defendant. (1) If from the evidence it appears that there is probable cause to believe that an offense has been committed and that the defendant committed it, the judge shall hold the defendant to answer to the court having jurisdiction of the offense. (2) If it appears from the evidence that there is insufficient probable cause to believe that an offense has been committed or that the defendant committed it, the judge shall dismiss the complaint and discharge the defendant. The discharge of the defendant may not preclude the state from instituting a subsequent prosecution for the same offense. History: En. 95-1202 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1202(part); amd. Sec. 12, Ch. 116, L. 1979; amd. Sec. 92, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 10. Preliminary Examination Part 2. Procedure at Preliminary Examination 46-10-204. Record of preliminary examination

46-10-204. Record of preliminary examination. (1) The testimony of each witness must be taken by a court-appointed stenographer

upon demand by the county attorney, the defendant, or the defendant's counsel. (2) After concluding the proceeding, if the judge holds the defendant to answer a charge, the judge shall transmit immediately to the clerk of the court having jurisdiction of the offense all papers in the proceeding and any bail taken by the judge. History: En. 95-1202 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1202(d); amd. Sec. 13, Ch. 116, L. 1979; amd. Sec. 93, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 1. Methods of Commencing Prosecution 46-11-101. Methods of commencing prosecution

46-11-101. Methods of commencing prosecution. A prosecution may be commenced by: (1) a complaint; (2) an information following a preliminary examination or waiver of a preliminary examination; (3) an information after leave of court has been granted; or (4) an indictment upon a finding by a grand jury. History: En. 95-1501 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1501; amd. Sec. 94, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 1. Methods of Commencing Prosecution 46-11-102. Required methods

46-11-102. Required methods. (1) All prosecutions of offenses charged in a district court must be by indictment or information. (2) All other prosecutions of offenses must be by complaint. History: En. 95-1502 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 18, Ch. 184, L. 1977; R.C.M. 1947, 95-1502; amd. Sec. 95, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 1. Methods of Commencing Prosecution 46-11-103. through 46-11-109 reserved

46-11-103 through 46-11-109 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 1. Methods of Commencing Prosecution 46-11-110. Filing complaint

46-11-110. Filing complaint. When a complaint is presented to a court charging a person with the commission of an offense, the court shall examine the sworn complaint or any affidavits, if filed, to determine whether probable cause exists to allow the filing of a charge. History: En. Sec. 96, Ch. 800, L. 1991; amd. Sec. 14, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 1. Methods of Commencing Prosecution 46-11-111. Amending complaint

46-11-111. Amending complaint. A court may allow a complaint to be amended under the same circumstances and in the same manner as an information as provided in 46-11-205. History: En. Sec. 97, Ch. 800, L. 1991; amd. Sec. 52, Ch. 18, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 2. Filing of Information 46-11-201. Leave to file information

46-11-201. Leave to file information. (1) The prosecutor may apply directly to the district court for permission to file an information against a named defendant. If the defendant named is a district court judge, the prosecutor shall apply directly to the supreme court for leave to file the information. (2) An application must be by affidavit supported by evidence that the judge or chief justice may require. If it appears that there is probable cause to believe that an offense has been committed by the defendant, the judge or chief justice shall grant leave to file the information, otherwise the application is denied. (3) When leave to file an information has been granted, a warrant or summons may issue for the defendant's arrest or appearance. (4) When leave is granted to file an information against a district court judge, the chief justice shall designate and direct a judge of the district court of another district to preside at the trial of the information and hear and determine all pleas and motions affecting the defendant under the information before and after judgment. All necessary records must be transferred to the clerk of the district court of the district in which the action arose. History: En. 95-1301 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1301(a), (b); amd. Sec. 98, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 2. Filing of Information 46-11-203. Time for filing information

46-11-203. Time for filing information. (1) After a finding of probable cause following a preliminary examination or waiver of a preliminary examination or after leave of court has been granted, the prosecutor shall file within 30 days in the proper district court an information charging the defendant with the offense or any other offense supported by probable cause. (2) Unless good cause to the contrary is shown, the court shall dismiss the prosecution if an information is not filed within 30 days as required in subsection (1). History: En. 95-1302 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1302; amd. Sec. 100, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 2. Filing of Information 46-11-205. Amending information as to substance or form

46-11-205. Amending information as to substance or form. (1) The court may allow an information to be amended in matters of substance at any time, but not less than 5 days before trial, provided that a motion is filed in a timely manner, states the nature of the

proposed amendment, and is accompanied by an affidavit stating facts that show the existence of probable cause to support the charge as amended. A copy of the proposed amended information must be included with the motion to amend the information. (2) If the court grants leave to amend the information, the defendant must be arraigned on the amended information without unreasonable delay and must be given a reasonable period of time to prepare for trial on the amended information. (3) The court may permit an information to be amended as to form at any time before a verdict or finding is issued if no additional or different offense is charged and if the substantial rights of the defendant are not prejudiced. History: En. 95-1505 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 431, L. 1977; R.C.M. 1947, 95-1505; amd. Sec. 1, Ch. 62, L. 1981; amd. Sec. 99, Ch. 800, L. 1991; Sec. 46-11-403, MCA 1989; redes. 46-11-205 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-301. Summoning grand jury

46-11-301. Summoning grand jury. (1) A grand jury may only be drawn and summoned when the district judge, in the judge's discretion, considers a grand jury to be in the public interest and orders the grand jury to be drawn or summoned. The composition and drawing of a grand jury must be in accordance with the provisions of Title 3, chapter 15, part 6. (2) The district judge may direct the selection of one or more alternate jurors, who shall sit as regular jurors before an indictment is found or a grand jury investigation is concluded. A member of the jury who becomes unable to perform the juror's duty may be replaced by an alternate. History: En. 95-1401 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 3, L. 1973; R.C.M. 1947, 95-1401(part); amd. Sec. 101, Ch. 800, L. 1991; amd. Sec. 1743, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-302. Challenges to grand jury or grand jurors

46-11-302. Challenges to grand jury or grand jurors. (1) The prosecutor may challenge the panel of a grand jury on the ground that the grand jury was not selected, drawn, or summoned according to law and may challenge an individual juror on the ground that the juror is not legally qualified. Challenges must be made before the administration of the oath of the jurors, may be oral or in writing, and must be tried and decided by the court. (2) At any time for cause shown, the district court may excuse or discharge a juror either temporarily or permanently, and in the latter event, the court may impanel another person in place of the juror discharged. (3) A motion to dismiss the indictment may be based on the ground that the grand jury was not selected, drawn, or summoned according to law or that an individual juror was not legally qualified. An indictment may not be dismissed on the ground that one or more members are not legally qualified if it appears from the record kept pursuant to this part that eight or more jurors, after deducting those not legally qualified, concurred in finding the indictment. History: En. 95-1402 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 2, Ch. 3, L. 1973; R.C.M. 1947, 95-1402; amd. Sec. 102, Ch. 800, L. 1991; amd. Sec. 15, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-303. Lead juror

46-11-303. Lead juror. The district court shall appoint one of the jurors to be lead juror. The lead juror has the power to administer oaths or affirmations and shall sign all indictments. The lead juror or another juror designated by the lead juror shall keep a record of the number of jurors concurring in the finding of every indictment and shall file the record with the clerk of court, but the record may not be made public except on order of the district court. History: En. 95-1403 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1403; amd. Sec. 103, Ch. 800, L. 1991; amd. Sec. 1744, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-304. Appointing special prosecutor

46-11-304. Appointing special prosecutor. When the county attorney or attorney general is the subject of a grand jury investigation, the district court shall appoint a special prosecutor. If a special prosecutor is appointed, the county attorney's or attorney general's office may not participate in an official capacity, but staff members may appear as witnesses. History: En. Sec. 104, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-305. and 46-11-306 reserved

46-11-305 and 46-11-306 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-307. Closed hearing

46-11-307. Closed hearing. Subject to any right to an open hearing in contempt proceedings, the court shall order a hearing on matters affecting a grand jury proceeding to be closed. This requirement may not affect a defendant's discovery rights after the filing of the indictment. History: En. Sec. 106, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand

Jury46-11-308. Who may be present

46-11-308. Who may be present. The prosecutor, witnesses, interpreters, and a stenographer or operator of a recording device used for the purpose of taking the evidence may be present while the grand jury is in session. No person other than the jurors may be present while the grand jury is deliberating or voting. History: En. Sec. 111, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-309. reserved

46-11-309 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-310. Duties of grand jurors

46-11-310. Duties of grand jurors. The grand jury shall inquire into those matters as directed by the court summoning the jury and shall inquire into other matters as presented by the prosecutor. History: En. Sec. 107, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-311. Charge to grand jury

46-11-311. Charge to grand jury. When a grand jury is impaneled and sworn, it must be charged by the judge who summoned it. In making the charge, the district court shall instruct the jury as to its duties and the matters that jurors may consider. The prosecutor may bring additional matters before the grand jury that are consistent with the original charge or that are developed during the proceedings. History: En. 95-1404 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1404(a); amd. Sec. 105, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-313. Subpoena of witnesses

46-11-313. Subpoena of witnesses. (1) A subpoena requiring the attendance of a witness before the grand jury may be signed and issued by the county attorney, by the lead juror of the grand jury, or by the judge of the district court. (2) The fees and mileage of witnesses subpoenaed pursuant to this section must be the same as those for witnesses in criminal actions. (3) All provisions relating to subpoenas in criminal actions apply to subpoenas issued pursuant to this section, including the provisions of Title 46, chapter 15, part 1. History: En. 95-1407 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 16, Ch. 184, L. 1977; R.C.M. 1947, 95-1407; amd. Sec. 108, Ch. 800, L. 1991; amd. Sec. 1745, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-314. Reception of evidence

46-11-314. Reception of evidence. In the investigation of a charge, the grand jury shall receive no other evidence than that given by witnesses produced and sworn before it or that furnished by legal evidence or the deposition of a witness. History: En. 95-1408 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 17, Ch. 184, L. 1977; R.C.M. 1947, 95-1408(1), (2); amd. Sec. 109, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-315. Advice and assistance to grand jury

46-11-315. Advice and assistance to grand jury. (1) The grand jury may at all times ask the advice of the judge. Unless advice is asked, the judge may not be present during the sessions of the grand jury. (2) The prosecutor may at all times appear before the grand jury for the purpose of giving information or advice relative to any matter cognizable by the grand jury and may interrogate witnesses before the grand jury whenever the prosecutor finds it necessary. (3) Subject to the approval of the district court, the county attorney may employ a special prosecutor, investigators, interpreters, and experts at agreed-upon compensation to be first approved by the court. History: En. 95-1406 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 15, Ch. 184, L. 1977; R.C.M. 1947, 95-1406(1) thru (4); amd. Sec. 110, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-316. Recorded proceedings

46-11-316. Recorded proceedings. (1) The grand jury shall either appoint a stenographer to take in shorthand the testimony of witnesses or the testimony must be taken by a recording device, but the record so made must include the testimony of all witnesses on that particular investigation. (2) The stenographic reporter or operator of a recording device shall, within 30 days after an indictment has been found, certify and file with the clerk of the district court the shorthand notes or the recordings made and an original transcript of the notes or recordings. (3) An unintentional failure of any recording to reproduce all or any portion of a proceeding may not affect the validity of the prosecution. History: En. 95-1406 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 15, Ch. 184, L. 1977; R.C.M. 1947, 95-1406(5); amd. Sec. 112, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-317. Secrecy of proceedings -- disclosure

46-11-317. Secrecy of proceedings -- disclosure.(1) Disclosure of matters occurring before the grand jury other than its deliberations and the vote of any juror may be made to any prosecutor or investigator of this state and prosecutors or investigators from any other state or the federal government for use in the performance of the prosecutor's or investigator's duty. (2) A grand juror, an interpreter, a stenographer, an operator of a recording device, a typist who transcribes recorded testimony, or the prosecutor may not disclose matters occurring before the grand jury except as otherwise permitted by Title 46. An obligation of secrecy may not be imposed on a person except in accordance with this section. A knowing violation of this section may be punishable as contempt of court. (3) Disclosure otherwise prohibited by this section of matters occurring before the grand jury may be made: (a) if directed by the district court prior to or in combination with a judicial proceeding; (b) when permitted by the district court at the request of the defendant, upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury; or (c) when permitted by the district court, to a defendant pursuant to a proper discovery motion. History: En. 95-1409 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1409; amd. Sec. 113, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-318. Discharge of grand jury

46-11-318. Discharge of grand jury. When the grand jury certifies the completion of business before it and the district court concurs, the grand jury must be discharged by the district court. History: En. 95-1404 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1404(part); amd. Sec. 114, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-319. Expenses of grand jury

46-11-319. Expenses of grand jury.(1) Except as provided in subsection (2), all expenses of the grand jury, including expenses for special prosecutors, experts, investigators, and interpreters, if any, must be paid by the county. The treasurer of the county shall pay the expenses out of the general fund of the county or out of the district court fund, if any, upon warrants drawn by the county auditor or by the clerk of district court upon a written order of the judge of the district court of the county. (2) The state shall pay the expenses of juror and witness fees and witness expenses as provided in 3-5-901 and 3-5-902. History: En. 95-1405 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1405(f); amd. Sec. 4, Ch. 66, L. 1985; amd. Sec. 12, Ch. 680, L. 1985; amd. Sec. 115, Ch. 800, L. 1991; amd. Sec. 42, Ch. 585, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-320. through 46-11-330 reserved

46-11-320 through 46-11-330 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-331. Finding indictment

46-11-331. Finding indictment.(1) The grand jury shall find an indictment when all the evidence before it taken together would in its judgment warrant a conviction by a trial jury. An indictment may be found only upon the concurrence of at least eight grand jurors. (2) If a complaint or information is pending against the defendant and eight jurors do not concur in finding an indictment, the lead juror shall report the decision to the district court judge. History: (1)En. 95-1408 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 17, Ch. 184, L. 1977; Sec. 95-1408, R.C.M. 1947; (2)En. 95-1410 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 3, Ch. 3, L. 1973; Sec. 95-1410, R.C.M. 1947; R.C.M. 1947, 95-1408(3), 95-1410(a); amd. Sec. 116, Ch. 800, L. 1991; amd. Sec. 1746, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 3. Grand Jury 46-11-332. Presenting the indictment

46-11-332. Presenting the indictment.(1) An indictment, when found by the grand jury, must be signed by and presented by the lead juror to the district court in the presence of the grand jury and must be filed with the clerk. The district court shall then issue an arrest warrant or summons for the defendant. (2) If a complaint or information is pending against the defendant and eight jurors do not concur in finding an indictment, the lead juror shall report the decision to the district court judge. History: En. 95-1410 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 3, Ch. 3, L. 1973; R.C.M. 1947, 95-1410(b); amd. Sec. 117, Ch. 800, L. 1991; amd. Sec. 16, Ch. 262, L. 1993; amd. Sec. 1747, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 4. The Charge 46-11-401. Form of charge

46-11-401. Form of charge.(1) The charge must be in writing and in the name of the state or the appropriate county or municipality and must specify the court in which the charge is filed. The charge must be a plain, concise, and definite statement of the offense charged, including the name of the offense, whether the offense is a misdemeanor or felony, the name of the person charged, and the time and place of the offense as definitely as can be determined. The charge must state for each count the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated. (2) If the charge is by information or indictment, it must include endorsed on the information or indictment the names of the witnesses for the prosecution,

if known. (3) If the charge is by complaint, it must be signed by a sworn peace officer, under oath by a person having knowledge of the facts, or by the prosecutor. (4) If the charge is by information, it must be signed by the prosecutor. If the charge is by indictment, it must be signed by the lead juror of the grand jury. (5) The court, on motion of the defendant, may strike surplusage from an indictment or information. (6) A charge may not be dismissed because of a formal defect that does not tend to prejudice a substantial right of the defendant. History: En. 95-1503 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1503(a) thru (e); amd. Sec. 118, Ch. 800, L. 1991; amd. Sec. 17, Ch. 262, L. 1993; amd. Sec. 1, Ch. 389, L. 2001; amd. Sec. 1748, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 4. The Charge 46-11-403. Renumbered 46-11-205

46-11-403. Renumbered 46-11-205. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 4. The Charge 46-11-404. Joinder of offenses and defendants

46-11-404. Joinder of offenses and defendants. (1) Two or more offenses or different statements of the same offense may be charged in the same charging document in a separate count, or alternatively, if the offenses charged, whether felonies or misdemeanors or both, are of the same or similar character or are based on the same transactions connected together or constituting parts of a common scheme or plan. Allegations made in one count may be incorporated by reference in another count. (2) If two or more charging documents are filed in the case, the court may order them to be consolidated. (3) The prosecution is not required to elect between the different offenses set forth in the charging document, and the defendant may be convicted of any number of the offenses charged except as provided in 46-11-410. Each offense of which the defendant is convicted must be stated in the verdict or the finding of the court. (4) Two or more defendants may be charged in the same indictment, information, or complaint if they are alleged to have participated in the same transaction constituting an offense or offenses. The defendants may be charged in one or more counts together or separately, and all of the defendants need not be charged in each count. History: En. 95-1504 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 19, Ch. 184, L. 1977; R.C.M. 1947, 95-1504(1) thru (4); amd. Sec. 119, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 4. The Charge 46-11-405. Discharge of codefendant

46-11-405. Discharge of codefendant. (1) When two or more persons are included in the same charge, the court may, at any time before the defendants have gone into their defense, on the application of the prosecutor, direct any defendant to be discharged so that the defendant may be a witness for the prosecution. (2) When two or more persons are included in the same indictment or information and the court is of the opinion that in regard to a particular defendant there is not sufficient evidence to require the defendant to put on a defense, the court must order that defendant to be discharged before the evidence is closed so that the discharged defendant may be a witness for the codefendant. History: En. Sec. 187, p. 245, Bannack Stat.; re-en. Sec. 308, p. 237, Cod. Stat. 1871; re-en. Sec. 308, 3d Div. Rev. Stat. 1879; re-en. Sec. 309, 3d Div. Comp. Stat. 1887; amd. Secs. 2075, 2076, Pen. C. 1895; re-en. Secs. 9276, 9277, Rev. C. 1907; re-en. Secs. 11974, 11975, R.C.M. 1921; Cal. Pen. C. Secs. 1099, 1100; re-en. Secs. 11974, 11975, R.C.M. 1935; Secs. 94-7206, 94-7207, R.C.M. 1947; redes. 95-1504(d) and (e) by Sec. 29, Ch. 513, L. 1973; amd. Sec. 19, Ch. 184, L. 1977; R.C.M. 1947, 95-1504(5), (6); amd. Sec. 18, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 4. The Charge 46-11-406. through 46-11-409 reserved

46-11-406 through 46-11-409 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 4. The Charge 46-11-410. Multiple charges

46-11-410. Multiple charges. (1) When the same transaction may establish the commission of more than one offense, a person charged with the conduct may be prosecuted for each offense. (2) A defendant may not, however, be convicted of more than one offense if: (a) one offense is included in the other; (b) one offense consists only of a conspiracy or other form of preparation to commit the other; (c) inconsistent findings of fact are required to establish the commission of the offenses; (d) the offenses differ only in that one is defined to prohibit a specific instance of the conduct; or (e) the offense is defined to prohibit a continuing course of conduct and the defendant's course of conduct was interrupted, unless the law provides that the specific periods of the conduct constitute separate offenses. History: En. 95-1711 by Sec. 6, Ch. 513, L. 1973; amd. Sec. 25, Ch. 184, L. 1977; R.C.M. 1947, 95-1711(2); amd. Sec. 120, Ch. 800, L. 1991; Sec. 46-11-502, MCA 1989; redes. 46-11-410 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 5. Effect of Former Prosecutions 46-11-502. Renumbered 46-11-410

46-11-502. Renumbered 46-11-410. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 11. Commencement of Prosecution Part 5. Effect of

Former Prosecutions**46-11-503. Prosecution based on same transaction barred by former prosecution**

46-11-503. Prosecution based on same transaction barred by former prosecution.(1) When two or more offenses are known to the prosecutor, are supported by probable cause, and are consummated prior to the original charge and jurisdiction and venue of the offenses lie in a single court, a prosecution is barred if: (a) the former prosecution resulted in an acquittal. There is an acquittal whenever the prosecution results in a finding of not guilty by the trier of fact or in a determination that there is insufficient evidence to warrant a conviction. A finding of guilty of a lesser included offense that is subsequently set aside is an acquittal of the greater offense that was charged. (b) the former prosecution resulted in a conviction that has not been set aside, reversed, or vacated; (c) after a charge had been filed, the prosecution was terminated by a final order or judgment for the defendant that has not been set aside, reversed, or vacated; or (d) the former prosecution was terminated for reasons not amounting to an acquittal and takes place: (i) in a jury trial, when the jury is impaneled and sworn; or (ii) in a nonjury trial, after the first witness is sworn but before a judgment as to guilt or innocence is reached. (2) A prosecution based upon the same transaction as a former prosecution is not barred under subsection (1)(d) when: (a) the defendant consents to the termination or waives the right to object to the termination; or (b) the trial court finds that the termination is necessary because: (i) it is physically impossible to proceed with the trial in conformity with law; (ii) there is a legal defect in the proceedings that would make any judgment entered upon a verdict reversible as a matter of law; (iii) prejudicial conduct makes it impossible to proceed with the trial without manifest injustice to either the defendant or the state; (iv) the jury is unable to agree upon a verdict; or (v) false statements of a juror on voir dire prevent a fair trial. History: En. 95-1711 by Sec. 6, Ch. 513, L. 1973; amd. Sec. 25, Ch. 184, L. 1977; R.C.M. 1947, 95-1711(3); amd. Sec. 121, Ch. 800, L. 1991; amd. Sec. 1, Ch. 110, L. 1999.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 11. Commencement of Prosecution****Part 5. Effect of Former Prosecutions****46-11-504. Former prosecution in another jurisdiction**

46-11-504. Former prosecution in another jurisdiction.When conduct constitutes an offense within the jurisdiction of any state or federal court, a prosecution in any jurisdiction is a bar to a subsequent prosecution in this state if: (1) the first prosecution resulted in an acquittal or in a conviction and the subsequent prosecution is based on an offense arising out of the same transaction; or (2) the former prosecution was terminated, after the charge had been filed, by an acquittal or by a final order or judgment for the defendant that has not been set aside, reversed, or vacated and the acquittal, final order, or judgment necessarily required a determination inconsistent with a fact that must be established for conviction of the offense for which the defendant is subsequently prosecuted. History: En. 95-1711 by Sec. 6, Ch. 513, L. 1973; amd. Sec. 25, Ch. 184, L. 1977; R.C.M. 1947, 95-1711(4); amd. Sec. 122, Ch. 800, L. 1991; amd. Sec. 1, Ch. 162, L. 1997.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 11. Commencement of Prosecution****Part 5. Effect of Former Prosecutions****46-11-505. Former prosecution not a bar**

46-11-505. Former prosecution not a bar.A prosecution is not a bar if: (1) the former prosecution was before a court that lacked jurisdiction over the defendant or the offense; or (2) the former prosecution resulted in a judgment of conviction that was held invalid in a postconviction hearing. History: En. 95-1711 by Sec. 6, Ch. 513, L. 1973; amd. Sec. 25, Ch. 184, L. 1977; R.C.M. 1947, 95-1711(5); amd. Sec. 123, Ch. 800, L. 1991.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 11. Commencement of Prosecution****Part 6. Ensuring Availability of Material Witness Preserving Testimony****46-11-601. Recognizance by or deposition of witness**

46-11-601. Recognizance by or deposition of witness.(1) If the defendant is held to answer after a preliminary examination, after the defendant has waived a preliminary examination, after the district court has granted leave to file an information, or after an indictment has been returned, the judge may: (a) require any material witness for the state or defendant to enter into a written undertaking to appear at the trial; and (b) provide for the forfeiture of a sum certain in the event the witness does not appear at the trial. (2) Any witness who refuses to enter into a written undertaking may be remanded to custody but may not be held longer than is necessary to take the witness's deposition. After the deposition is taken, the witness must be immediately discharged. (3) The deposition must be taken in the presence of the prosecutor and the defendant and the defendant's counsel unless either the prosecutor or the defendant and the defendant's counsel fail to attend after reasonable notice of the time and place set for taking the deposition. History: En. 95-1204 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1204; amd. Sec. 19, Ch. 262, L. 1993.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 11. Commencement of Prosecution****Part 7. Pretrial Proceedings -- Confidentiality****46-11-701. Pretrial proceedings -- exclusion of public and sealing of records**

46-11-701. Pretrial proceedings -- exclusion of public and sealing of records.(1) Except as provided in this section, pretrial proceedings and records of those proceedings are open to the public. If, at the pretrial proceedings, testimony or evidence is presented that is likely to threaten the fairness of a trial, the presiding officer shall advise those present of the danger and shall seek the voluntary cooperation of the news media in delaying dissemination of potentially prejudicial information until the impaneling of the jury or until an earlier time consistent with the administration of justice. (2) The defendant may move that all or part of the proceeding be closed to the public, or with the consent of the defendant, the judge may take action on the judge's own motion. (3) The judge may close a preliminary hearing, bail hearing, or any other pretrial proceeding, including a hearing on a motion to

suppress, and may seal the record only if: (a) the dissemination of information from the pretrial proceeding and its record would create a clear and present danger to the fairness of the trial; and (b) the prejudicial effect of the information on trial fairness cannot be avoided by any reasonable alternative means. (4) Whenever all or part of any pretrial proceeding is held in chambers or otherwise closed to the public under this section, a complete record must be kept and made available to the public following the completion of the trial or earlier if consistent with trial fairness. (5) Notwithstanding closure of a proceeding to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect either party's right to a fair trial or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the defendant's right to a fair trial. (6) (a) When the judge determines that all or part of a document filed in support of a charge or warrant would present a clear and present danger to the defendant's right to a fair trial, the document or portion of the document must be sealed until the trial is completed unless the document or portion of the document must be used for trial fairness. (b) When a sworn affidavit in support of a search warrant is presented by a peace officer to a judge and the peace officer's request includes a request to seal the documents related to the search warrant, the judge may consider the evidence presented and, if the judge makes a finding from the evidence that the demand of individual privacy clearly exceeds the merits of public disclosure, the judge may order the documents related to the search warrant sealed until: (i) a date certain; (ii) the occurrence of a specific event; (iii) the filing of a charge arising from or related to the execution of the search warrant; or (iv) such other time as the judge deems appropriate. History: En. Sec. 124, Ch. 800, L. 1991; amd. Sec. 63, Ch. 10, L. 1993; amd. Sec. 20, Ch. 262, L. 1993; amd. Sec. 5, Ch. 125, L. 1995; amd. Sec. 1, Ch. 164, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 1. General Provisions 46-12-102. Place of arraignment

46-12-102. Place of arraignment. The defendant must be arraigned in the court that has trial jurisdiction of the charge. History: En. 95-1602 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1602; amd. Sec. 130, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 1. General Provisions 46-12-104. Bringing defendant into court

46-12-104. Bringing defendant into court. The court may direct any official who has custody of the defendant to bring the defendant before the court to be arraigned. History: En. 95-1604 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1604; amd. Sec. 1749, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 1. General Provisions 46-12-105. Joint defendants

46-12-105. Joint defendants. Defendants who are jointly charged may be arraigned separately or together in the discretion of the court. History: En. 95-1605 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1605.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-201. Manner of conducting arraignment -- use of two-way electronic audio-video communication -- exception

46-12-201. Manner of conducting arraignment -- use of two-way electronic audio-video communication -- exception. (1) Arraignment must be conducted in open court and must consist of reading the charge to the defendant or stating to the defendant the substance of the charge and calling on the defendant to plead to the charge. The defendant must be given a copy of the charging document before being called upon to plead. For purposes of this chapter, an arraignment that is conducted by the use of two-way electronic audio-video communication, allowing all of the participants to be heard in the courtroom by all present and allowing the party to be seen, is considered to be an arraignment in open court. (2) The court shall inquire of the defendant or the defendant's counsel the defendant's true name, and if the defendant's true name is given as any other than that used in the charge, the court shall order the defendant's name to be substituted for the name under which the defendant is charged. (3) The court shall determine whether the defendant is under any disability that would prevent the court, in its discretion, from proceeding with the arraignment. The arraignment may be continued until the court determines the defendant is able to proceed. (4) Whenever the law requires that a defendant in a misdemeanor or felony case be taken before a court for an arraignment, this requirement may be satisfied by two-way electronic audio-video communication if neither party objects and the court agrees to its use and has informed the defendant that the defendant has the right to object to its use. The audio-video communication must operate so that the defendant and the judge can see each other simultaneously and converse with each other, so that the defendant and the defendant's counsel, if any, can communicate privately, and so that the defendant and the defendant's counsel are both physically present in the same place during the two-way electronic audio-video communication. The defendant may waive the requirement that the defendant's counsel be in the defendant's physical presence during the two-way electronic audio-video communication. (5) A judge may order a defendant's physical appearance in court for arraignment. In a felony case, a judge may not accept a plea of guilty or nolo contendere from a defendant unless the defendant is physically present in the courtroom or is appearing before the court by means of two-way electronic audio-video communication. History: En. 95-1606 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1606(a), (b), (c); amd. Sec. 6, Ch.

710, L. 1991; amd. Sec. 131, Ch. 800, L. 1991; amd. Sec. 7, Ch. 395, L. 1999; amd. Sec. 1, Ch. 222, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-202. Renumbered 46-12-210

46-12-202. Renumbered 46-12-210. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-203. Time allowed to answer

46-12-203. Time allowed to answer. If on the arraignment the defendant requires it, the defendant must be allowed a reasonable time, not less than 1 day, to answer or otherwise plead to the indictment, information, or complaint. The answer may include appropriate pretrial motions. History: En. 95-1607 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1607; amd. Sec. 1750, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-204. Plea alternatives

46-12-204. Plea alternatives. (1) A defendant may plead guilty, not guilty, or, with the consent of the court and the prosecutor, nolo contendere. If a defendant refuses to plead or if a defendant corporation fails to appear, the court shall enter a plea of not guilty. (2) The court may not accept a plea of guilty or nolo contendere without first determining that the plea is voluntary and not the result of force or threats or of promises apart from the plea agreement. The court shall also inquire as to whether the defendant's willingness to plead guilty or nolo contendere results from prior discussions between the prosecutor and the defendant or the defendant's attorney. (3) With the approval of the court and the consent of the prosecutor, a defendant may enter a plea of guilty or nolo contendere, reserving the right, on appeal from the judgment, to review the adverse determination of any specified pretrial motion. If the defendant prevails on appeal, the defendant must be allowed to withdraw the plea. (4) The court may not accept a plea of nolo contendere in a case involving a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303. History: En. 95-1606 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1606(part); amd. Sec. 2, Ch. 606, L. 1985; amd. Sec. 132, Ch. 800, L. 1991; amd. Sec. 8, Ch. 395, L. 1999; amd. Sec. 1, Ch. 22, Sp. L. August 2002.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-205. Record of arraignment

46-12-205. Record of arraignment. The court must prepare and keep a written record of all arraignment proceedings. In district courts a verbatim record of all arraignment proceedings must be made, preserved, and filed with the court. History: En. 95-1606 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1606(f).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-206. Renumbered 46-12-213

46-12-206. Renumbered 46-12-213. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-207. through 46-12-209 reserved

46-12-207 through 46-12-209 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-210. Advice to defendant

46-12-210. Advice to defendant. (1) Before accepting a plea of guilty or nolo contendere, the court shall determine that the defendant understands the following: (a) (i) the nature of the charge for which the plea is offered; (ii) the mandatory minimum penalty provided by law, if any; (iii) the maximum penalty provided by law, including the effect of any penalty enhancement provision or special parole restriction; and (iv) when applicable, the requirement that the court may also order the defendant to make restitution of the costs and assessments provided by law; (b) if the defendant is not represented by an attorney, the fact that the defendant has the right to be represented by an attorney at every stage of the proceeding and that, if necessary, an attorney will be assigned pursuant to the Montana Public Defender Act, Title 47, chapter 1, to represent the defendant; (c) that the defendant has the right: (i) to plead not guilty or to persist in that plea if it has already been made; (ii) to be tried by a jury and at the trial has the right to the assistance of counsel; (iii) to confront and cross-examine witnesses against the defendant; and (iv) not to be compelled to reveal personally incriminating information; (d) that if the defendant pleads guilty or nolo contendere in fulfillment of a plea agreement, the court is not required to accept the terms of the agreement and that the defendant may not be entitled to withdraw the plea if the agreement is not accepted pursuant to 46-12-211; (e) that if the defendant's plea of guilty or nolo contendere is accepted by the courts, there will not be a further trial of any kind, so that by pleading guilty or nolo contendere the defendant waives the right to a trial; and (f) that if the defendant is not a United States citizen, a guilty or nolo contendere plea might result in deportation from or exclusion from admission to the United States or denial of naturalization under federal law. (2) The requirements of subsection (1) may be accomplished by the defendant filing a written acknowledgment of the information contained in subsection (1). History: En.

95-1606 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1606(part); amd. Sec. 1, Ch. 606, L. 1985; amd. Sec. 1, Ch. 73, L. 1991; amd. Sec. 133, Ch. 800, L. 1991; Sec. 46-12-202, MCA 1989; redes. 46-12-210 by Code Commissioner, 1991; amd. Sec. 21, Ch. 262, L. 1993; amd. Sec. 9, Ch. 395, L. 1999; amd. Sec. 45, Ch. 449, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-211. Plea agreement procedure -- use of two-way electronic audio-video communication

46-12-211. Plea agreement procedure -- use of two-way electronic audio-video communication. (1) The prosecutor and the attorney for the defendant, or the defendant when acting pro se, may engage in discussions with a view toward reaching an agreement that, upon the entering of a plea of guilty or nolo contendere to a charged offense or to a lesser or related offense, the prosecutor will do any of the following: (a) move for dismissal of other charges; (b) agree that a specific sentence is the appropriate disposition of the case; or (c) make a recommendation, or agree not to oppose the defendant's request, for a particular sentence, with the understanding that the recommendation or request may not be binding upon the court. (2) Subject to the provisions of subsection (5), if a plea agreement has been reached by the parties, the court shall, on the record, require a disclosure of the agreement in open court or, on a showing of good cause in camera, at the time that the plea is offered. If the agreement is of the type specified in subsection (1)(a) or (1)(b), the court may accept or reject the agreement or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider a presentence report, if requested by the court pursuant to 46-18-111. If the agreement is of the type specified in subsection (1)(c), the court shall advise the defendant that, if the court does not accept the recommendation or request, the defendant nevertheless has no right to withdraw the plea. (3) If the court accepts a plea agreement, the court shall inform the defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement. (4) If the court rejects a plea agreement of the type specified in subsection (1)(a) or (1)(b), the court shall, on the record, inform the parties of this fact and advise the defendant that the court is not bound by the plea agreement, afford the defendant an opportunity to withdraw the plea, and advise the defendant that if the defendant persists in the guilty or nolo contendere plea, the disposition of the case may be less favorable to the defendant than that contemplated by the plea agreement. (5) For purposes of this section, a disclosure of the agreement through the use of two-way electronic audio-video communication, allowing all of the participants to be heard in the courtroom by all present and allowing the party speaking to be seen, is considered to be a disclosure in open court. Audio-video communication may be used if neither party objects and the court agrees to its use and has informed the defendant that the defendant has the right to object to its use. The audio-video communication must operate as provided in 46-12-201. History: En. Sec. 134, Ch. 800, L. 1991; amd. Sec. 22, Ch. 262, L. 1993; amd. Sec. 1, Ch. 163, L. 1997; amd. Sec. 10, Ch. 395, L. 1999; amd. Sec. 2, Ch. 222, L. 2005; amd. Sec. 10, Ch. 456, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-212. Determining accuracy of plea

46-12-212. Determining accuracy of plea. (1) The court may not accept a guilty plea without determining that there is a factual basis for the plea in charges of felonies or misdemeanors resulting in incarceration. (2) A defendant who is unwilling to admit to any element of the offense that would provide a factual basis for a plea of guilty may, with the consent of the court, enter a plea of guilty or may, with the consent of the court and the prosecutor, enter a plea of nolo contendere to the offense if the defendant considers the plea to be in the defendant's best interest and the court determines that there is a factual basis for the plea. History: En. Sec. 135, Ch. 800, L. 1991; amd. Sec. 11, Ch. 395, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 12. Arraignment of Defendant Part 2. Procedure on Arraignment 46-12-213. Harmless error

46-12-213. Harmless error. Any variance from the procedure required by 46-12-211 that does not affect the substantial rights of the defendant must be disregarded. History: En. 95-1608 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1608; amd. Sec. 136, Ch. 800, L. 1991; Sec. 46-12-206, MCA 1989; redes. 46-12-213 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 1. General Provisions 46-13-101. Pretrial motions and notices

46-13-101. Pretrial motions and notices. (1) Except for good cause shown, any defense, objection, or request that is capable of determination without trial of the general issue must be raised at or before the omnibus hearing unless otherwise provided by Title 46. (2) Failure of a party to raise defenses or objections or to make requests that must be made prior to trial, at the time set by the court, constitutes a waiver of the defense, objection, or request. (3) The court, for cause shown, may grant relief from any waiver provided by this section. Lack of jurisdiction or the failure of a charging document to state an offense is a nonwaivable defect and must be noticed by the court at any time during the pendency of a proceeding. (4) Unless the court provides otherwise, all pretrial motions must be in writing and must be supported by a statement of the relevant facts upon which the motion is being made. The motion must state with particularity the grounds for the motion and the order or relief sought. History: En. 95-1701 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1701; amd. Sec. 168, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 1. General Provisions 46-13-104. Ruling on motions

46-13-104. Ruling on motions.(1) A motion made before trial must be determined before trial unless the court, for good cause, orders it deferred for determination at the trial of the general issue or until after the verdict, but a determination may not be deferred if a party's right to appeal is adversely affected. (2) Except where mandated by Title 46, the court has discretion to conduct a hearing on the merits of a motion. (3) The court's final determination of any pretrial motion must state, either in writing or on the record, the court's findings of fact and conclusions of law. History: En. 95-1705 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1705; amd. Sec. 169, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 1. General Provisions 46-13-106. Renumbered 46-13-402

46-13-106. Renumbered 46-13-402. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 1. General Provisions 46-13-107. reserved

46-13-107 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 1. General Provisions 46-13-108. Notice by prosecutor seeking persistent felony offender status

46-13-108. Notice by prosecutor seeking persistent felony offender status.(1) Except for good cause shown, if the prosecution seeks treatment of the accused as a persistent felony offender or a persistent felony offender under supervision, notice of that fact must be given at or before the omnibus hearing pursuant to 46-13-110. (2) The notice must specify the alleged prior convictions and may not be made known to the jury before the verdict is returned except as allowed by the Montana Rules of Evidence. (3) If the defendant objects to the allegations contained in the notice, the judge shall conduct a hearing to determine if the allegations in the notice are true. (4) The hearing must be held before the judge alone. If the judge finds any allegations of the prior convictions are true, the accused must be sentenced as provided by law. (5) The notice must be filed and sealed until the time of trial or until a plea of guilty or nolo contendere is given by the defendant. History: En. 95-1506 by Sec. 1, Ch. 196, L. 1967; amd. Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; amd. Sec. 20, Ch. 184, L. 1977; R.C.M. 1947, 95-1506; amd. Sec. 171, Ch. 800, L. 1991; Sec. 46-18-503, MCA 1989; redes. 46-13-108 by Code Commissioner, 1991; amd. Sec. 23, Ch. 262, L. 1993; amd. Sec. 12, Ch. 395, L. 1999; amd. Sec. 2, Ch. 649, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 1. General Provisions 46-13-110. Omnibus hearing -- use of two-way electronic audio or video communication

46-13-110. Omnibus hearing -- use of two-way electronic audio or video communication.(1) Within a reasonable time following the entry of a not guilty plea but not less than 30 days before trial, the court shall hold an omnibus hearing. (2) The purpose of the hearing is to expedite the procedures leading up to the trial of the defendant. (3) The presence of the defendant is not required, unless ordered by the court. The prosecutor and the defendant's counsel shall attend the hearing. The prosecutor and the defendant or defendant's counsel may attend the hearing by two-way electronic audio or video communication if neither party objects and the court agrees to its use. The parties must be prepared to discuss any pretrial matter appropriate to the case, including but not limited to: (a) joinder and severance of offenses or defendants, 46-11-404, 46-13-210, and 46-13-211; (b) double jeopardy, 46-11-410, 46-11-503, and 46-11-504; (c) the need for exclusion of the public and for sealing records of any pretrial proceedings, 46-11-701; (d) notification of the existence of a plea agreement, 46-12-211; (e) disclosure and discovery motions, Title 46, chapter 15, part 3; (f) notice of reliance on certain defenses, 46-15-323; (g) notice of seeking persistent felony offender status, 46-13-108; (h) motion to suppress, 46-13-301 and 46-13-302; (i) motion to dismiss, 46-13-401 and 46-13-402; (j) motion for change of place of trial, 46-13-203 through 46-13-205; (k) reasonableness of bail, Title 46, chapter 9; and (l) stipulations. (4) At the conclusion of the hearing, a court-approved memorandum of the matters settled must be signed by the court and counsel and filed with the court. (5) Any motions made pursuant to subsections (1) through (3) may be ruled on by the court at the time of the hearing, where appropriate, or may be scheduled for briefing and further hearing as the court considers necessary. History: En. Sec. 170, Ch. 800, L. 1991; amd. Sec. 24, Ch. 262, L. 1993; amd. Sec. 11, Ch. 557, L. 2005; amd. Sec. 1, Ch. 130, L. 2011; amd. Sec. 1, Ch. 286, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-201. Renumbered 46-13-401

46-13-201. Renumbered 46-13-401. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-202. Motion for continuance

46-13-202. Motion for continuance.(1) The defendant or the prosecutor may move for a continuance. If the motion is made more than 30 days after arraignment or at any time after trial has begun, the court may require that it be supported by affidavit. (2) The court may upon the motion of either party or upon the court's own motion order a continuance if the interests of justice so require. (3) All motions for continuance are addressed to the discretion of the trial court and must be considered in the light of the diligence

shown on the part of the movant. This section must be construed to the end that criminal cases are tried with due diligence consonant with the rights of the defendant and the prosecution to a speedy trial. History: En. 95-1708 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1708; amd. Sec. 25, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-203. Change of place of trial for prejudice

46-13-203. Change of place of trial for prejudice. (1) The defendant or the prosecution may move for a change of place of trial on the ground that there exists in the county in which the charge is pending such prejudice that a fair trial cannot be had in the county. (2) If the district court determines that there exists in the county in which the prosecution is pending such prejudice that a fair trial cannot be had, the district court shall: (a) transfer the cause to any other county in which a fair trial may be had; (b) direct that a jury be selected in any county where a fair trial may be had and then returned to the county where the prosecution is pending to try the case; or (c) take any other action designed to ensure that a fair trial may be had. History: En. 95-1710 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1710; amd. Sec. 14, Ch. 116, L. 1979; amd. Sec. 1, Ch. 556, L. 1981; amd. Sec. 174, Ch. 800, L. 1991; amd. Sec. 26, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-204. Transfer of trial

46-13-204. Transfer of trial. If the court determines that a motion to dismiss based upon the grounds of lack of jurisdiction or improper place of trial is well-founded, it may, instead of ordering dismissal, order the cause transferred to a court of competent jurisdiction or to a proper place of trial. History: En. 95-1707 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 24, Ch. 184, L. 1977; R.C.M. 1947, 95-1707.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-205. Return to original place of trial

46-13-205. Return to original place of trial. When a trial occurs after a change of place of trial and a retrial is required, the cause must be returned to the county in which the charge was originally properly filed for further proceedings. History: En. Sec. 175, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-206. through 46-13-209 reserved

46-13-206 through 46-13-209 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-210. Trial of indictments, informations, complaints, or defendants together

46-13-210. Trial of indictments, informations, complaints, or defendants together. The court may order two or more indictments, informations, complaints, or defendants to be tried together if the interests of justice require and the charges or defendants could have been joined in a single indictment, information, or complaint as provided for in 46-11-404. History: En. Sec. 176, Ch. 800, L. 1991; amd. Sec. 27, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 2. Specific Pretrial Motions 46-13-211. Relief from prejudicial joinder

46-13-211. Relief from prejudicial joinder. (1) If it appears that a defendant or the prosecution is prejudiced by a joinder of charges or defendants in an indictment, information, or complaint or by a joinder for trial together, the court may order separate trials, grant a severance of defendants, or provide whatever other relief justice requires. (2) In ruling on a motion by a defendant for severance, the court may order the prosecutor to deliver to the court for inspection, in camera, any statements or confessions made by the defendants that the prosecution intends to introduce at trial. History: En. Sec. 177, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 3. Suppression of Evidence 46-13-301. Suppression of confession or admission

46-13-301. Suppression of confession or admission. (1) A defendant may move to suppress as evidence any confession or admission given by the defendant on the ground that it was involuntary. The motion must be in writing and state facts showing why the confession or admission was involuntary. (2) If the allegations of the motion state facts that, if true, show that the confession or admission was involuntary, the court shall conduct a hearing into the merits of the motion. The prosecution must prove by a preponderance of the evidence that the confession or admission was voluntary. (3) The issue of the admissibility of the confession or admission may not be submitted to the jury. If the confession or admission is determined to be admissible, the circumstances surrounding the making of the confession or admission may be submitted to the jury as bearing upon the credibility or the weight to be given to the confession or admission. (4) If the motion is granted, the confession or admission is not admissible in evidence against the movant at the trial of the case. History: En. 95-1805 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1805; amd. Sec. 1,

Ch. 44, L. 1981; amd. Sec. 173, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 3. Suppression of Evidence 46-13-302. Suppression of evidence

46-13-302. Suppression of evidence. (1) A defendant aggrieved by an unlawful search and seizure may move the court to suppress as evidence anything obtained by the unlawful search and seizure. (2) If the motion states facts that, if true, would show that the evidence should be suppressed, the court shall hear the merits of the motion at the omnibus hearing or at a later date if the court orders. (3) If the motion is granted, the evidence is not admissible at trial. History: En. 95-1806 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1806; amd. Sec. 172, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 4. Motion for Dismissal 46-13-401. Dismissal at instance of court or prosecution

46-13-401. Dismissal at instance of court or prosecution. (1) The court may, either on its own motion or upon the application of the prosecuting attorney and in furtherance of justice, order a complaint, information, or indictment to be dismissed. However, the court may not order a dismissal of a complaint, information, or indictment, or a count contained in a complaint, information, or indictment, charging a felony, unless good cause for dismissal is shown and the reasons for the dismissal are set forth in an order entered upon the minutes. (2) After the entry of a plea upon a misdemeanor charge, the court, unless good cause to the contrary is shown, shall order the prosecution to be dismissed, with prejudice, if a defendant whose trial has not been postponed upon the defendant's motion is not brought to trial within 6 months. History: En. 95-1703 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 173, L. 1971; R.C.M. 1947, 95-1703; amd. Sec. 3, Ch. 606, L. 1985; amd. Sec. 178, Ch. 800, L. 1991; Sec. 46-13-201, MCA 1989; redes. 46-13-401 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 13. Pretrial Motions Part 4. Motion for Dismissal 46-13-402. Effect of order to dismiss

46-13-402. Effect of order to dismiss. If the court directs the action to be dismissed, the defendant must, if in custody, be discharged and, if admitted to bail, have bail exonerated or money deposited instead of bail refunded to the defendant. History: En. 95-1706 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 23, Ch. 184, L. 1977; R.C.M. 1947, 95-1706(2); amd. Sec. 179, Ch. 800, L. 1991; Sec. 46-13-106, MCA 1989; redes. 46-13-402 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 1. Relevance of Mental Disease or Disorder 46-14-101. Mental disease or disorder -- purpose -- definition

46-14-101. Mental disease or disorder -- purpose -- definition. (1) The purpose of this section is to provide a legal standard of mental disease or disorder under which the information gained from examination of the defendant, pursuant to part 2 of this chapter, regarding a defendant's mental condition is applied. The court shall apply this standard: (a) in any determination regarding: (i) a defendant's fitness to proceed and stand trial; (ii) whether the defendant had, at the time that the offense was committed, a particular state of mind that is an essential element of the offense; and (b) at sentencing when a defendant has been convicted on a verdict of guilty or a plea of guilty or nolo contendere and claims that at the time of commission of the offense for which the defendant was convicted, the defendant was unable to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirements of the law. (2) (a) As used in this chapter, "mental disease or disorder" means an organic, mental, or emotional disorder that is manifested by a substantial disturbance in behavior, feeling, thinking, or judgment to such an extent that the person requires care, treatment, and rehabilitation. (b) The term "mental disease or disorder" does not include but may co-occur with one or more of the following: (i) an abnormality manifested only by repeated criminal or other antisocial behavior; (ii) a developmental disability, as defined in 53-20-102; (iii) drug or alcohol intoxication; or (iv) drug or alcohol addiction. History: En. 95-501 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 3, Ch. 184, L. 1977; R.C.M. 1947, 95-501; amd. Sec. 1, Ch. 713, L. 1979; amd. Sec. 149, Ch. 800, L. 1991; amd. Sec. 199, Ch. 42, L. 1997; amd. Sec. 1, Ch. 595, L. 2003; amd. Sec. 4, Ch. 209, L. 2013; amd. Sec. 10, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 1. Relevance of Mental Disease or Disorder 46-14-102. Evidence of mental disease or disorder or developmental disability admissible to prove state of mind

46-14-102. Evidence of mental disease or disorder or developmental disability admissible to prove state of mind. Evidence that the defendant suffered from a mental disease or disorder or developmental disability is admissible to prove that the defendant did or did not have a state of mind that is an element of the offense. History: En. 95-502 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-502; amd. Sec. 150, Ch. 800, L. 1991; amd. Sec. 1, Ch. 452, L. 2003; amd. Sec. 11, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 1. Relevance of Mental Disease or Disorder 46-14-103. Mental disease or disorder or developmental disability excluding fitness to proceed

46-14-103. Mental disease or disorder or developmental disability excluding fitness to proceed. A person who, as a result of mental disease or disorder or developmental disability, is unable to understand the proceedings against the person or to assist in the person's

own defense may not be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures. History: En. 95-504 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-504; amd. Sec. 151, Ch. 800, L. 1991; amd. Sec. 2, Ch. 452, L. 2003; amd. Sec. 12, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-201. Renumbered 46-14-214

46-14-201. Renumbered 46-14-214. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-202. Examination of defendant

46-14-202. Examination of defendant. (1) If the defendant or the defendant's counsel files a written motion requesting an examination or if the issue of the defendant's fitness to proceed is raised by the court, prosecution, or defense counsel, the court shall appoint at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse or shall request the superintendent of the Montana state hospital to designate at least one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse, who may be or include the superintendent, to examine and report upon the defendant's mental condition. (2) The court may order the defendant to be committed to a hospital or other suitable facility for the purpose of the examination for a period not exceeding 60 days or a longer period that the court determines to be necessary for the purpose and may direct that a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse retained by the defendant be permitted to witness and participate in the examination. (3) In the examination, any method may be employed that is accepted by the medical or psychological profession for the examination of those alleged to be suffering from mental disease or disorder. (4) (a) The costs incurred for an examination ordered under subsection (2) must be paid as follows: (i) if the issue of the defendant's fitness to proceed was raised by the court or the examination was requested by the prosecution, the cost of the examination and other associated expenses must be paid by the court or, in district court proceedings, by the office of court administrator, except as provided in subsection (4)(a)(iv); (ii) if the examination was requested by the defendant or the defendant's counsel, the cost of the examination and other associated expenses must be paid by the defendant or, if the defendant was represented by an attorney pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided by subsection (4)(a)(iv); (iii) if the examination was jointly requested by the prosecution and defense counsel or the need for the examination was jointly agreed to by the prosecution and defense, the cost of the examination and other associated expenses must be divided and paid equally by the court or, in district court proceedings, by the office of court administrator, and the defendant or, if the defendant was represented by an attorney assigned pursuant to the Montana Public Defender Act, Title 47, chapter 1, by the office of state public defender, except as provided in subsection (4)(a)(iv); (iv) any costs for an examination performed by an employee of the department of public health and human services, any other associated expenses at a facility of the department of public health and human services, and any other associated expenses for which the legislature has made a general fund appropriation to the department of public health and human services may not be charged to the office of court administrator or the office of state public defender. (b) For purposes of this subsection (4), "other associated expenses" means the following costs incurred in association with the commitment to a hospital or other suitable facility for the purpose of examination, regardless of whether the examination is done at the Montana state hospital or any other facility: (i) the expenses of transporting the defendant from the place of detention to the place where the examination is performed and returning the defendant to detention, including personnel costs of the law enforcement agency by whom the defendant is detained; (ii) housing expenses of the facility where the examination is performed; and (iii) medical costs, including medical and dental care, including costs of medication. History: En. 95-505 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 88, Ch. 120, L. 1974; R.C.M. 1947, 95-505(1), (2); amd. Sec. 3, Ch. 713, L. 1979; amd. Sec. 1, Ch. 616, L. 1981; amd. Sec. 2, Ch. 361, L. 1983; amd. Sec. 13, Ch. 680, L. 1985; amd. Sec. 1, Ch. 127, L. 1987; amd. Sec. 152, Ch. 800, L. 1991; amd. Sec. 2, Ch. 303, L. 2001; amd. Sec. 43, Ch. 585, L. 2001; amd. Sec. 46, Ch. 449, L. 2005; amd. Sec. 2, Ch. 140, L. 2007; amd. Sec. 13, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-203. Renumbered 46-14-206

46-14-203. Renumbered 46-14-206. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-204. Prosecution's right to examination

46-14-204. Prosecution's right to examination. (1) When the defense discloses the report of the examination to the prosecution or files a notice of the intention to rely on a defense of mental disease or disorder, the prosecution is entitled to have the defendant examined by a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse. (2) The report of the examination must be disclosed to the defense within 10 days of its receipt by the prosecution. History: En. Sec. 153, Ch. 800, L. 1991; amd. Sec. 3, Ch. 303, L. 2001; amd. Sec. 14, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-205. Access to defendant for examination

46-14-205. Access to defendant for examination.If either the defendant or the prosecution wishes the defendant to be examined by a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse selected by the one proposing the examination in order to determine the defendant's fitness to proceed or whether the defendant had, at the time the offense was committed, a particular state of mind that is an essential element of the offense, the examiner must be permitted to have reasonable access to the defendant for the purpose of the examination. History: En. 95-507 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 90, Ch. 120, L. 1974; amd. Sec. 4, Ch. 184, L. 1977; R.C.M. 1947, 95-507(2); amd. Sec. 5, Ch. 713, L. 1979; amd. Sec. 2, Ch. 127, L. 1987; amd. Sec. 154, Ch. 800, L. 1991; Sec. 46-14-212, MCA 1989; redes. 46-14-205 by Code Commissioner, 1991; amd. Sec. 4, Ch. 303, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-206. Report of examination

46-14-206. Report of examination.(1) A report of the examination must include the following: (a) a description of the nature of the examination; (b) a diagnosis of the mental condition of the defendant, including an opinion as to whether the defendant suffers from a mental disorder, as defined in 53-21-102, and may require commitment or is seriously developmentally disabled, as defined in 53-20-102; (c) if the defendant suffers from a mental disease or disorder or developmental disability, an opinion as to the defendant's capacity to understand the proceedings against the defendant and to assist in the defendant's own defense; (d) when directed by the court, an opinion as to the capacity of the defendant to have a particular state of mind that is an element of the offense charged; and (e) when directed by the court, an opinion as to the capacity of the defendant, because of a mental disease or disorder or developmental disability, to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirement of the law. (2) If the examination cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must state that fact and must include, if possible, an opinion as to whether the unwillingness of the defendant was the result of the mental disease or disorder or developmental disability. History: En. 95-505 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 88, Ch. 120, L. 1974; R.C.M. 1947, 95-505(3) thru (5); amd. Sec. 4, Ch. 713, L. 1979; amd. Sec. 155, Ch. 800, L. 1991; Sec. 46-14-203, MCA 1989; redes. 46-14-206 by Code Commissioner, 1991; amd. Sec. 1, Ch. 397, L. 1993; amd. Sec. 12, Ch. 490, L. 1997; amd. Sec. 3, Ch. 452, L. 2003; amd. Sec. 15, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-207. through 46-14-210 reserved

46-14-207 through 46-14-210 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-212. Renumbered 46-14-205

46-14-212. Renumbered 46-14-205. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-213. Psychiatric or psychological testimony upon trial

46-14-213. Psychiatric or psychological testimony upon trial.(1) Upon trial, any psychiatrist, licensed clinical psychologist, or advanced practice registered nurse who reported under 46-14-202 or 46-14-206 may be called as a witness by the prosecutor or by the defense. Both the prosecution and the defense may summon any other qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse to testify, but only a person who has examined the defendant is competent to testify to an expert opinion with respect to the mental condition of the defendant, as distinguished from the validity of the procedure followed by or the general scientific propositions stated by another witness. (2) When a psychiatrist, licensed clinical psychologist, or advanced practice registered nurse who has examined the defendant testifies concerning the defendant's mental condition, the psychiatrist, licensed clinical psychologist, or advanced practice registered nurse may make a statement as to the nature of the examination and the medical or psychological diagnosis of the mental condition of the defendant. The expert may make any explanation reasonably serving to clarify the expert's examination and diagnosis, and the expert may be cross-examined as to any matter bearing on the expert's competency or credibility or the validity of the expert's examination or medical or psychological diagnosis. A psychiatrist, licensed clinical psychologist, or advanced practice registered nurse may not offer an opinion to the jury on the ultimate issue of whether the defendant did or did not have a particular state of mind that is an element of the offense charged. History: En. 95-507 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 90, Ch. 120, L. 1974; amd. Sec. 4, Ch. 184, L. 1977; R.C.M. 1947, 95-507(3), (4); amd. Sec. 6, Ch. 713, L. 1979; amd. Sec. 3, Ch. 361, L. 1983; amd. Sec. 3, Ch. 127, L. 1987; amd. Sec. 156, Ch. 800, L. 1991; amd. Sec. 5, Ch. 303, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-214. Form of verdict and judgment -- determination of maximum period of confinement -- victim findings

46-14-214. Form of verdict and judgment -- determination of maximum period of confinement -- victim findings.(1) When the defendant is found not guilty of the charged offense or offenses or any lesser included offense for the reason that due to a mental

disease or disorder the defendant did not have a particular state of mind that is an essential element of the offense charged, the verdict and the judgment must state that reason. (2) The court shall determine on the record the charged offense or offenses or any lesser included offense for which the person otherwise may have been convicted and the maximum sentence that the defendant may have received. If there is more than one offense charged, the maximum sentence is limited to the longest single sentence from all charged offenses. (3) The court shall make specific findings regarding whether there is a victim of the crime for which the defendant is found not guilty and, if so, whether the victim wishes to be notified of any conditional release, discharge, or escape of the defendant. History: En. 95-503 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-503; amd. Sec. 2, Ch. 713, L. 1979; amd. Sec. 1, Ch. 593, L. 1981; amd. Sec. 157, Ch. 800, L. 1991; Sec. 46-14-201, MCA 1989; redes. 46-14-214 by Code Commissioner, 1991; amd. Sec. 1, Ch. 164, L. 2003; amd. Sec. 16, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-215. and 46-14-216 reserved

46-14-215 and 46-14-216 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-217. Admissibility of statements made during examination or treatment

46-14-217. Admissibility of statements made during examination or treatment. A statement made for the purposes of psychiatric or psychological examination or treatment provided for in this section by a person subjected to examination or treatment is not admissible in evidence against the person at trial on any issue other than that of the person's mental condition. It is admissible on the issue of the person's mental condition, whether or not it would otherwise be considered a privileged communication, only when and after the defendant presents evidence that due to a mental disease or disorder the defendant did not have a particular state of mind that is an element of the offense charged. History: En. 95-509 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 5, Ch. 184, L. 1977; R.C.M. 1947, 95-509; amd. Sec. 13, Ch. 713, L. 1979; amd. Sec. 158, Ch. 800, L. 1991; Sec. 46-14-401, MCA 1989; redes. 46-14-217 by Code Commissioner, 1991; amd. Sec. 17, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-218. through 46-14-220 reserved

46-14-218 through 46-14-220 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses

46-14-221. Determination of fitness to proceed -- effect of finding of unfitness -- expenses. (1) The issue of the defendant's fitness to proceed may be raised by the court, by the defendant or the defendant's counsel, or by the prosecutor. When the issue is raised, it must be determined by the court. If neither the prosecutor nor the defendant's counsel contests the finding of the report filed under 46-14-206, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence upon the hearing, the parties have the right to subpoena and cross-examine the psychiatrists or licensed clinical psychologists who joined in the report and to offer evidence upon the issue. (2) (a) If the court determines that the defendant lacks fitness to proceed, the proceeding against the defendant must be suspended, except as provided in subsection (4), and the court shall commit the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate mental health facility, as defined in 53-21-102, or residential facility, as defined in 53-20-102, of the department of public health and human services for so long as the unfitness endures or until disposition of the defendant is made pursuant to this section, whichever occurs first. (b) The facility shall develop an individualized treatment plan to assist the defendant to gain fitness to proceed. The treatment plan may include a physician's prescription of reasonable and appropriate medication that is consistent with accepted medical standards. If the defendant refuses to comply with the treatment plan, the facility may petition the court for an order requiring compliance. The defendant has a right to a hearing on the petition. The court shall enter into the record a detailed statement of the facts upon which an order is made, and if compliance with the individualized treatment plan is ordered, the court shall also enter into the record specific findings that the state has proved an overriding justification for the order and that the treatment being ordered is medically appropriate. (3) (a) The committing court shall, within 90 days of commitment, review the defendant's fitness to proceed. If the court finds that the defendant is still unfit to proceed and that it does not appear that the defendant will become fit to proceed within the reasonably foreseeable future, the proceeding against the defendant must be dismissed, except as provided in subsection (4). (b) If the court determines that the defendant lacks fitness to proceed because the defendant has a mental disorder, the proceeding against the defendant must be dismissed and the prosecutor shall petition the court in the manner provided in Title 53, chapter 21, to determine the disposition of the defendant pursuant to those provisions. (c) If the court determines that the defendant lacks fitness to proceed because the defendant has a developmental disability as defined in 53-20-102, the proceeding against the defendant must be dismissed and the prosecutor shall petition the court in the manner provided in Title 53, chapter 20, to determine the disposition of the defendant pursuant to those provisions. (4) The fact that the defendant is unfit to proceed does not preclude any legal objection to the

prosecution that is susceptible to fair determination prior to trial and that is made without the personal participation of the defendant. (5) Except as provided in subsection (6), the expenses of transporting the defendant to the custody of the director of the department of public health and human services to be placed in an appropriate facility of the department of public health and human services, of the care, custody, and treatment of the defendant at the facility, and of transporting the defendant back are payable by the court or, in district court proceedings, by the office of court administrator. (6) The cost of care, custody, and treatment at a facility for which the legislature has made a general fund appropriation to the department of public health and human services may not be charged to the office of court administrator. History: En. 95-506 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 3, Ch. 513, L. 1973; amd. Sec. 89, Ch. 120, L. 1974; amd. Sec. 6, Ch. 568, L. 1977; R.C.M. 1947, 95-506(part); amd. Sec. 7, Ch. 713, L. 1979; amd. Sec. 2, Ch. 616, L. 1981; amd. Sec. 1, Ch. 352, L. 1983; amd. Sec. 14, Ch. 680, L. 1985; amd. Sec. 4, Ch. 127, L. 1987; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 159, Ch. 800, L. 1991; amd. Sec. 1, Ch. 211, L. 1995; amd. Sec. 21, Ch. 255, L. 1995; amd. Sec. 204, Ch. 546, L. 1995; amd. Sec. 44, Ch. 585, L. 2001; amd. Sec. 4, Ch. 452, L. 2003; amd. Sec. 58, Ch. 130, L. 2005; amd. Sec. 47, Ch. 449, L. 2005; amd. Sec. 3, Ch. 140, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 2. Procedure When Mental Disease or Disorder an Issue 46-14-222. Proceedings if fitness regained

46-14-222. Proceedings if fitness regained. When the court, on its own motion or upon the application of the director of the department of public health and human services, the prosecution, or the defendant or the defendant's legal representative, determines, after a hearing if a hearing is requested, that the defendant has regained fitness to proceed, the proceeding must be resumed. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant that it would be unjust to resume the criminal proceedings, the court may dismiss the charge and may order the defendant to be discharged or, subject to the law governing the civil commitment of persons suffering from serious mental illness, order the defendant committed to an appropriate facility of the department of public health and human services. History: En. 95-506 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 3, Ch. 513, L. 1973; amd. Sec. 89, Ch. 120, L. 1974; amd. Sec. 6, Ch. 568, L. 1977; R.C.M. 1947, 95-506(part); amd. Sec. 8, Ch. 713, L. 1979; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 160, Ch. 800, L. 1991; amd. Sec. 205, Ch. 546, L. 1995; amd. Sec. 59, Ch. 130, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-301. Commitment upon finding of not guilty by reason of lack of mental state -- hearing to determine release or discharge -- limitation on confinement

46-14-301. Commitment upon finding of not guilty by reason of lack of mental state -- hearing to determine release or discharge -- limitation on confinement. (1) When a defendant is found not guilty for the reason that due to a mental disease or disorder the defendant could not have a particular state of mind that is an essential element of the offense charged, the court shall order a predisposition investigation in accordance with 46-18-112 and 46-18-113, which must include an investigation of the present mental condition of the defendant. If the trial was by jury, the court shall hold a hearing to determine the appropriate disposition of the defendant. If the trial was by the court, the court may hold a hearing to obtain any additional testimony it considers necessary to determine the appropriate disposition of the defendant. In either case, the testimony and evidence presented at the trial must be considered by the court in making its determination. (2) The court shall evaluate the nature of the offense with which the defendant was charged. If the offense: (a) involved a substantial risk of serious bodily injury or death, actual bodily injury, or substantial property damage, the court may find that the defendant suffers from a mental disease or disorder that renders the defendant a danger to the defendant or others. If the court finds that the defendant presents a danger to the defendant or others, the defendant may be committed to the custody of the director of the department of public health and human services to be placed in an appropriate mental health facility for custody, care, and treatment. However, if the court finds that the defendant is seriously developmentally disabled, as defined in 53-20-102, the prosecutor shall petition the court in the manner provided in Title 53, chapter 20. (b) charged did not involve a substantial risk of serious bodily injury or death, actual bodily injury, or substantial property damage, the court shall release the defendant. The prosecutor may petition the court in the manner provided in Title 53, chapter 20 or 21. (3) A person committed to the custody of the director of the department of public health and human services must have a hearing within 180 days of confinement to determine the person's present mental condition and whether the person must be discharged or released or whether the commitment may be extended because the person continues to suffer from a mental disease or disorder that renders the person a danger to the person or others. The hearing must be conducted by the court that ordered the commitment unless that court transfers jurisdiction to the district court in the district in which the person has been placed. The court shall cause notice of the hearing to be served upon the person, the person's counsel, the prosecutor, and the court that originally ordered the commitment. The hearing is a civil proceeding, and the burden is upon the state to prove by clear and convincing evidence that the person may not be safely released because the person continues to suffer from a mental disease or disorder that causes the person to present a substantial risk of: (a) serious bodily injury or death to the person or others; (b) an imminent threat of physical injury to the person or others; or (c) substantial property damage. (4) According to the determination of the court upon the hearing, the person must be discharged or released on conditions the court determines to be necessary or must be committed to the custody of the director of the department of public health and human services to be placed in an appropriate mental health facility for custody, care, and treatment. The period of commitment may not exceed the maximum sentence determined under 46-14-214(2). At the time that the period of the maximum sentence expires, involuntary civil commitment proceedings may be instituted in the manner provided in Title 53, chapter 21. (5) A

professional person shall review the status of the person each year. At the time of the annual review, the director of the department of public health and human services or the person or the representative of the person may petition for discharge or release of the person. Upon request for a hearing, a hearing must be held pursuant to the provisions of subsection (3). History: En. 95-508 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 210, L. 1973; amd. Sec. 91, Ch. 120, L. 1974; R.C.M. 1947, 95-508(1); amd. Sec. 9, Ch. 713, L. 1979; amd. Sec. 2, Ch. 593, L. 1981; amd. Sec. 4, Ch. 361, L. 1983; amd. Sec. 161, Ch. 800, L. 1991; amd. Sec. 2, Ch. 397, L. 1993; amd. Sec. 206, Ch. 546, L. 1995; amd. Sec. 2, Ch. 164, L. 2003; amd. Sec. 18, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-302. Discharge or release upon motion of director

46-14-302. Discharge or release upon motion of director. (1) If the director of the department of public health and human services believes that a person committed to the director's custody under 46-14-301 may be discharged or released on condition without danger to the person or others because the person no longer suffers from a mental disease or disorder that causes the person to present a substantial risk of serious bodily injury or death to the person or others, a substantial risk of an imminent threat of physical injury to the person or others, or a substantial risk of substantial property damage, the director shall make application for the discharge or release of the person in a report to the district court by which the person was committed unless that court transfers jurisdiction to the court in the district in which the person has been placed and shall send a copy of the application and report to the prosecutor of the county from which the person was committed. (2) Either the director of the department of public health and human services or the person may also make application to the court for discharge or release as part of the person's annual treatment review. (3) The court shall then appoint at least one person who is a qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse to examine the person and to report as to the person's mental condition within 60 days or a longer period that the court determines to be necessary for the purpose. To facilitate the examinations and the proceedings on the examinations, the court may have the person confined in any mental health facility located near the place where the court sits that may be designated by the director of the department of public health and human services as suitable for the temporary detention of persons suffering from mental disease or disorder. (4) The committed person or the person's attorney may secure a professional person of the committed person's choice to examine the committed person and to testify at the hearing. If the person wishing to secure the testimony of a professional person is unable to do so because of financial reasons, the court shall appoint an additional professional person to perform the examination. Whenever possible, the court shall allow the committed person or the person's attorney a reasonable choice of an available professional person qualified to perform the requested examination. The professional person must be compensated by the department of public health and human services. (5) If the court is satisfied by the report filed under subsection (1) and the testimony of the reporting psychiatrist, licensed clinical psychologist, or advanced practice registered nurse that the committed person may be discharged or released on condition because the person no longer suffers from a mental disease or disorder that causes the person to present a substantial risk of serious bodily injury or death to the person or others, a substantial risk of an imminent threat of physical injury to the person or others, or a substantial risk of substantial property damage, the court shall order the person's discharge. (6) (a) If the court is not satisfied, it shall promptly order a hearing to determine whether the person may safely be discharged or released on the grounds that the person no longer suffers from a mental disease or disorder that causes the person to present a substantial risk of: (i) serious bodily injury or death to the person or others; (ii) an imminent threat of physical injury to the person or others; or (iii) substantial property damage. (b) A hearing is considered a civil proceeding, and the burden is upon the state to prove by clear and convincing evidence that the person may not be safely discharged or released because the person continues to suffer from a mental disease or disorder that causes the person to present a substantial risk of: (i) serious bodily injury or death to the person or others; (ii) an imminent threat of physical injury to the person or others; or (iii) substantial property damage. (c) According to the determination of the court upon the hearing, the committed person must then be discharged or released on conditions that the court determines to be necessary or must be recommitted to the custody of the director of the department of public health and human services, subject to discharge or release only in accordance with the procedures provided in 46-14-303 and this section. History: En. 95-508 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 210, L. 1973; amd. Sec. 91, Ch. 120, L. 1974; R.C.M. 1947, 95-508(2), (3); amd. Sec. 15, Ch. 116, L. 1979; amd. Sec. 5, Ch. 361, L. 1983; amd. Sec. 5, Ch. 127, L. 1987; amd. Sec. 162, Ch. 800, L. 1991; amd. Sec. 3, Ch. 397, L. 1993; amd. Sec. 207, Ch. 546, L. 1995; amd. Sec. 6, Ch. 303, L. 2001; amd. Sec. 19, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-303. Application for discharge or release by committed person

46-14-303. Application for discharge or release by committed person. A committed person may make application for discharge or release to the district court by which the person was committed unless that court transfers jurisdiction to the court in the district in which the person has been placed, and the procedure to be followed upon the application is the same as that prescribed in 46-14-302 in the case of an application by the director of the department of public health and human services. However, an application by a committed person need not be considered until the person has been confined for a period of not less than 6 months from the date of the order of commitment, and if the determination of the court is adverse to the application, the person may not be permitted to file a further application until 1 year has elapsed from the date of any preceding hearing on an application for the person's release or discharge. History: En. 95-508 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 210, L. 1973; amd. Sec. 91, Ch. 120, L. 1974; R.C.M. 1947, 95-508(5); amd. Sec. 6, Ch. 361, L. 1983; amd. Sec. 163, Ch. 800, L. 1991; amd. Sec. 4, Ch. 397, L. 1993; amd. Sec. 208, Ch.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-304. Conditional release -- revocation

46-14-304. Conditional release -- revocation. (1) A person who has been conditionally released remains under the supervision of the department of public health and human services until the committing court discharges the person. (2) When the person is conditionally released, the director of the department of public health and human services shall provide written notice of the conditions of the person's release to any community facility or program that is treating the person, the county attorney of the county in which the person was committed, and the county attorney of the county in which the person is required to receive treatment. (3) On motion of a county attorney or the department of public health and human services, the court may order revocation of a person's conditional release if the court determines after hearing evidence that: (a) the conditions of release have not been fulfilled; and (b) based on the violations of the conditions and the person's past mental health history, there is a substantial likelihood that the person continues to suffer from a mental disease or disorder that causes the person to present a substantial risk of: (i) serious bodily injury or death to the person or others; (ii) a threat of physical injury to the person or others; or (iii) substantial property damage. (4) If the court finds that the conditional release should be revoked, the court shall immediately order the person to be recommitted to the custody of the director of the department of public health and human services, subject to discharge or release only in accordance with the procedures provided in 46-14-302 and 46-14-303. History: En. 95-508 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 210, L. 1973; amd. Sec. 91, Ch. 120, L. 1974; R.C.M. 1947, 95-508(4); amd. Sec. 16, Ch. 116, L. 1979; amd. Sec. 7, Ch. 361, L. 1983; amd. Sec. 164, Ch. 800, L. 1991; amd. Sec. 5, Ch. 397, L. 1993; amd. Sec. 209, Ch. 546, L. 1995; amd. Sec. 20, Ch. 161, L. 2015; amd. Sec. 1, Ch. 639, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-305. through 46-14-310 reserved

46-14-305 through 46-14-310 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-311. Consideration of mental disease or disorder or developmental disability in sentencing

46-14-311. Consideration of mental disease or disorder or developmental disability in sentencing. (1) Whenever a defendant is convicted on a verdict of guilty or a plea of guilty or nolo contendere and claims at the time of the omnibus hearing held pursuant to 46-13-110 or, if no omnibus hearing is held, at the time of any change of plea by the defendant that at the time of the commission of the offense of which convicted the defendant was suffering from a mental disease or disorder or developmental disability that rendered the defendant unable to appreciate the criminality of the defendant's behavior or to conform the defendant's behavior to the requirements of law, the sentencing court shall consider any relevant evidence presented at the trial and may also consider the results of the presentence investigation requested pursuant to subsection (2). (2) Under the circumstances referred to in subsection (1), the sentencing court may order a presentence investigation and a report on the investigation pursuant to 46-18-111. If requested, the investigation must include a mental evaluation by a person appointed by the director of the department of public health and human services or the director's designee. The evaluation must include an opinion as to whether the defendant suffered from a mental disease or disorder or developmental disability with the effect as described in subsection (1). If the opinion concludes that the defendant did suffer from a mental disease or disorder or developmental disability with the effect as described in subsection (1), the evaluation must also include a recommendation as to the care, custody, and treatment needs of the defendant. History: En. Sec. 10, Ch. 713, L. 1979; amd. Sec. 165, Ch. 800, L. 1991; amd. Sec. 14, Ch. 395, L. 1999; amd. Sec. 5, Ch. 452, L. 2003; amd. Sec. 1, Ch. 268, L. 2009; amd. Sec. 21, Ch. 161, L. 2015; amd. Sec. 11, Ch. 456, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-312. Sentence to be imposed

46-14-312. Sentence to be imposed. (1) If the court finds that the defendant at the time of the commission of the offense of which the defendant was convicted did not suffer from a mental disease or disorder as described in 46-14-311, the court shall sentence the defendant as provided in Title 46, chapter 18. (2) If the court finds that the defendant at the time of the commission of the offense suffered from a mental disease or disorder or developmental disability as described in 46-14-311, any mandatory minimum sentence prescribed by law for the offense need not apply. The court shall sentence the defendant to be committed to the custody of the director of the department of public health and human services to be placed, after consideration of the recommendations of the professionals providing treatment to the defendant and recommendations of the professionals who have evaluated the defendant, in an appropriate correctional facility, mental health facility, as defined in 53-21-102, residential facility, as defined in 53-20-102, or developmental disabilities facility, as defined in 53-20-202, for custody, care, and treatment for a definite period of time not to exceed the maximum term of imprisonment that could be imposed under subsection (1). The director may, after considering the recommendations of the professionals providing treatment to the defendant and recommendations of the professionals who have evaluated the defendant, subsequently transfer the defendant to another correctional, mental health, residential, or developmental disabilities facility that will better serve the defendant's custody, care, and treatment needs. The authority of the court with regard to

sentencing is the same as authorized in Title 46, chapter 18, if the treatment of the individual and the protection of the public are provided for. (3) Either the director or a defendant whose sentence has been imposed under subsection (2) may petition the sentencing court for review of the sentence if the professional person certifies that: (a) the defendant no longer suffers from a mental disease or disorder; (b) the defendant's mental disease or disorder no longer renders the defendant unable to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law; (c) the defendant suffers from a mental disease or disorder or developmental disability but is not a danger to the defendant or others; or (d) the defendant suffers from a mental disease or disorder that makes the defendant a danger to the defendant or others, but: (i) there is no treatment available for the mental disease or disorder; (ii) the defendant refuses to cooperate with treatment; or (iii) the defendant will no longer benefit from active inpatient treatment for the mental disease or disorder. (4) The sentencing court may make any order not inconsistent with its original sentencing authority, except that the length of confinement or supervision must be equal to that of the original sentence. The professional person shall review the defendant's status each year. History: En. Sec. 11, Ch. 713, L. 1979; amd. Sec. 1, Ch. 267, L. 1987; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 166, Ch. 800, L. 1991; amd. Sec. 28, Ch. 262, L. 1993; amd. Sec. 6, Ch. 397, L. 1993; amd. Sec. 1, Ch. 256, L. 1995; amd. Sec. 210, Ch. 546, L. 1995; amd. Sec. 6, Ch. 452, L. 2003; amd. Sec. 22, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 3. Disposition of Defendant 46-14-313. Discharge of defendant from supervision

46-14-313. Discharge of defendant from supervision. At the expiration of the period of commitment or period of treatment specified by the court under 46-14-312, the defendant must be discharged from custody and further supervision, subject only to the law regarding the civil commitment of persons suffering from serious mental illness. History: En. Sec. 12, Ch. 713, L. 1979; amd. Sec. 167, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 14. Mental Competency of Accused Part 4. Privileged Communications (Renumbered) 46-14-401. Renumbered 46-14-217

46-14-401. Renumbered 46-14-217. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-101. Subpoenas

46-15-101. Subpoenas. (1) After the filing of charges and upon the request of the prosecuting attorney, the defendant, or the defendant's attorney, the clerk of the court shall issue subpoenas with the name of the person to whom each subpoena is directed, commanding the person to appear and to give testimony. The court shall maintain a list of the names of the persons to whom subpoenas are issued. (2) A subpoena must state the name of the court and the title, if any, of the proceeding and must command each person to whom it is directed to attend and give testimony at the time and place specified in the subpoena. The time and place may be modified by mutual written agreement of the parties or by an amended subpoena issued by the clerk of the court. (3) The court, upon a timely motion, may quash or modify a subpoena if compliance would be unreasonable or oppressive. (4) A subpoena remains in effect unless quashed or until judgment, dismissal, or other final determination of the action by the court in which the action was filed or to which the action was transferred. History: En. 95-1801 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1801(a); amd. Sec. 180, Ch. 800, L. 1991; amd. Sec. 29, Ch. 262, L. 1993; amd. Sec. 2, Ch. 138, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-102. Renumbered 46-15-107

46-15-102. Renumbered 46-15-107. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-103. Renumbered 46-15-115

46-15-103. Renumbered 46-15-115. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-104. Renumbered 46-15-116

46-15-104. Renumbered 46-15-116. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-105. Persons imprisoned in state prison or in another county

46-15-105. Persons imprisoned in state prison or in another county. When it is necessary to have a person imprisoned in the state prison brought before any court or a person imprisoned in a county jail brought before a court sitting in another county, an order for that purpose may be made by the court and executed by the sheriff of the county where it is made. History: En. Sec. 2900, Pen. C. 1895; re-en. Sec. 9714, Rev. C. 1907; re-en. Sec. 12432, R.C.M. 1921; Cal. Pen. C. Sec. 1567; re-en. Sec. 12432, R.C.M. 1935; Sec. 94-701-1, R.C.M. 1947; redes. 95-1812 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-1812.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-106. Subpoenas for production of evidence

46-15-106. Subpoenas for production of evidence. (1) A subpoena may command the person to whom it is directed to produce the books, papers, documents, or other objects designated in the subpoena. (2) The court may direct that the books, papers, documents, or other objects designated in the subpoena be produced before the court at a time prior to the trial or prior to the time when they are to be offered into evidence and may upon their production permit the books, papers, documents, or objects, or portions thereof, to be inspected by the parties and their attorneys. (3) The court, upon a timely motion, may quash or modify a subpoena if compliance would be unreasonable or oppressive. History: En. Sec. 181, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-107. Service of subpoenas

46-15-107. Service of subpoenas. (1) A subpoena may be served by a peace officer or by any other person who is not a party and who is not less than 18 years of age. A peace officer shall serve any subpoena delivered to the peace officer for service in the peace officer's county either on the part of the prosecution or of the defendant. (2) Service of a subpoena must be made by delivering a copy of the subpoena to the person named and, if ordered by the court, by tendering to those residing outside the county of trial the fee for 1 day's attendance and the mileage allowed by law. The person making the service shall without delay make a written return of the service subscribed by the person, stating the time and place of service. (3) A subpoena requiring attendance of a witness at a hearing or trial may be served anywhere within the state of Montana. History: En. 95-1801 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1801(e), (f); amd. Sec. 182, Ch. 800, L. 1991; Sec. 46-15-102, MCA 1989; redes. 46-15-107 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-108. through 46-15-110 reserved

46-15-108 through 46-15-110 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-112. Subpoena of witness in this state to testify in another state

46-15-112. Subpoena of witness in this state to testify in another state. (1) If a judge of a court of record in any state, which by its laws has made provision for commanding persons within that state to attend and testify in this state, certifies under the seal of the court that there is a criminal prosecution pending in the court or that a grand jury investigation is commenced or is about to commence, that a person being within this state is a material witness in the prosecution or a grand jury investigation, and that the person's presence will be required for a specified number of days, upon presentation of the certificate to any judge of a court of record in the county in which the person is located, the judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing. (2) If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending or a grand jury investigation is commenced or is about to commence will give the witness protection from arrest and the service of civil and criminal process, the judge shall issue a subpoena with a copy of the certificate attached directing the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation is commenced or is about to commence at a time and place specified in the subpoena. In the hearing, the certificate is prima facie evidence of all the facts stated in the certificate. (3) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the witness's attendance in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be brought before the judge for the hearing. At the hearing, the judge may, in lieu of issuing a subpoena, order that the witness be taken into custody and delivered to an officer of the requesting state. History: En. Sec. 2, Ch. 188, L. 1937; Sec. 94-9002, R.C.M. 1947; redes. 95-1809 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-1809; amd. Sec. 183, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-113. Subpoena of witness in another state to testify in this state

46-15-113. Subpoena of witness in another state to testify in this state. (1) Whenever a person in any state that by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations in this state is a material witness in a prosecution pending in a court of record in this state or in a grand jury investigation that is commenced or is about to commence, a judge of the court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. The certificate must be presented to a judge of a court of record in the county in which the witness is found. (2) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of this state to assure the witness's attendance in this state, it is prima facie proof of the desirability of the custody and delivery, and the judge may direct that the witness be brought before the judge immediately. If the judge is satisfied as to the desirability of custody and delivery, the judge may order that the witness be immediately taken into custody and delivered to an officer of this state. The order is sufficient authority for the officer to take the witness into custody and hold the witness unless

and until the witness is released by bail, recognizance, or order of the judge issuing the certificate. (3) A witness who has appeared in accordance with the provisions of the subpoena may not be required to remain within this state for a longer period of time than the period mentioned in the certificate unless otherwise ordered by the court. (4) If the witness fails without good cause to attend and testify as directed, the witness must be punished in the manner provided for the punishment of any witness who disobeys an order issued from a court of record in this state in accordance with Title 3, chapter 1, part 5, or in accordance with 45-7-309. History: En. Sec. 3, Ch. 188, L. 1937; amd. Sec. 1, Ch. 117, L. 1949; Sec. 94-9003, R.C.M. 1947; redes. 95-1810 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 27, Ch. 184, L. 1977; R.C.M. 1947, 95-1810; amd. Sec. 184, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-114. Renumbered 46-15-120

46-15-114. Renumbered 46-15-120. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-115. Subpoena for witness when defendant unable to pay

46-15-115. Subpoena for witness when defendant unable to pay. (1) The court shall order at any time that a subpoena be issued for service on a named witness upon the ex parte application of a defendant acting pro se and upon a satisfactory showing that the defendant is financially unable to pay the costs incurred for the witness and that the presence of the witness is necessary to an adequate defense. (2) If a defendant is indigent but is acting pro se and is not represented by a public defender, as defined in 47-1-103, a court order must be obtained if more than six witnesses are to be subpoenaed. (3) If the defendant is represented by a public defender, as defined in 47-1-103, witness costs must be paid by the office of state public defender as provided for in 47-1-119. History: En. 95-1801 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1801(b); amd. Sec. 185, Ch. 800, L. 1991; Sec. 46-15-103, MCA 1989; redes. 46-15-115 by Code Commissioner, 1991; amd. Sec. 48, Ch. 449, L. 2005; amd. Sec. 16, Ch. 358, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-116. Fees, costs, and expenses

46-15-116. Fees, costs, and expenses. (1) When a person attends before a judge, grand jury, or court as a witness in a criminal case upon a subpoena, the witness must receive the witness fee prescribed by Title 26, chapter 2, part 5, except as otherwise provided in this section. (2) The court may determine the reasonable and necessary expenses of subpoenaed witnesses for an indigent defendant not represented by a public defender, as defined in 47-1-103, and order the clerk of court to pay the expenses. (3) When a person is subpoenaed in this state to testify in another state or is subpoenaed from another state to testify in this state, the person must be paid for lodging, mileage or travel, and per diem, the sum equal to that allowed by Title 2, chapter 18, part 5, for each day that the person is required to travel and attend as a witness. If the state where the witness is found has by statute required that the subpoenaed witness be paid an amount in excess of the amount specified in this section, the witness may be paid the amount required by that state. (4) The witness fees, costs, and expenses must be paid as provided in 26-2-506. History: En. 95-1801 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1801(c); amd. Sec. 15, Ch. 680, L. 1985; amd. Sec. 9, Ch. 1, Sp. L. 1985; amd. Sec. 8, Ch. 704, L. 1991; amd. Sec. 186, Ch. 800, L. 1991; Sec. 46-15-104, MCA 1989; redes. 46-15-116 by Code Commissioner, 1991; amd. Sec. 30, Ch. 262, L. 1993; amd. Sec. 4, Ch. 330, L. 1993; amd. Sec. 45, Ch. 585, L. 2001; amd. Sec. 49, Ch. 449, L. 2005; amd. Sec. 2, Ch. 205, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-117. through 46-15-119 reserved

46-15-117 through 46-15-119 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 1. Subpoenas and Witnesses 46-15-120. Exemption from arrest and service of process

46-15-120. Exemption from arrest and service of process. (1) If a person comes into this state in obedience to a subpoena directing the person to attend and testify in this state, the person may not, while in this state pursuant to the subpoena or order, be subject to arrest or the service of process, civil or criminal, in connection with matters that arose before the person's entrance into this state under the subpoena. (2) If a person passes through this state while going to another state in obedience to a subpoena or order to attend and testify in that state, the person may not, while passing through this state, be subject to arrest or the service of process, civil or criminal, in connection with matters that arose before the person's entrance into this state under the subpoena. History: En. Sec. 4, Ch. 188, L. 1937; Sec. 94-9004, R.C.M. 1947; redes. 95-1811 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-1811; amd. Sec. 187, Ch. 800, L. 1991; Sec. 46-15-114, MCA 1989; redes. 46-15-120 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 2. Depositions 46-15-201. When depositions may be taken

46-15-201. When depositions may be taken. (1) In district or municipal court cases, a deposition may be taken if it appears that a

prospective witness: (a) is likely to be either unable to attend or otherwise prevented from attending a trial or hearing; (b) is likely to be absent from the state at the time of the trial or hearing; or (c) is unwilling to provide relevant information to a requesting party and the witness's testimony is material and necessary in order to prevent a failure of justice. The court shall, upon motion of any party and proper notice, order that the testimony of the witness be taken by deposition and that any designated books, papers, documents, or tangible objects, not privileged, be introduced at the time the deposition is taken. (2) The witness whose deposition is to be taken may be required by subpoena to attend at any place designated by the court, taking into account the convenience of the parties and of the witness. (3) If the defendant is charged with a felony and it appears upon the affidavit of counsel for a party that good cause exists to believe that a witness will not respond to a subpoena and the administration of justice requires, any district judge may issue an arrest warrant commanding the arrest of a material witness. The arrest warrant must further order a deposition to be taken without unnecessary delay. A person may not be imprisoned for the purpose of securing testimony in any criminal proceeding longer than is necessary to take the person's deposition. History: En. 95-1802 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1802(a); amd. Sec. 146, Ch. 800, L. 1991; amd. Sec. 31, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 2. Depositions 46-15-202. Procedure for taking depositions

46-15-202. Procedure for taking depositions. (1) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice must state the name and address of each person to be examined. On motion of the party upon whom the notice is served, the municipal or district court for cause shown may extend or shorten the time or change the place for taking the deposition. (2) A deposition must be taken in the manner provided in civil actions. The court, upon request, may direct that a deposition be taken on written interrogatories in the manner provided in civil actions. However, a deposition may not be taken of a party defendant without the defendant's consent, and the scope and manner of examination and cross-examination must be restricted as would be allowed in the trial itself. (3) The deposition must be filed with the court making the order and held until the trial. Either party shall make available to the other party or the other party's counsel for examination and use at the taking of the deposition any relevant, nonprivileged statement of the witness being deposed that is in the possession of either party. (4) Objections to deposition testimony or evidence or parts of the testimony or evidence may be reserved for subsequent determination by the court. (5) Unless a defendant in custody has waived, in writing, the right to be present at the taking of a deposition, the officer having custody of the defendant must be notified of the time and place set for the deposition. The officer having custody shall produce the defendant and keep the defendant in the presence of a witness during the deposition. (6) A defendant not in custody who fails to appear, without good cause, at the taking of a deposition after being notified of the time and place set for the deposition will be considered to have waived the right to be present as provided in 46-16-122. The waiver includes a waiver of any objection to the taking and use of the deposition based upon that right. (7) Whenever a deposition is taken at the instance of the prosecution or whenever a deposition is taken at the instance of a defendant who is unable to bear the expense of taking a deposition, the court shall direct that the expense of travel and subsistence of the defendant and the defendant's counsel for attendance at the examination and the cost of the transcript of the deposition be paid by the city for a municipal court proceeding or by the state for a district court proceeding. History: En. 95-1802 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1802(b) thru (d); amd. Sec. 147, Ch. 800, L. 1991; amd. Sec. 32, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 2. Depositions 46-15-204. Use of depositions at trial

46-15-204. Use of depositions at trial. Any deposition may be used by any party for any purpose allowed by the Montana Rules of Evidence. History: En. 95-1802 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1802(e), (f); amd. Sec. 148, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-304. through 46-15-310 reserved

46-15-304 through 46-15-310 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-311. Renumbered 46-15-331

46-15-311. Renumbered 46-15-331. Code Commissioner, 1985.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-312. Renumbered 46-15-332

46-15-312. Renumbered 46-15-332. Code Commissioner, 1985.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-313. through 46-15-319 reserved

46-15-313 through 46-15-319 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-320. Interview of child under age 16

46-15-320. Interview of child under age 16. (1) A defendant may not interview a child under the age of 16 who alleges to be the victim of sexual abuse as provided in 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, or 45-5-625, or an immediate family member of the child who is also under the age of 16, except by an order of the court upon a motion showing that the defendant has exceptional circumstances that necessitate interviewing the child victim. (2) Upon a motion under subsection (1), the court may, in its discretion, order an interview. If the court orders an interview, the court shall list the reasons for and scope of the interview and, if requested, provide any reasonable accommodations for the child victim for the interview. History: En. Sec. 1, Ch. 387, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-322. Disclosure by prosecution

46-15-322. Disclosure by prosecution. (1) Upon request, the prosecutor shall make available to the defendant for examination and reproduction the following material and information within the prosecutor's possession or control: (a) the names, addresses, and statements of all persons whom the prosecutor may call as witnesses in the case in chief; (b) all written or oral statements of the defendant and of any person who will be tried with the defendant; (c) all written reports or statements of experts who have personally examined the defendant or any evidence in the particular case, together with the results of physical examinations, scientific tests, experiments, or comparisons; (d) all papers, documents, photographs, or tangible objects that the prosecutor may use at trial or that were obtained from or purportedly belong to the defendant; and (e) all material or information that tends to mitigate or negate the defendant's guilt as to the offense charged or that would tend to reduce the defendant's potential sentence. (2) At the same time, the prosecutor shall inform the defendant of, and make available to the defendant for examination and reproduction, any written or recorded material or information within the prosecutor's control regarding: (a) whether there has been any electronic surveillance of any conversations to which the defendant was a party; (b) whether an investigative subpoena has been executed in connection with the case; and (c) whether the case has involved an informant and, if so, the informant's identity if the defendant is entitled to know either or both of these facts under Rule 502 of the Montana Rules of Evidence and 46-15-324(3). (3) The prosecutor may impose reasonable conditions, including an appropriate stipulation concerning chain of custody, to protect physical evidence produced under subsection (1)(d). (4) The prosecutor's obligation of disclosure extends to material and information in the possession or control of members of the prosecutor's staff and of any other persons who have participated in the investigation or evaluation of the case. (5) Upon motion showing that the defendant has substantial need in the preparation of the case for additional material or information not otherwise provided for and that the defendant is unable, without undue hardship, to obtain the substantial equivalent by other means, the court, in its discretion, may order any person to make it available to the defendant. The court may, upon the request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive. The prosecutor may not be required to prepare or disclose summaries of witnesses' testimony. (6) The prosecutor shall furnish to the defendant no later than 5 days before trial or at a later time as the court may for good cause permit, together with their statements, a list of the names and addresses of all persons whom the prosecutor intends to call as rebuttal witnesses to evidence of good character or the defenses of alibi, compulsion, entrapment, justifiable use of force, or mistaken identity or the defense that the defendant did not have a particular state of mind that is an element of the offense charged. History: En. Sec. 2, Ch. 202, L. 1985; amd. Sec. 137, Ch. 800, L. 1991; amd. Sec. 33, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-323. Disclosure by defendant

46-15-323. Disclosure by defendant. (1) At any time after the filing in district court of an indictment or information, the defendant, in connection with the particular crime charged and upon written request of the prosecutor and approval of the court: (a) shall appear in a lineup; (b) shall speak for identification by witnesses; (c) must be fingerprinted, palm printed, footprinted, or voiceprinted; (d) shall pose for photographs not involving reenactment of an event; (e) shall try on clothing; (f) shall permit the taking of samples of the defendant's hair, blood, saliva, urine, or other specified materials that do not involve unreasonable bodily intrusions; (g) shall provide handwriting samples; or (h) shall submit to a reasonable physical or medical inspection; however, the inspection does not include psychiatric or psychological examination. (2) Within 30 days after the arraignment or at a later time as the court may for good cause permit, the defendant shall provide the prosecutor with a written notice of the defendant's intention to introduce evidence at trial of good character or the defenses of alibi, compulsion, entrapment, justifiable use of force, or mistaken identity. (3) Within 10 days after receiving a report of the defendant's mental condition from a psychiatrist, psychologist, or advanced practice registered nurse or at a later time as the court may for good cause permit, the defendant shall provide the prosecutor with a written notice of the defendant's intention to introduce evidence at trial of the defense that because of a mental disease or disorder, the defendant did not have a particular state of mind that is an essential element of the offense charged. (4) The notice must specify for each defense the names and addresses of the persons, other than the defendant, whom the defendant may call as witnesses in support of the defense, together with all written reports or statements made by them, including all reports and statements concerning the results of physical examinations, scientific tests, experiments, or comparisons, except that the defendant need not include a privileged report or statement unless the defendant intends to use the privileged report or statement, or the witness who made it, at trial. (5) Prior to trial, the defendant may, upon motion and showing of good cause, add to the list of witnesses the names of any additional witnesses and

disclose their reports or statements as required by this section. After the trial commences, no witness may be called by the defendant in support of these defenses unless the name of the witness is included on the list and the witness's report or statement has been disclosed as required by this section, except for good cause shown. (6) Within 30 days after the arraignment or at a later time as the court may for good cause permit, the defendant shall make available to the prosecutor for testing, examination, or reproduction: (a) the names, addresses, and statements of all persons, other than the defendant, whom the defendant may call as witnesses in the defense case in chief, together with their statements; (b) the names and addresses of experts whom the defendant may call at trial, together with the results of their physical examinations, scientific tests, experiments, or comparisons, including all written reports and statements made by these experts in connection with the particular case; and (c) all papers, documents, photographs, and other tangible objects that the defendant may use at trial. (7) The defendant's obligation under this section extends to material and information within the possession or control of the defendant, defense counsel, and defense counsel's staff or investigators. (8) Upon motion of the prosecutor showing that the prosecutor has substantial need in the preparation of the case for additional material or information not otherwise provided for, that the prosecutor is unable, without undue hardship, to obtain the substantial equivalent by other means, and that disclosure of the material or information will not violate the defendant's constitutional rights, the court, in its discretion, may order any person to make the material or information available to the prosecutor. The court may, upon request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive. The defense counsel may not be required to prepare or disclose summaries of witnesses' testimony. History: En. Sec. 3, Ch. 202, L. 1985; amd. Sec. 138, Ch. 800, L. 1991; amd. Sec. 1, Ch. 182, L. 1993; amd. Sec. 34, Ch. 262, L. 1993; amd. Sec. 7, Ch. 303, L. 2001; amd. Sec. 23, Ch. 161, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-324. Materials not subject to disclosure

46-15-324. Materials not subject to disclosure. (1) Except as provided in this section, disclosure is not required for the superseded notes or work product of the prosecuting or defense attorney. (2) If exculpatory information is contained in the superseded notes or work product of the prosecution, that information must be disclosed. (3) Disclosure of the existence of an informant or the identity of an informant who will not be called to testify is not required if: (a) disclosure would result in substantial risk to the informant or to the informant's operational effectiveness; and (b) the failure to disclose will not infringe the constitutional rights of the accused. History: En. Sec. 4, Ch. 202, L. 1985; amd. Sec. 139, Ch. 800, L. 1991; amd. Sec. 35, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-325. Failure to call a witness or raise a defense

46-15-325. Failure to call a witness or raise a defense. The fact that a witness's name is on a list furnished pursuant to this part but the witness does not testify or that a matter contained in a pretrial notice is not raised may not be commented upon at trial unless the court, on motion of a party, allows comment after finding that the inclusion of the witness's name or the pretrial notice constituted an abuse of the applicable disclosure requirement or that other good cause is shown. History: En. Sec. 5, Ch. 202, L. 1985; amd. Sec. 140, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-326. Use of materials

46-15-326. Use of materials. Except as provided in 46-11-401, any materials, including witness lists, furnished to an attorney pursuant to 46-15-322 through 46-15-329 may not be disclosed to the public but may be disclosed to others only to the extent necessary for the proper conduct of the case. History: En. Sec. 6, Ch. 202, L. 1985; amd. Sec. 261, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-327. Continuing duty to disclose

46-15-327. Continuing duty to disclose. If at any time after a disclosure has been made any party discovers additional information or material that would be subject to disclosure had it been known at the time of disclosure, the party shall promptly notify all other parties of the existence of the additional information or material and make an appropriate disclosure. History: En. Sec. 7, Ch. 202, L. 1985; amd. Sec. 141, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-328. Excision and protective orders

46-15-328. Excision and protective orders. (1) Upon a motion of any party showing good cause, the court may at any time order that any disclosure be deferred or regulated when it finds: (a) that the disclosure would result in a risk or harm outweighing any usefulness of the unrestricted disclosure to any party; and (b) that the risk cannot be eliminated by a less substantial restriction of discovery rights. (2) Whenever the court finds, on motion of any party, that only a portion of a document or other material is discoverable, it may authorize the party disclosing it to excise that portion of the material that is nondiscoverable and disclose the remainder. (3) On motion of the party seeking a protective or excision order or in submitting for the court's determination the discoverability of any material or information, the court may permit that party to present the material or information for the

inspection of the judge alone. Counsel for all other parties are entitled to be present when the presentation is made. (4) If the court enters an order that any material or any portion of the material is not discoverable, the entire text of the material must be sealed and preserved in the record in the event of an appeal. History: En. Sec. 8, Ch. 202, L. 1985; amd. Sec. 143, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-329. Sanctions

46-15-329. Sanctions. If at any time during the course of the proceeding it is brought to the attention of the court that a party has failed to comply with any of the provisions of this part or any order issued pursuant to this part, the court may impose any sanction that it finds just under the circumstances, including but not limited to: (1) ordering disclosure of the information not previously disclosed; (2) granting a continuance; (3) holding a witness, party, or counsel in contempt for an intentional violation; (4) precluding a party from calling a witness, offering evidence, or raising a defense not disclosed; or (5) declaring a mistrial when necessary to prevent a miscarriage of justice. History: En. Sec. 9, Ch. 202, L. 1985; amd. Sec. 144, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-330. Investigation not to be impeded

46-15-330. Investigation not to be impeded. Except as to matters to which discovery is restricted and except as to the defendant's counsel advising the defendant, a party or agent of a party may not discourage or obstruct communication between any person and any party or otherwise obstruct a party's investigation of the case. History: En. Sec. 142, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-331. Compelling testimony or production of evidence -- immunity

46-15-331. Compelling testimony or production of evidence -- immunity. (1) Before or during trial in any judicial proceeding, a judge of the district or municipal court, upon request by the prosecutor or defense counsel, may require a person to answer any question or produce any evidence, even though personally incriminating, following a grant of immunity. (2) If a person is required to give testimony or produce evidence in accordance with this section in any investigation or proceeding, compelled testimony or evidence and any information directly or indirectly derived from such testimony or evidence may not be used against the witness in any criminal prosecution. (3) Nothing in this section prohibits a prosecutor from granting immunity from prosecution for or on account of any transaction, matter, or thing concerning which a witness is compelled to testify if in the prosecutor's sole discretion it is determined that the ends of justice would be served. (4) Immunity may not extend to prosecution or punishment for false statements given in any testimony required under this section. History: En. 95-1807 by Sec. 7, Ch. 513, L. 1973; R.C.M. 1947, 95-1807; amd. Sec. 4, Ch. 577, L. 1983; Sec. 46-15-311, MCA 1983; redes. 46-15-331 by Code Commissioner, 1985; amd. Sec. 145, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 3. Discovery -- Immunity for Witnesses 46-15-332. Privileged matters

46-15-332. Privileged matters. All matters which are privileged upon the trial are privileged against disclosure through any discovery procedure. History: En. 95-1803 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 26, Ch. 184, L. 1977; R.C.M. 1947, 95-1803(4); Sec. 46-15-312, MCA 1983; redes. 46-15-332 by Code Commissioner, 1985.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-402. Procedure at videotaping

46-15-402. Procedure at videotaping. (1) The procedural and evidentiary rules of the state of Montana which are applicable to criminal trials within the state of Montana shall apply to the videotape proceedings authorized by this part. (2) The district court judge, the prosecuting attorney, the victim, the defendant, the defendant's attorney, and such persons as are deemed necessary by the court to make the recordings authorized under this part shall be allowed to attend the videotape proceedings. History: En. 95-1815 by Sec. 2, Ch. 384, L. 1977; R.C.M. 1947, 95-1815.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-403. Court order to protect privacy of victim

46-15-403. Court order to protect privacy of victim. Videotapes which are part of the court record are subject to a protective order of the court for the purpose of protecting the privacy of the victim. History: En. 95-1816 by Sec. 3, Ch. 384, L. 1977; R.C.M. 1947, 95-1816.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-404. Sexual assault evidence kit collection and storage -- consent of patient -- notice to law enforcement

46-15-404. Sexual assault evidence kit collection and storage -- consent of patient -- notice to law enforcement. (1) Following the completion of hospital emergency services and forensic services for a sexual assault medical forensic examination, the health care

professional providing the forensic services shall provide the patient the opportunity to sign a written consent to allow law enforcement to submit the sexual assault evidence kit for testing. The written consent must be on a form included in the kit and must indicate whether the patient consents to the release of information about the sexual assault to law enforcement. (2) A health care facility that obtains written consent to release a sexual assault evidence kit to law enforcement shall notify the investigating law enforcement agency, if known, or the law enforcement agency that has jurisdiction in the area in which the health care facility is located within 24 hours after the kit is collected. (3) (a) A health care facility that did not obtain written consent to release the sexual assault evidence kit to law enforcement shall inform the individual from whom the kit was obtained that the evidence will be forwarded to the office of victim services of the department of justice as an anonymous kit. (b) The office of victim services shall store a sexual assault evidence kit for a minimum of 1 year before the kit may be destroyed. (c) The individual from whom an anonymous sexual assault evidence kit was obtained or the individual's agent may provide consent for the kit to be tested at any time during that 1-year period. (4) (a) A law enforcement agency that receives notice from a health care facility as provided in subsection (2) shall take possession of the sexual assault evidence kit from the health care facility within 5 business days after the evidence is collected. (b) If the law enforcement agency determines that the alleged sexual assault occurred within the jurisdiction of another law enforcement agency and that it does not otherwise have jurisdiction over that alleged assault, the law enforcement agency in possession of the sexual assault evidence kit shall notify the law enforcement agency that has jurisdiction within 5 days after receiving the kit from the health care facility and shall forward the evidence to that jurisdiction. (5) An investigating law enforcement agency that takes possession of a sexual assault evidence kit shall submit the evidence and an accompanying police report to a publicly accredited crime laboratory for forensic analysis within 30 days after receiving the kit from either a health care facility or another law enforcement agency. (6) The failure of a law enforcement agency to submit a request for analysis within the time limits provided in this section does not constitute grounds in a criminal or civil proceeding to challenge the validity of a DNA evidence association, and a court may not exclude any evidence obtained from the sexual assault evidence kit on those grounds. History: En. Sec. 1, Ch. 138, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-405. Statewide sexual assault evidence kit tracking system -- rulemaking

46-15-405. Statewide sexual assault evidence kit tracking system -- rulemaking. (1) The sexual assault response network program within the department of justice shall operate and maintain a statewide sexual assault evidence kit tracking system. The tracking system must: (a) track the status of a sexual assault evidence kit from the collection site through the criminal justice process, including the initial collection at a health care facility, inventory and storage by law enforcement agencies, analysis at a crime laboratory, and storage or destruction after completion of analysis; (b) allow law enforcement agencies, health care facilities, a crime laboratory, and other entities that receive, maintain, store, or preserve sexual assault evidence kits to update the status and location of the kits; and (c) allow an individual to anonymously access the tracking system to track the location and status of the individual's sexual assault evidence kit. (2) The department of justice shall adopt rules for developing and using the sexual assault evidence kit tracking system. Law enforcement agencies, health care facilities, and crime laboratories shall use the tracking system as provided in the rules. (3) Information contained in the sexual assault evidence kit tracking system is confidential and not subject to public disclosure. History: En. Sec. 2, Ch. 138, L. 2019; amd. Sec. 9, Ch. 165, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-406. Notice of rights for victims of sexual assault

46-15-406. Notice of rights for victims of sexual assault. The department of justice shall prepare a model form for use by health care facilities and law enforcement agencies that details the statutory rights of victims of sexual assault. These rights include the following: (1) a victim may receive a sexual assault medical forensic examination and have evidence collected using a sexual assault evidence kit even if the victim does not want to participate in a criminal investigation; (2) a victim may not be billed for the cost of administering the sexual assault medical forensic examination or collecting evidence for the sexual assault evidence kit; (3) on request by a sexual assault victim to the investigating law enforcement agency, the victim may receive the following information: (a) contact information for the officer investigating the case; (b) the current status of the case; (c) the current status of the sexual assault evidence kit; (d) whether the case has been submitted to the office of the prosecuting attorney for review; (e) whether the case has been closed and the documented reason for closure; (f) if available, contact information for a local community-based victim services program; (g) notifications of the victim's legal rights, including the right to file a petition requesting an order of protection; and (h) the notices required by 46-24-203, 46-24-204, and 46-24-206. History: En. Sec. 3, Ch. 138, L. 2019; amd. Sec. 1, Ch. 196, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-407. through 46-15-410 reserved

46-15-407 through 46-15-410 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-411. Payment for medical evidence -- alleged sexual offenses

46-15-411. Payment for medical evidence -- alleged sexual offenses.(1) The local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent, sexual assault, or incest occurs shall pay for the sexual assault medical forensic examination of a victim of the alleged offense when the examination is directed by the agency or when evidence obtained by the examination is used for the investigation, prosecution, or resolution of an offense. (2) (a) The department of justice shall, as long as funds are available from an appropriation made for this purpose, pay for the sexual assault medical forensic examination of a victim of an alleged incident of sexual intercourse without consent, sexual assault, or incest if the cost is not the responsibility of a local law enforcement agency under subsection (1). (b) In administering the provisions of subsection (2)(a), the department shall: (i) identify priorities for funding services, activities, and criteria for the receipt of program funds; (ii) monitor the expenditure of funds by organizations receiving funds under this section; (iii) evaluate the effectiveness of services and activities under this section; and (iv) adopt rules necessary to implement this subsection (2). (3) This section does not require a law enforcement agency or the state to pay any costs of treatment for injuries resulting from the alleged offense. History: En. 95-1813 by Sec. 1, Ch. 128, L. 1977; R.C.M. 1947, 95-1813; amd. Sec. 4, Ch. 186, L. 1997; amd. Sec. 3, Ch. 504, L. 2005; amd. Sec. 3, Ch. 237, L. 2013; amd. Sec. 5, Ch. 138, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-412. Testing of sexual assault evidence kits

46-15-412. Testing of sexual assault evidence kits.Except for a sexual assault evidence kit that is submitted to the department of justice as provided in 46-15-411(2)(a), a local law enforcement agency shall submit all other kits to the division of forensic science within 30 days after the local law enforcement agency receives the kit. History: En. Sec. 4, Ch. 138, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 15. Production of Evidence Part 4. Evidence in Cases Involving Sexual Offenses 46-15-413. Retention and disposal of sexual assault evidence kits -- victim notification

46-15-413. Retention and disposal of sexual assault evidence kits -- victim notification.(1) Sexual assault evidence kits reported to law enforcement pursuant to 46-15-404, anonymous sexual assault evidence kits collected as provided in 46-15-411, and the related contents of reported or anonymous sexual assault evidence kits must be stored in a secure and reasonable manner that preserves evidence for 75 years from the date of collection. (2) A victim may request notification before the victim's sexual assault evidence kit and related contents are destroyed. (3) If requested by the victim, the agency with custody of the victim's sexual assault evidence kit and its contents shall provide written notice to the victim 120 days before the intended destruction or disposal of the sexual assault evidence kit or its contents. The notification must include: (a) a description of the biological evidence; (b) a statement of the intended destruction or disposal of the biological evidence in 120 days; (c) the name, mailing address, and other contact information of the agency with custody of the evidence; and (d) any other information the agency considers pertinent. (4) If any party to the offense objects to the destruction or disposal of the biological evidence, the agency has the burden of proving by a preponderance of the evidence that the destruction or disposal of the biological evidence must take place. History: En. Sec. 1, Ch. 292, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-101. Who given precedence on calendar

46-16-101. Who given precedence on calendar.Prosecutions against defendants held in custody must be disposed of in advance of prosecutions against defendants on bail unless for good cause the court shall direct an action to be tried out of its order. History: En. 95-1906 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1906.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-102. Renumbered 46-16-110

46-16-102. Renumbered 46-16-110.Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-103. Who decides questions of law and fact

46-16-103. Who decides questions of law and fact.(1) All prosecutions deciding issues of fact must be tried by the court and jury, except on a plea of guilty or nolo contendere. (2) Questions of law must be decided by the court and questions of fact by the jury, except that on a trial for criminal defamation, the jury shall determine both questions of law and of fact. Questions of law and fact must be decided by the court when a trial by jury is waived under 46-16-110(3). History: En. 95-1901 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 4, L. 1973; R.C.M. 1947, 95-1901(a), (b); amd. Sec. 17, Ch. 116, L. 1979; amd. Sec. 262, Ch. 800, L. 1991; amd. Sec. 15, Ch. 395, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-104. Plea of not guilty

46-16-104. Plea of not guilty.The plea of not guilty puts in issue every material allegation of the indictment, information, or complaint. History: En. 95-1901 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 4, L. 1973; R.C.M. 1947, 95-1901(e).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-105. Plea of guilty -- use of two-way electronic audio-video communication

46-16-105. Plea of guilty -- use of two-way electronic audio-video communication. (1) Before or during trial, a plea of guilty must be accepted, and a plea of nolo contendere may be accepted with the consent of the court and the prosecutor, when: (a) subject to the provisions of subsection (3), the defendant enters a plea of guilty or nolo contendere in open court; and (b) the court has informed the defendant of the consequences of the plea and of the maximum penalty provided by law that may be imposed upon acceptance of the plea. (2) At any time before judgment or, except when a claim of innocence is supported by evidence of a fundamental miscarriage of justice, within 1 year after judgment becomes final, the court may, for good cause shown, permit the plea of guilty or nolo contendere to be withdrawn and a plea of not guilty substituted. A judgment becomes final for purposes of this subsection (2): (a) when the time for appeal to the Montana supreme court expires; (b) if an appeal is taken to the Montana supreme court, when the time for petitioning the United States supreme court for review expires; or (c) if review is sought in the United States supreme court, on the date that that court issues its final order in the case. (3) For purposes of this section, an entry of a plea of guilty or nolo contendere through the use of two-way electronic audio-video communication, allowing all of the participants to be heard in the courtroom by all present and allowing the party speaking to be seen, is considered to be an entry of a plea of guilty or nolo contendere in open court. Audio-video communication may be used if neither party objects and the court agrees to its use and has informed the defendant that the defendant has the right to object to its use. The audio-video communication must operate as provided in 46-12-201. History: En. 95-1902 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1902; amd. Sec. 2, Ch. 163, L. 1997; amd. Sec. 16, Ch. 395, L. 1999; amd. Sec. 1, Ch. 96, L. 2003; amd. Sec. 1, Ch. 346, L. 2003; amd. Sec. 3, Ch. 222, L. 2005; amd. Sec. 1, Ch. 144, L. 2013.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-106. Time to prepare for trial

46-16-106. Time to prepare for trial. After plea, the defendant shall be entitled to a reasonable time to prepare for trial. History: En. 95-1907 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1907.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-109. reserved
46-16-109 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-110. Right to jury trial -- waiver

46-16-110. Right to jury trial -- waiver. (1) The parties in a felony case have a right to trial by a jury of 12 persons. (2) The parties may agree in writing at any time before the verdict, with the approval of the court, that the jury shall consist of any number less than that to which they are entitled. (3) Upon written consent of the parties, a trial by jury may be waived. History: En. 95-1901 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 4, L. 1973; R.C.M. 1947, 95-1901(c), (d); amd. Sec. 188, Ch. 800, L. 1991; Sec. 46-16-102, MCA 1989; redes. 46-16-110 by Code Commissioner, 1991; amd. Sec. 1, Ch. 7, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-111. Formation of trial jury

46-16-111. Formation of trial jury. (1) Trial juries in criminal cases are formed in the same manner as trial juries in civil cases. (2) The qualifications of jurors and excuses from jury duty are prescribed in Title 3, chapter 15, part 3. History: (1) En. 95-1905 by Sec. 1, Ch. 196, L. 1967; Sec. 95-1905, R.C.M. 1947; (2) En. 95-1909 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; Sec. 95-1909, R.C.M. 1947; amd. Sec. 28, Ch. 184, L. 1977; R.C.M. 1947, 95-1905, 95-1909(2)(a); amd. Sec. 5, Ch. 51, L. 1981; amd. Sec. 2, Ch. 92, L. 1989; amd. Sec. 189, Ch. 800, L. 1991; Sec. 46-16-301, MCA 1989; redes. 46-16-111 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-112. Motion to discharge jury panel

46-16-112. Motion to discharge jury panel. (1) Any objection to the manner in which a jury panel has been selected or drawn must be raised by a motion to discharge the jury panel. Except for good cause shown, the motion must be made at least 5 days prior to the term for which the jury is drawn. (2) The motion must be in writing supported by affidavit and must state facts that show that the jury panel was improperly selected or drawn. (3) If the motion states facts that show that the jury panel has been improperly selected or drawn, it is the duty of the court to conduct a hearing. The burden of proof is on the movant. (4) If the court finds that the jury panel was improperly selected or drawn, the court shall order the jury panel discharged and the selection or drawing of a new panel in the manner provided by law. History: En. 95-1908 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1908; amd. Sec. 190, Ch. 800, L. 1991; Sec. 46-16-302, MCA 1989; redes. 46-16-112 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-113. reserved
46-16-113 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-114. Examination of prospective jurors

46-16-114. Examination of prospective jurors. (1) The clerk of court shall make available to the parties a list of prospective jurors with their questionnaires when the names have been drawn. (2) The prosecutor and the defendant or the defendant's attorney shall conduct the examination of prospective jurors. The judge may conduct an additional examination. The judge may limit the examination by the defendant, the defendant's attorney, or the prosecutor if the examination is improper. History: En. 95-1909 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; amd. Sec. 28, Ch. 184, L. 1977; R.C.M. 1947, 95-1909(1), (3); amd. Sec. 191, Ch. 800, L. 1991; Sec. 46-16-303, MCA 1989; redes. 46-16-114 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-115. Challenges for cause

46-16-115. Challenges for cause. (1) Each party may challenge jurors for cause, and each challenge must be tried by the court. (2) A challenge for cause may be taken for all or any of the following reasons or for any other reason that the court determines: (a) having consanguinity or relationship to the defendant or to the person who is alleged to be injured by the offense charged or on whose complaint the prosecution was instituted; (b) standing in the relation of guardian and ward, attorney and client, master and servant, landlord and tenant, or debtor and creditor with or being a member of the family or in the employment of the defendant or the person who is alleged to be injured by the offense charged or on whose complaint the prosecution was instituted; (c) being a party adverse to the defendant in a civil action or having complained against or been accused by the defendant in a criminal prosecution; (d) having served on the grand jury that found the indictment or on a coroner's jury that inquired into the death of a person whose death is the subject of the indictment or information; (e) having served on a trial jury that tried another person for the offense charged or a related offense; (f) having been a member of a jury formerly sworn to try the same charge, the verdict of which was set aside or which was discharged without verdict after the case was submitted to it; (g) having served as a juror in a civil action brought against the defendant for the act charged as an offense; (h) if the offense charged is punishable with death, having any conscientious opinions concerning the punishment as would preclude finding the defendant guilty, in which case the person must neither be permitted nor compelled to serve as a juror; (i) having a belief that the punishment fixed by law is too severe for the offense charged; or (j) having a state of mind in reference to the case or to either of the parties that would prevent the juror from acting with entire impartiality and without prejudice to the substantial rights of either party. (3) An excuse from service on a jury is not a cause of challenge but the privilege of the person excused. History: En. 95-1909 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; amd. Sec. 28, Ch. 184, L. 1977; R.C.M. 1947, 95-1909(2)(b), (4); amd. Sec. 6, Ch. 51, L. 1981; amd. Sec. 192, Ch. 800, L. 1991; Sec. 46-16-304, MCA 1989; redes. 46-16-115 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-116. Peremptory challenges

46-16-116. Peremptory challenges. (1) Each defendant is allowed eight peremptory challenges in capital cases and six in all other cases tried in the district court before a 12-person jury. There may not be additional challenges for separate counts charged in the indictment or information. (2) If the indictment or information charges a capital offense as well as lesser offenses in separate counts, the maximum number of challenges is eight. (3) The state is allowed the same number of peremptory challenges as all of the defendants. (4) In a criminal case tried before a six-person jury, the prosecution and all the defendants are allowed three peremptory challenges each. (5) When the parties in a criminal case in the district court agree upon a jury consisting of a number of persons other than 6 or 12, they shall also agree in writing upon the number of peremptory challenges to be allowed. History: En. 95-1909 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; amd. Sec. 28, Ch. 184, L. 1977; R.C.M. 1947, 95-1909(6); amd. Sec. 193, Ch. 800, L. 1991; Sec. 46-16-305, MCA 1989; redes. 46-16-116 by Code Commissioner, 1991; amd. Sec. 36, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-117. Time for challenges

46-16-117. Time for challenges. All challenges must be interposed before the jury is sworn unless the cause of challenge is discovered after the jury is sworn and before the introduction of any evidence, in which case the court, in its discretion, may allow the challenge to be interposed. History: En. 95-1909 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; amd. Sec. 28, Ch. 184, L. 1977; R.C.M. 1947, 95-1909(5); Sec. 46-16-306, MCA 1989; redes. 46-16-117 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-118. Alternate jurors

46-16-118. Alternate jurors. (1) The court may direct that one or more alternate jurors be selected in the same manner as principal jurors. The alternate jurors shall take the same oath as the principal jurors. (2) Each party shall have one additional peremptory challenge for each alternate juror. (3) Alternate jurors, in the order in which they are called, shall replace jurors who, prior to the time the jury arrives at its verdict, become unable or disqualified to perform their duties. An alternate juror may not join the jury in its deliberation unless called upon by the court to replace a member of the jury. An alternate juror's conduct during the period in which the jury is considering its verdict is regulated by instructions of the trial court. An alternate juror who does not replace a

principal juror must be discharged after the jury arrives at its verdict. History: En. 95-1909 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; amd. Sec. 28, Ch. 184, L. 1977; R.C.M. 1947, 95-1909(7); amd. Sec. 194, Ch. 800, L. 1991; Sec. 46-16-307, MCA 1989; redes. 46-16-118 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-119. reserved
46-16-119 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-120. Misdemeanor offenses

46-16-120. Misdemeanor offenses. In all cases in which the defendant is charged with a misdemeanor offense, the defendant may appear by counsel only, although the court may require the personal attendance of the defendant at any time. History: En. Sec. 125, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-121. Felony offenses

46-16-121. Felony offenses. (1) Except as otherwise provided in Title 46, the defendant in all cases in which a felony is charged must be present at the initial appearance, arraignment, entry of plea, preliminary examination, trial, and sentencing or when otherwise required by the court. (2) The defendant may be present at all other proceedings. (3) The presence of the defendant is not required before the supreme court. History: En. Sec. 126, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-122. Absence of defendant from trial

46-16-122. Absence of defendant from trial. (1) In a misdemeanor case, if the defendant fails to appear in person, either at the time set for the trial or at any time during the course of the trial and if the defendant's counsel is authorized to act on the defendant's behalf, the court shall proceed with the trial unless good cause for continuance exists. (2) If the defendant's counsel is not authorized to act on the defendant's behalf as provided in subsection (1) or if the defendant is not represented by counsel, the court, in its discretion, may do one or more of the following: (a) order a continuance; (b) order bail forfeited; (c) issue an arrest warrant; or (d) proceed with the trial after finding that the defendant had knowledge of the trial date and is voluntarily absent. (3) After the trial of a felony offense has commenced in the defendant's presence, the absence of the defendant during the trial may not prevent the trial from continuing up to and including the return of a verdict if the defendant: (a) has been removed from the courtroom for disruptive behavior after receiving a warning that removal will result if the defendant persists in conduct that is so disruptive that the trial cannot be carried on with the defendant in the courtroom; or (b) is voluntarily absent and the offense is not one that is punishable by death. (4) Nothing in this section limits the right of the court to order the defendant to be personally present at the trial for purposes of identification unless defense counsel stipulates to the issue of identity. History: En. Sec. 127, Ch. 800, L. 1991; amd. Sec. 37, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-123. Absence of defendant on receiving verdict or at sentencing

46-16-123. Absence of defendant on receiving verdict or at sentencing. (1) In all misdemeanor cases, the verdict may be returned and the sentence imposed without the defendant being present. (2) (a) In all felony cases, the defendant shall appear in person when the verdict is returned or the sentence is imposed unless, after the exercise of due diligence to procure the defendant's presence, the court finds that it is in the interest of justice that the verdict be returned and the sentence be pronounced in the defendant's absence. (b) For purposes of subsection (2)(a), the defendant's appearance may be through the use of two-way electronic audio-video communication, allowing all of the participants to be heard in the courtroom by all present and allowing the party speaking to be seen. Audio-video communication may be used if neither party objects and the court agrees to its use and has informed the defendant that the defendant has the right to object to its use. The audio-video communication must operate as provided in 46-12-201. History: En. Sec. 128, Ch. 800, L. 1991; amd. Sec. 4, Ch. 222, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-124. through 46-16-128 reserved

46-16-124 through 46-16-128 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-129. Pretrial diversion program state special revenue account

46-16-129. Pretrial diversion program state special revenue account. (1) There is an account in the state special revenue fund established in 17-2-102 to the credit of the judicial branch to be known as the pretrial diversion program account. (2) The purpose of the account is to fund a pilot project in five counties to analyze the costs and benefits of the following: (a) the risk associated with an offender being released into the community prior to the offender's trial date; and (b) the potential or actual savings in jail costs for

not having the offender incarcerated during that time. History: En. Sec. 1, Ch. 456, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-130. Pretrial diversion

46-16-130. Pretrial diversion. (1) (a) Prior to the filing of a charge, the prosecutor and a defendant who has counsel or who has voluntarily waived counsel may agree to the deferral of a prosecution for a specified period of time based on one or more of the following conditions: (i) that the defendant may not commit any offense; (ii) that the defendant may not engage in specified activities, conduct, and associations bearing a relationship to the conduct upon which the charge against the defendant is based; (iii) that the defendant shall participate in a supervised rehabilitation program, which may include treatment, counseling, training, or education; (iv) that the defendant shall make restitution in a specified manner for harm or loss caused by the offense; or (v) any other reasonable conditions. (b) The agreement must be in writing, must be signed by the parties, and must state that the defendant waives the right to speedy trial for the period of deferral. The agreement may include stipulations concerning the admissibility of evidence, specified testimony, or dispositions if the deferral of the prosecution is terminated and there is a trial on the charge. (c) The prosecution must be deferred for the period specified in the agreement unless there has been a violation of its terms. (d) The agreement must be terminated and the prosecution automatically dismissed with prejudice upon expiration and compliance with the terms of the agreement. (2) A condition of pretrial diversion may be for the court to refer a defendant for evaluation to determine the appropriateness of proceedings pursuant to Title 53, chapter 21. (3) Except as provided in 46-1-1104 and 46-1-1204, after a charge has been filed, a deferral of prosecution may be entered into only after the prosecutor provides notice to the court. (4) A prosecution for a violation of 61-8-1002 or aggravated driving under the influence as defined in 61-8-1001 may not be deferred. History: En. Sec. 129, Ch. 800, L. 1991; amd. Sec. 38, Ch. 262, L. 1993; amd. Sec. 4, Ch. 447, L. 1995; amd. Sec. 5, Ch. 342, L. 2001; amd. Sec. 3, Ch. 153, L. 2013; amd. Sec. 1, Ch. 67, L. 2015; amd. Sec. 2, Ch. 424, L. 2015; amd. Sec. 24, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 1. General Provisions 46-16-131. Justifiable use of force -- burden of proof

46-16-131. Justifiable use of force -- burden of proof. In a criminal trial, when the defendant has offered evidence of justifiable use of force, the state has the burden of proving beyond a reasonable doubt that the defendant's actions were not justified. History: En. Sec. 9, Ch. 332, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-201. Applicability of rules of evidence and civil rules

46-16-201. Applicability of rules of evidence and civil rules. The Montana Rules of Evidence and the statutory rules of evidence in civil actions are applicable also to criminal actions, except as otherwise provided. History: En. Sec. 2078, Pen. C. 1895; re-en. Sec. 9279, Rev. C. 1907; re-en. Sec. 11977, R.C.M. 1921; Cal. Pen. C. Sec. 1102; re-en. Sec. 11977, R.C.M. 1935; Sec. 94-7209, R.C.M. 1947; redes. 95-3001 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3001; amd. Sec. 195, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-202. Evidence on trial for treason

46-16-202. Evidence on trial for treason. Upon a trial for treason, the defendant cannot be convicted unless upon the testimony of two witnesses to the same overt act or upon confession in open court, nor can evidence be admitted of an overt act not expressly charged in the indictment or information, nor can the defendant be convicted unless one or more overt acts be expressly alleged therein. History: En. Sec. 169, p. 243, Bannack Stat.; re-en. Sec. 294, p. 235, Cod. Stat. 1871; re-en. Sec. 294, 3d Div. Rev. Stat. 1879; re-en. Sec. 295, 3d Div. Comp. Stat. 1887; en. Sec. 2079, Pen. C. 1895; re-en. Sec. 9280, Rev. C. 1907; re-en. Sec. 11978, R.C.M. 1921; Cal. Pen. C. Sec. 1103; re-en. Sec. 11978, R.C.M. 1935; Sec. 94-7210, R.C.M. 1947; redes. 95-3002 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3002.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-203. Renumbered 45-5-111 and 45-5-112

46-16-203. Renumbered 45-5-111 and 45-5-112. Code Commissioner, 1983.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-204. Defendant presumed innocent -- reasonable doubt

46-16-204. Defendant presumed innocent -- reasonable doubt. A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether the defendant's guilt is satisfactorily shown, the defendant must be found not guilty. History: En. Sec. 186, p. 245, Bannack Stat.; re-en. Sec. 307, p. 237, Cod. Stat. 1871; re-en. Sec. 307, 3d Div. Rev. Stat. 1879; re-en. Sec. 308, 3d Div. Comp. Stat. 1887; en. Sec. 2072, Pen. C. 1895; re-en. Sec. 9273, Rev. C. 1907; re-en. Sec. 11971, R.C.M. 1921; Cal. Pen. C. Sec. 1096; re-en. Sec. 11971, R.C.M. 1935; Sec. 94-7203, R.C.M. 1947; redes. 95-2901 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-2901; amd. Sec. 196, Ch. 800, L. 1991; Sec. 46-16-601, MCA 1989; redes. 46-16-204 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-205. through 46-16-210 reserved

46-16-205 through 46-16-210 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-211. Who are competent witnesses

46-16-211. Who are competent witnesses. The rules for determining the competency of witnesses in civil actions are applicable also to criminal actions and proceedings, except as otherwise provided in this code. History: En. Sec. 2440, Pen. C. 1895; re-en. Sec. 9482, Rev. C. 1907; re-en. Sec. 12175, R.C.M. 1921; Cal. Pen. C. Sec. 1321; re-en. Sec. 12175, R.C.M. 1935; Sec. 94-8801, R.C.M. 1947; redes. 95-3010 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3010.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-212. Competency of spouses

46-16-212. Competency of spouses. (1) Neither spouse may testify to the communications or conversations between spouses that occur during their marriage unless: (a) consent of the defendant-spouse is obtained; (b) the defendant-spouse has been charged with an act of criminal violence against the other; or (c) the defendant-spouse has been charged with abuse, abandonment, or neglect of the other spouse or either spouse's children. (2) Except as provided in subsection (1), a spouse is a competent witness for or against the other spouse. History: En. Sec. 2441, Pen. C. 1895; re-en. Sec. 9483, Rev. C. 1907; amd. Sec. 1, Ch. 111, L. 1915; re-en. Sec. 12176, R.C.M. 1921; Cal. Pen. C. Sec. 1322; re-en. Sec. 12176, R.C.M. 1935; Sec. 94-8802, R.C.M. 1947; redes. 95-3011 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 50, Ch. 184, L. 1977; R.C.M. 1947, 95-3011; amd. Sec. 197, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-213. Testimony of person legally accountable

46-16-213. Testimony of person legally accountable. A person may not be found guilty of an offense on the testimony of one responsible or legally accountable for the same offense, as defined in 45-2-301, unless the testimony is corroborated by other evidence that in itself and without the aid of the testimony of the one responsible or legally accountable for the same offense tends to connect the defendant with the commission of the offense. History: En. 95-3012 by Sec. 13, Ch. 513, L. 1973; amd. Sec. 51, Ch. 184, L. 1977; R.C.M. 1947, 95-3012; amd. Sec. 198, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-214. reserved

46-16-214 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-215. Use of confession

46-16-215. Use of confession. Before an extrajudicial confession of the defendant to the crime charged may be admitted into evidence, the prosecution shall introduce independent evidence tending to establish the commission of the crime charged. History: En. Sec. 199, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-217. through 46-16-219 reserved

46-16-217 through 46-16-219 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-220. Child hearsay exception -- criminal proceedings

46-16-220. Child hearsay exception -- criminal proceedings. (1) Otherwise inadmissible hearsay may be admissible in evidence in a criminal proceeding, as provided in subsection (2), if: (a) the declarant of the out-of-court statement is a child who is: (i) an alleged victim of a sexual offense or other crime of violence, including partner or family member assault, that is the subject of the criminal proceeding; or (ii) a witness to an alleged sexual offense or other crime of violence, including partner or family member assault, that is the subject of the criminal proceeding; (b) the court finds that the time, content, and circumstances of the statement provide circumstantial guarantees of trustworthiness; (c) the child is unavailable as a witness; (d) the child hearsay testimony is offered as evidence of a material fact and is more probative on the point for which it is offered than any other evidence available through reasonable efforts; and (e) the party intending to offer the child hearsay testimony gives sufficient notice to provide the adverse party with a fair opportunity to prepare. The notice must include the content of the statement, the approximate time, date, and location of the statement, the person to whom the statement was made, and the circumstances surrounding the statement that the offering party believes support the statement's reliability. (2) The court shall issue findings of fact and conclusions of law setting forth the court's reasoning on the admissibility of the child's testimony. (3) When deciding the admissibility of offered child hearsay testimony under subsections (1) and (2), a court shall consider the following: (a) the attributes of the child hearsay declarant,

including: (i) the child's age; (ii) the child's ability to communicate verbally; (iii) the child's ability to comprehend the statements or questions of others; (iv) the child's ability to tell the difference between truth and falsehood; (v) the child's motivation to tell the truth, including whether the child understands the general obligation to speak truthfully and not fabricate stories; (vi) whether the child possessed sufficient mental capacity at the time of the alleged incident to create an accurate memory of the incident; and (vii) whether the child possesses sufficient memory to retain an independent recollection of the events at issue; (b) information regarding the witness who is relating the child's hearsay statement, including: (i) the witness's relationship to the child; (ii) whether the relationship between the witness and the child has an impact on the trustworthiness of the child's hearsay statement; (iii) whether the witness has a motive to fabricate or distort the child's statement; and (iv) the circumstances under which the witness heard the child's statement, including the timing of the statement in relation to the incident at issue and the availability of another person in whom the child could confide; (c) information regarding the child's statement, including: (i) whether the statement contains knowledge not normally attributed to a child of the declarant's age; (ii) whether the statement was spontaneous; (iii) the suggestiveness of statements by other persons to the child at the time that the child made the statement; (iv) if statements were made by the child to more than one person, whether those statements were consistent; and (v) the nearness in time of the statement to the incident at issue; (d) the availability of corroborative evidence through physical evidence or circumstantial evidence of motive or opportunity, including: (i) whether the alleged act can be corroborated; and (ii) if the child's statement identifies a perpetrator, whether that identity can be corroborated; and (e) other considerations that in the judge's opinion may bear on the admissibility of the child hearsay testimony. (4) As used in this section, "child" means a person under 15 years of age. History: En. Sec. 1, Ch. 456, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-221. Testimony of third person in cases of abuse of individual with developmental disability

46-16-221. Testimony of third person in cases of abuse of individual with developmental disability. (1) Otherwise inadmissible hearsay may be admitted into evidence in a criminal proceeding, as provided in subsections (2) and (3), if: (a) the declarant of the out-of-court statement is an individual with a developmental disability who is: (i) an alleged victim of a sexual offense or other crime of violence, including partner or family member assault, that is the subject of the criminal proceeding; or (ii) a witness to an alleged sexual offense or other crime of violence, including partner or family member assault, that is the subject of the criminal proceeding; (b) the court finds that the time, content, and circumstances of the statement provide circumstantial guarantees of trustworthiness; (c) the individual with a developmental disability is unavailable as a witness; (d) the hearsay testimony is offered as evidence of a material fact and is more probative on the point for which it is offered than any other evidence available through reasonable efforts; and (e) the party intending to offer the hearsay testimony gives sufficient notice to provide the adverse party with a fair opportunity to prepare. The notice must include the content of the statement, the approximate time, date, and location of the statement, the person to whom the statement was made, and the circumstances surrounding the statement that the offering party believes support the statement's reliability. (2) The court shall issue findings of fact and conclusions of law setting forth the court's reasoning on the admissibility of the testimony. (3) When deciding the admissibility of offered hearsay testimony under subsections (1) and (2), a court shall consider the following: (a) the attributes of the hearsay declarant, including: (i) the individual's age; (ii) the individual's ability to communicate verbally; (iii) the individual's ability to comprehend the statements or questions of others; (iv) the individual's ability to tell the difference between truth and falsehood; (v) the individual's motivation to tell the truth, including whether the individual understands the general obligation to speak truthfully and not fabricate stories; (vi) whether the individual possessed sufficient mental capacity at the time of the alleged incident to create an accurate memory of the incident; and (vii) whether the individual possesses sufficient memory to retain an independent recollection of the events at issue; (b) information regarding the witness who is relating the individual's hearsay statement, including: (i) the witness's relationship to the individual; (ii) whether the relationship between the witness and the individual has an impact on the trustworthiness of the individual's hearsay statement; (iii) whether the witness has a motive to fabricate or distort the individual's statement; and (iv) the circumstances under which the witness heard the individual's statement, including the timing of the statement in relation to the incident at issue and the availability of another person in whom the individual could confide; (c) information regarding the individual's statement, including: (i) whether the statement contains knowledge not normally attributed to an individual of the declarant's age; (ii) whether the statement was spontaneous; (iii) the suggestiveness of statements by other persons to the individual at the time that the individual made the statement; (iv) if statements were made by the individual to more than one person, whether those statements were consistent; (v) the nearness in time of the statement to the incident at issue; and (vi) whether the statement is testimonial or nontestimonial in character; and (d) other considerations that in the judge's opinion may bear on the admissibility of the individual's hearsay testimony. (4) As used in this section, "developmental disability" has the meaning provided in 53-20-102. History: En. Sec. 1, Ch. 282, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-222. Testimony of third person in cases of exploitation of incapacitated person or vulnerable adult

46-16-222. Testimony of third person in cases of exploitation of incapacitated person or vulnerable adult. (1) Otherwise inadmissible hearsay may be admitted into evidence in a criminal proceeding, as provided in subsections (2) and (3), if: (a) the declarant of the out-of-court statement is an incapacitated person or vulnerable adult who is: (i) an alleged victim of exploitation of an incapacitated person or vulnerable adult pursuant to 45-6-333 that is the subject of the criminal proceeding; or (ii) a witness to an alleged exploitation of an incapacitated person or vulnerable adult pursuant to 45-6-333 that is the subject of the criminal proceeding; (b) the

court finds that the time, content, and circumstances of the statement provide circumstantial guarantees of trustworthiness; (c) the incapacitated person or vulnerable adult is unavailable as a witness; (d) the hearsay testimony is offered as evidence of a material fact and is more probative on the point for which it is offered than any other evidence available through reasonable efforts; and (e) the party intending to offer the hearsay testimony gives sufficient notice to provide the adverse party with a fair opportunity to prepare. The notice must include the content of the statement, the approximate time, date, and location of the statement, the person to whom the statement was made, and the circumstances surrounding the statement that the offering party believes support the statement's reliability. (2) The court shall issue findings of fact and conclusions of law setting forth the court's reasoning on the admissibility of the testimony. (3) When deciding the admissibility of offered hearsay testimony under subsections (1) and (2), a court shall consider the following: (a) the attributes of the hearsay declarant, including: (i) the individual's age; (ii) the individual's ability to communicate verbally; (iii) the individual's ability to comprehend the statements or questions of others; (iv) the individual's ability to tell the difference between truth and falsehood; (v) the individual's motivation to tell the truth, including whether the individual understands the general obligation to speak truthfully and not fabricate stories; (vi) whether the individual possessed sufficient mental capacity at the time of the alleged incident to create an accurate memory of the incident; and (vii) whether the individual possesses sufficient memory to retain an independent recollection of the events at issue; (b) information regarding the witness who is relating the individual's hearsay statement, including: (i) the witness's relationship to the individual; (ii) whether the relationship between the witness and the individual has an impact on the trustworthiness of the individual's hearsay statement; (iii) whether the witness has a motive to fabricate or distort the individual's statement; and (iv) the circumstances under which the witness heard the individual's statement, including the timing of the statement in relation to the incident at issue and the availability of another person in whom the individual could confide; (c) information regarding the individual's statement, including: (i) whether the statement contains knowledge not normally attributed to an individual of the declarant's age; (ii) whether the statement was spontaneous; (iii) the suggestiveness of statements by other persons to the individual at the time that the individual made the statement; (iv) if statements were made by the individual to more than one person, whether those statements were consistent; (v) the nearness in time of the statement to the incident at issue; and (vi) whether the statement is testimonial or nontestimonial in character; and (d) other considerations that in the judge's opinion may bear on the admissibility of the individual's hearsay testimony. (4) As used in this section, the following definitions apply: (a) "Incapacitated person" has the meaning provided in 72-5-101. (b) "Vulnerable adult" has the meaning provided in 52-3-803. History: En. Sec. 1, Ch. 180, L. 2015; amd. Sec. 8, Ch. 12, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-223. through 46-16-225 reserved

46-16-223 through 46-16-225 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-226. Definitions

46-16-226. Definitions. As used in 46-16-226 through 46-16-229, the following definitions apply: (1) "Child witness" means an individual who is: (a) 13 years of age or younger at the time the individual is called as a witness in a criminal proceeding involving a sexual or violent offense; or (b) under 16 years of age at the time that the individual is called as a witness in a criminal proceeding involving a sexual or violent offense and who is an individual with a developmental disability, as defined in 53-20-102. (2) "Sexual offense" means any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-625, [45-5-705(1)(b)], 45-5-706, or 45-5-711. (3) "Violent offense" means any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206, 45-5-210, 45-5-212, 45-5-213, 45-5-215, 45-5-302, 45-5-303, 45-5-401, 45-6-103, or 45-9-132. History: En. Sec. 1, Ch. 488, L. 2007; amd. Sec. 12, Ch. 394, L. 2017; amd. Sec. 22, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-227. Raising issue of testimony of child witness outside presence of defendant -- motion by prosecution or defense

46-16-227. Raising issue of testimony of child witness outside presence of defendant -- motion by prosecution or defense. Upon a motion by the prosecution or defense if the defense intends to call a child witness other than the victim in its case in chief, a court shall conduct a hearing to consider whether the testimony of a child witness may be taken outside the presence of the defendant and communicated to the courtroom by two-way electronic audio-video communication. History: En. Sec. 2, Ch. 488, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-228. Hearing -- procedure -- evidence that may be received -- protection for child witness

46-16-228. Hearing -- procedure -- evidence that may be received -- protection for child witness. (1) A court shall conduct a hearing on a motion made under 46-16-227. (2) The prosecution, if the prosecution made the motion pursuant to 46-16-227, or the defense, if the defense made the motion pursuant to 46-16-227, shall present evidence at the hearing made on the motion to prove the need for an order under 46-16-229. (3) In ruling on the motion, the court shall consider the following factors: (a) the age and maturity of the child witness; (b) the possible effect that testifying in person might have on the child witness; (c) the extent of the trauma that

the child witness has already suffered; (d) the nature of the testimony to be given by the child witness; (e) the nature of the offense; (f) threats made to the child witness or the child witness's family in order to prevent or dissuade the child witness from attending or giving testimony at any trial or court proceeding; (g) conduct on the part of the defendant or the defendant's attorney that causes the child witness to be unable to continue the child witness's testimony; and (h) any other matter that the court considers relevant. (4) The court may consider hearsay evidence of reports or testimony by psychologists who have examined or treated the child witness. History: En. Sec. 3, Ch. 488, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 2. Rules of Evidence for Criminal Cases 46-16-229. Order for two-way electronic audio-video communication testimony -- finding by court -- procedure for conducting testimony

46-16-229. Order for two-way electronic audio-video communication testimony -- finding by court -- procedure for conducting testimony. (1) The court shall order that the testimony of a child witness be taken by two-way electronic audio-video communication if, after considering the factors set forth in 46-16-228(3), the court finds by clear and convincing evidence that the child witness is unable to testify in open court in the presence of the defendant for any of the following reasons: (a) the child witness is unable to testify because of fear caused by the presence of the defendant; (b) the child witness would suffer substantial emotional trauma from testifying in the presence of the defendant; or (c) conduct by the defendant or the defendant's attorney causes the child witness to be unable to continue testifying. (2) If the court orders that the child witness's testimony be taken by two-way electronic audio-video communication, the testimony must be taken outside the courtroom in a suitable location designated by the judge. Examination and cross-examination of the child witness must proceed as though the child witness were testifying in the courtroom. The only persons who may be permitted in the room with the child witness during the child's testimony are: (a) the judge or a judicial officer appointed by the court; (b) the prosecutor; (c) the defense attorney; (d) the child's attorney; (e) persons necessary to operate the two-way electronic audio-video communication equipment; and (f) any person whose presence is determined by the court to be necessary to the welfare and well-being of the child witness. (3) The defendant must be afforded a means of private, contemporaneous communication with the defendant's attorney during the testimony. (4) This section does not preclude the presence of both a victim and the defendant in the courtroom together for purposes of establishing or challenging the identification of the defendant when identification is a legitimate issue in the proceeding. History: En. Sec. 4, Ch. 488, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 3. Selecting the Jury (Renumbered) 46-16-301. Renumbered 46-16-111

46-16-301. Renumbered 46-16-111. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 3. Selecting the Jury (Renumbered) 46-16-302. Renumbered 46-16-112

46-16-302. Renumbered 46-16-112. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 3. Selecting the Jury (Renumbered) 46-16-303. Renumbered 46-16-114

46-16-303. Renumbered 46-16-114. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 3. Selecting the Jury (Renumbered) 46-16-304. Renumbered 46-16-115

46-16-304. Renumbered 46-16-115. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 3. Selecting the Jury (Renumbered) 46-16-305. Renumbered 46-16-116

46-16-305. Renumbered 46-16-116. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 3. Selecting the Jury (Renumbered) 46-16-306. Renumbered 46-16-117

46-16-306. Renumbered 46-16-117. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 3. Selecting the Jury (Renumbered) 46-16-307. Renumbered 46-16-118

46-16-307. Renumbered 46-16-118. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 4. Order of Trial 46-16-401. Order of trial

46-16-401. Order of trial. (1) After the jury is sworn but before the introduction of any evidence, the court may give the jury general instructions concerning the conduct of the trial. The court shall give the jury such cautionary instructions as may be required during

the course of the trial. (2) The prosecutor may make an opening statement and shall offer evidence in support of the prosecution. The defendant may make an opening statement prior to the prosecutor's offer of evidence or at the close of the prosecution's case but prior to the defendant's offer of evidence. (3) The prosecutor and the defendant may, respectively, offer rebutting testimony only. However, the court, for good cause, may permit either party to offer evidence upon the original case at any time before the close of evidence. (4) Prior to final arguments, the court shall inform the parties as to the instructions that will be given and read them to the jury. (5) A written copy of the instructions, both general and special, must be delivered to the jury for its consideration during deliberations following the final arguments. History: En. 95-1910 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 18, Ch. 420, L. 1975; R.C.M. 1947, 95-1910; amd. Sec. 201, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 4. Order of Trial 46-16-402. When order may be departed from

46-16-402. When order may be departed from. For good cause shown and in the discretion of the court, the order prescribed in 46-16-401 may be departed from. History: En. 95-1911 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1911; amd. Sec. 202, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 4. Order of Trial 46-16-403. Evidence insufficient to go to jury

46-16-403. Evidence insufficient to go to jury. When, at the close of the prosecution's evidence or at the close of all the evidence, the evidence is insufficient to support a finding or verdict of guilty, the court may, on its own motion or on the motion of the defendant, dismiss the action and discharge the defendant. However, prior to dismissal, the court may allow the case to be reopened for good cause shown. History: En. 95-1909 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; amd. Sec. 28, Ch. 184, L. 1977; R.C.M. 1947, 95-1909(9); amd. Sec. 203, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 4. Order of Trial 46-16-404. through 46-16-409 reserved

46-16-404 through 46-16-409 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 4. Order of Trial 46-16-410. Settlement of jury instructions

46-16-410. Settlement of jury instructions. (1) Any party may request special jury instructions. All requests for instructions must conform to the Uniform District Court Rules, and all instructions must be settled by the court out of the presence of the jury. (2) A record must be made at the settlement of instructions. (3) A party may not assign as error any portion of the instructions or omission from the instructions unless an objection was made specifically stating the matter objected to, and the grounds for the objection, at the settlement of instructions. (4) The presence of the defendant is not required during the settlement of instructions. History: En. Sec. 204, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 5. Conduct of Jury 46-16-501. Conduct of jury during trial

46-16-501. Conduct of jury during trial. (1) The jurors sworn to try an action may at any time, in the discretion of the court, be permitted to separate or be ordered to remain sequestered in the charge of a proper officer. If sequestered, the officer must be sworn to keep the jurors together, to allow no person to communicate with the jury or to personally communicate with the jury on any subject connected with the trial, and to return the jury into court as directed. (2) Whether permitted to separate or sequestered, at each adjournment of the court, the jurors must be admonished that it is their duty not to converse among themselves or with anyone else on any subject connected with the trial or to form or express any opinion on the trial until the cause is finally submitted to them. (3) In all cases appealed to the supreme court, it must be conclusively considered that the court or judge gave the proper admonition in accordance with the provision of subsection (2) unless the record affirmatively shows the contrary. History: En. 95-1904, 95-1913 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1904(part), 95-1913(a), (e); amd. Sec. 205, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 5. Conduct of Jury 46-16-502. View of relevant place or property

46-16-502. View of relevant place or property. When the court considers it proper that the jury view any place or personal property pertinent to the case, it will order the jury to be conducted in a body under the custody of the sheriff or bailiff to view the place or personal property in the presence of the court, the prosecutor, the defendant, and the defendant's counsel. The place or personal property will be shown them by a person appointed by the court for that purpose, and they may personally inspect the place or personal property. The sheriff or bailiff must be sworn to allow no person to speak or otherwise communicate with the jury or to personally communicate with the jury on any subject connected with the trial and to return them into the courtroom without unnecessary delay or at a specified time, as the court may direct. History: En. 95-1912 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1912; amd. Sec. 206, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 5. Conduct of Jury 46-16-503. Conduct of jury after retirement -- advice from court

46-16-503. Conduct of jury after retirement -- advice from court. (1) When the jury retires to consider its verdict, an officer of the court must be appointed to keep the jurors together and to prevent conversations between the jurors and others. (2) After the jury has retired for deliberation, if there is any disagreement among the jurors as to the testimony or if the jurors desire to be informed on any point of law arising in the cause, they shall notify the officer appointed to keep them together, who shall then notify the court. The information requested may be given, in the discretion of the court, after consultation with the parties. History: En. 95-1913 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1913(b), (d); amd. Sec. 18, Ch. 116, L. 1979; amd. Sec. 207, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 5. Conduct of Jury 46-16-504. Items that may be taken into jury room

46-16-504. Items that may be taken into jury room. Upon retiring for deliberation, the jurors may take with them the written jury instructions read by the court, notes of the proceedings taken by themselves, and all exhibits that have been received as evidence in the cause that in the opinion of the court will be necessary. History: En. 95-1913 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1913(c); amd. Sec. 208, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 5. Conduct of Jury 46-16-505. Activity of court during jury's absence

46-16-505. Activity of court during jury's absence. While the jury is absent, the court may adjourn or conduct other business, but it must be open for every purpose connected with the cause submitted to the jury until a verdict is returned or the jury discharged. History: En. 95-1914 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1914; amd. Sec. 209, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 6. Verdict -- Disposition of Defendant 46-16-601. Renumbered 46-16-204

46-16-601. Renumbered 46-16-204. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 6. Verdict -- Disposition of Defendant 46-16-602. Renumbered 46-16-606

46-16-602. Renumbered 46-16-606. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 6. Verdict -- Disposition of Defendant 46-16-603. Form of verdict

46-16-603. Form of verdict. (1) The jury shall return a verdict as instructed by the court. The verdict must be unanimous in all criminal actions. The verdict must be signed by the lead juror and returned by the jury to the judge in open court. (2) If there are two or more defendants, the jury, at any time during its deliberations, may return a verdict or verdicts with respect to a defendant or defendants as to whom it has agreed. If the jury cannot agree with respect to all, the defendant or defendants as to whom it does not agree may be tried again. History: Ap. p. Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 131, L. 1974; amd. Sec. 28, Ch. 184, L. 1977; Sec. 95-1909, R.C.M. 1947; Ap. p. Sec. 1, Ch. 196, L. 1967; Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; amd. Sec. 2, Ch. 4, L. 1973; amd. Sec. 29, Ch. 184, L. 1977; Sec. 95-1915, R.C.M. 1947; R.C.M. 1947, 95-1909(8), 95-1915(1) thru (3); amd. Sec. 210, Ch. 800, L. 1991; amd. Sec. 1751, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 6. Verdict -- Disposition of Defendant 46-16-604. Poll of jury

46-16-604. Poll of jury. When a verdict is returned, the jury shall be polled at the request of any party or upon the court's own motion. If upon the poll there is not the required concurrence, the jury may be directed to retire for further deliberations or may be discharged. History: En. 95-1915 by Sec. 1, Ch. 196, L. 1967; Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; amd. Sec. 2, Ch. 4, L. 1973; amd. Sec. 29, Ch. 184, L. 1977; R.C.M. 1947, 95-1915(4).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 6. Verdict -- Disposition of Defendant 46-16-605. Verdict of not guilty -- when defendant discharged

46-16-605. Verdict of not guilty -- when defendant discharged. If a verdict of not guilty is returned and the defendant is not detained for any other legal cause, the defendant must be discharged as soon as the judgment is given. History: En. 95-1916 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1916; amd. Sec. 211, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 6. Verdict -- Disposition of Defendant 46-16-606. Reasonable doubt as to which offense convicts only of least offense

46-16-606. Reasonable doubt as to which offense convicts only of least offense. When it appears beyond a reasonable doubt that the defendant has committed an offense but there is reasonable doubt as to whether the defendant is guilty of a given offense or one or

more lesser included offenses, the defendant may only be convicted of the greatest included offense about which there is no reasonable doubt. History: En. Sec. 186, p. 245, Bannack Stat.; re-en. Sec. 307, p. 237, Cod. Stat. 1871; re-en. Sec. 308, 3d Div. Comp. Stat. 1887; en. Sec. 2073, Pen. C. 1895; re-en. Sec. 9274, Rev. C. 1907; re-en. Sec. 11972, R.C.M. 1921; Cal. Pen. C. Sec. 1097; re-en. Sec. 11972, R.C.M. 1935; Sec. 94-7204, R.C.M. 1947; redes. 95-2902 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 48, Ch. 184, L. 1977; R.C.M. 1947, 95-2902; Sec. 46-16-602, MCA 1989; redes. 46-16-606 by Code Commissioner, 1991; amd. Sec. 1752, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 6. Verdict -- Disposition of Defendant 46-16-607. Conviction of lesser included offense

46-16-607. Conviction of lesser included offense. (1) The defendant may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included in the offense charged. (2) A lesser included offense instruction must be given when there is a proper request by one of the parties and the jury, based on the evidence, could be warranted in finding the defendant guilty of a lesser included offense. (3) When a lesser included offense instruction is given, the court shall instruct the jury that it must reach a verdict on the crime charged before it may proceed to a lesser included offense. Upon request of the defendant at the settling of instructions, the court shall instruct the jury that it may consider the lesser included offense if it is unable after reasonable effort to reach a verdict on the greater offense. History: En. Sec. 212, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 7. Motion for a New Trial 46-16-701. Effect of new trial

46-16-701. Effect of new trial. The granting of a new trial places the parties in the same position as if there had been no trial. History: En. 95-2101 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 35, Ch. 184, L. 1977; R.C.M. 1947, 95-2101(1); amd. Sec. 213, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 16. Trial Part 7. Motion for a New Trial 46-16-702. Motion for a new trial

46-16-702. Motion for a new trial. (1) Following a verdict or finding of guilty, the court may grant the defendant a new trial if required in the interest of justice. A new trial may be ordered by the court without a motion or may be granted after motion and hearing. (2) The motion for a new trial must be in writing and must specify the grounds for a new trial. The motion must be filed by the defendant within 30 days following a verdict or finding of guilty and be served upon the prosecution. (3) On hearing the motion for a new trial, if justified by law and the weight of the evidence, the court may: (a) deny the motion; (b) grant a new trial; or (c) modify or change the verdict or finding by finding the defendant guilty of a lesser included offense or finding the defendant not guilty. History: En. 95-2101 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 35, Ch. 184, L. 1977; R.C.M. 1947, 95-2101(2); amd. Sec. 19, Ch. 116, L. 1979; amd. Sec. 214, Ch. 800, L. 1991; amd. Sec. 1, Ch. 301, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 1. Preliminary Matters -- Justices' and City Courts 46-17-102. Record of proceedings

46-17-102. Record of proceedings. A docket must be kept by the justice of the peace or city judge, in which must be entered each action and the proceedings of the court therein. History: En. 95-2002 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2002.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 2. The Trial -- Justices' and City Courts 46-17-201. Juries in misdemeanor cases

46-17-201. Juries in misdemeanor cases. (1) The parties in a misdemeanor case are entitled to a jury of six qualified persons but may agree to a number less than six at any time before the verdict. (2) Upon consent of the parties, a trial by jury may be waived. History: En. 95-2004 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 30, Ch. 184, L. 1977; R.C.M. 1947, 95-2004(1); amd. Sec. 215, Ch. 800, L. 1991; amd. Sec. 2, Ch. 7, L. 1995; amd. Sec. 2, Ch. 129, L. 1997; amd. Sec. 2, Ch. 346, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 2. The Trial -- Justices' and City Courts 46-17-202. Formation of trial jury for justices', municipal, and city courts

46-17-202. Formation of trial jury for justices', municipal, and city courts. (1) At the time of preparing the district court jury list under 3-15-404(6), the clerk of the district court shall prepare a jury list for each justice's, municipal, and city court within the county. Each list must consist of residents of the appropriate county, city, or town. The lists must be selected in any reasonable manner that ensures fairness, and each list must include a number of names sufficient to meet the annual jury requirements of the respective court. Additional lists may be prepared if required. The lists must be filed in the office of the clerk of the district court as provided in 3-15-403. The appropriate list must be posted in a public place in each county, city, or town, and the list must comprise the trial jury list for the ensuing year for the county, city, or town. (2) Trial jurors must be summoned from the jury list by notifying each one orally that the person is summoned and of the time and place at which attendance is required. History: En. 95-2005 by Sec. 1, Ch. 196, L. 1967; amd. Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; amd. Sec. 20, Ch. 420, L. 1975; amd. Sec. 31,

Ch. 184, L. 1977; R.C.M. 1947, 95-2005; amd. Sec. 18, Ch. 379, L. 1983; amd. Sec. 216, Ch. 800, L. 1991; amd. Sec. 7, Ch. 441, L. 2003; amd. Sec. 4, Ch. 133, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 2. The Trial -- Justices' and City Courts 46-17-203. Plea of guilty -- use of two-way electronic audio-video communication

46-17-203. Plea of guilty -- use of two-way electronic audio-video communication. (1) Before or during trial, a plea of guilty must be accepted, and a plea of nolo contendere may be accepted with the consent of the court and the prosecutor, when: (a) subject to the provisions of subsection (3), the defendant enters a plea of guilty or nolo contendere in open court; and (b) the court has informed the defendant of the consequences of the plea and of the maximum penalty provided by law that may be imposed upon acceptance of the plea. (2) (a) Subject to subsection (2)(b), a plea of guilty or nolo contendere in a justice's court, city court, or other court of limited jurisdiction waives the right of trial de novo in district court. A defendant must be informed of the waiver before the plea is accepted, and the justice or judge shall question the defendant to ensure that the plea and waiver are entered voluntarily. (b) A defendant who claims that a plea of guilty or nolo contendere was not entered voluntarily may move to withdraw the plea. If the motion to withdraw is denied, the defendant may, within 90 days of the denial of the motion, appeal the denial of a motion to withdraw the plea to district court. The district court may order the office of state public defender, provided for in 2-15-1029, to assign counsel pursuant to the Montana Public Defender Act, Title 47, chapter 1, hold a hearing, and enter appropriate findings of fact, conclusions of law, and a decision affirming or reversing the denial of the defendant's motion to withdraw the plea by the court of limited jurisdiction. The district court may remand the case. The defendant may not appeal the decision of the district court. (3) For purposes of this section, in cases in which the defendant is charged with a misdemeanor offense, an entry of a plea of guilty or nolo contendere through the use of two-way electronic audio-video communication, allowing all of the participants to be observed and heard in the courtroom by all present, is considered to be an entry of a plea of guilty or nolo contendere in open court. Audio-video communication may be used if neither party objects and the court agrees to its use. The audio-video communication must operate as provided in 46-12-201. History: En. 95-2004 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 30, Ch. 184, L. 1977; R.C.M. 1947, 95-2004(2); amd. Sec. 3, Ch. 277, L. 1989; amd. Sec. 3, Ch. 163, L. 1997; amd. Sec. 17, Ch. 395, L. 1999; amd. Sec. 1, Ch. 354, L. 2003; amd. Sec. 50, Ch. 449, L. 2005; amd. Sec. 2, Ch. 144, L. 2013; amd. Sec. 17, Ch. 358, L. 2017; amd. Sec. 2, Ch. 430, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 2. The Trial -- Justices' and City Courts 46-17-206. through 46-17-210 reserved

46-17-206 through 46-17-210 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 3. Procedure After Trial -- Justices' and City Courts 46-17-302. Execution of judgment

46-17-302. Execution of judgment. (1) The judgment must be executed by the sheriff, constable, marshal, or police officer of the jurisdiction in which the offender was convicted. (2) When a judgment of imprisonment is entered, a certified copy of the judgment must be delivered to the sheriff or other officer, which is a sufficient warrant for its execution. (3) If a judgment is rendered imposing a fine only without imprisonment for nonpayment and the offender is not detained for any other legal cause, the offender must be discharged as soon as the judgment is given. (4) A judgment that the offender pay a fine may also direct that the offender be imprisoned until the fine is satisfied in the proportion of 1 day's imprisonment for every \$75 of the fine. When the judgment is rendered, the offender must be held in custody for the time specified in the judgment unless the fine is paid. (5) Any officer charged with the collection of fines under the provisions of this chapter shall return the execution to the judge within 30 days from its delivery to the officer and pay the money collected to the judge after deducting the officer's fees for the collection. History: En. 95-2008 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2008(part); amd. Sec. 1, Ch. 270, L. 1989; amd. Sec. 1753, Ch. 56, L. 2009; amd. Sec. 1, Ch. 335, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 3. Procedure After Trial -- Justices' and City Courts 46-17-303. Deposit of fines -- collection

46-17-303. Deposit of fines -- collection. (1) Except as provided in subsection (2), all fines imposed and collected by the court must be paid to the appropriate treasurer of the county, city, or town within 30 days of receipt. The judge shall file a copy of any receipt given for a collected fine with the appropriate county, city, or town clerk. (2) (a) The court may contract with a private person or entity for the collection of any final judgment that requires a payment to the court. (b) In the event that a private person or entity is retained to collect a judgment, the court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute suit or other lawful collection procedure and other postjudgment remedies in its own name. (c) The court, after deducting the charges provided for in 46-18-236, may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the court must be added to the judgment amount. (3) If the judgment is for a fine alone, execution may issue on the judgment for any unpaid interest accrued on the judgment, costs, and fees in collecting the fine as on a judgment in a civil case. History: En. 95-2008 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2008(part); amd. Sec. 29, Ch. 557, L. 1987; amd. Sec. 2, Ch. 63, L. 1999; amd. Sec. 15, Ch. 515, L. 2001; amd. Sec. 7, Ch. 510, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 3. Procedure After Trial -- Justices' and City Courts 46-17-304. Disposition of fines for city ordinance violations when appealed

46-17-304. Disposition of fines for city ordinance violations when appealed. All fines obtained from a judgment in a higher court on an appeal from a city court for violation of a city ordinance, tried de novo in the higher court, shall be paid to the county treasurer, who shall, before 31 days after receipt of the sum, forward one-half of the amount to the treasurer of the city in which the action originated. History: En. Sec. 1, Ch. 32, L. 1967; R.C.M. 1947, 95-2008.1.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 3. Procedure After Trial -- Justices' and City Courts 46-17-305. through 46-17-310 reserved

46-17-305 through 46-17-310 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 3. Procedure After Trial -- Justices' and City Courts 46-17-311. Appeal from justices', municipal, and city courts

46-17-311. Appeal from justices', municipal, and city courts. (1) Except as provided in 46-17-203(2)(b) or subsection (4) of this section and except for cases in which legal issues are preserved for appeal pursuant to 46-12-204, all cases on appeal from a justice's or city court must be tried anew in the district court and may be tried before a jury of six selected in the same manner as for other criminal cases. An appeal from a municipal court to the district court is governed by 3-6-110, an appeal from a justice's court of record is governed by 3-10-115, and an appeal from a city court of record is governed by 3-11-110. (2) The defendant may appeal to the district court by filing written notice of intention to appeal within 10 days after a judgment is rendered following trial or the denial of the motion to withdraw a plea as provided in 46-17-203(2)(b). In the case of an appeal by the prosecution, the notice must be filed within 10 days of the date that the order complained of is given. The prosecution may appeal only in the cases provided for in 46-20-103. (3) Within 30 days of timely filing the notice of appeal, the court shall transfer the entire record of the court of limited jurisdiction to the district court. The court of limited jurisdiction has no duty to transmit the record if the notice of appeal is not timely filed. The defendant may petition the district court to order the record transmitted upon a showing of good cause for failure to timely file the notice of appeal. (4) A defendant may appeal a justice's court, other than a justice's court of record, or city court, other than a city court of record, revocation of a suspended sentence to the district court. The district court judge shall determine whether the suspended sentence will be revoked. A jury trial is not available in a sentence revocation procedure. (5) If, on appeal to the district court, the defendant fails to appear for a scheduled court date or meet a court deadline, the court may, except for good cause shown, dismiss the appeal on the court's own initiative or on motion by the prosecution and the right to a jury trial is considered waived by the defendant. Upon dismissal, the appealed judgment is reinstated and becomes the operative judgment. History: En. 95-2009 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 34, Ch. 184, L. 1977; amd. Sec. 55, Ch. 344, L. 1977; R.C.M. 1947, 95-2009; amd. Sec. 20, Ch. 116, L. 1979; amd. Sec. 1, Ch. 333, L. 1985; amd. Sec. 4, Ch. 277, L. 1989; amd. Sec. 217, Ch. 800, L. 1991; amd. Sec. 39, Ch. 262, L. 1993; amd. Sec. 3, Ch. 129, L. 1997; amd. Sec. 1, Ch. 149, L. 1997; amd. Sec. 3, Ch. 346, L. 1999; amd. Sec. 1, Ch. 13, L. 2003; amd. Sec. 2, Ch. 354, L. 2003; amd. Sec. 12, Ch. 389, L. 2003; amd. Sec. 12, Ch. 557, L. 2005; amd. Sec. 6, Ch. 38, L. 2011.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 4. Procedure in Municipal Court 46-17-401. Applicability of district court rules

46-17-401. Applicability of district court rules. Except as otherwise provided by Title 3, chapter 6, and this part, the proceedings and practice in municipal court shall be the same as in district court. History: En. Sec. 20, Ch. 177, L. 1935; re-en. Sec. 5094.19, R.C.M. 1935; R.C.M. 1947, 11-1719(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 4. Procedure in Municipal Court 46-17-402. Fees and fines -- collection

46-17-402. Fees and fines -- collection. (1) The fees and fines in municipal court must be the same as the fees and fines provided by law or ordinance, and except as provided in 61-8-726 and subsection (2) of this section, all fees and fines collected by the court must be paid into the city treasury. (2) (a) The municipal court may contract with a private person or entity for the collection of any final judgment that requires a payment to the municipal court. (b) In the event that a private person or entity is retained to collect a judgment, the municipal court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute suit or other lawful collection procedure and other postjudgment remedies in its own name. (c) The municipal court, after deducting the charges provided for in 46-18-236, may pay the private person or entity a reasonable fee for collecting the judgment. History: En. Sec. 18, Ch. 177, L. 1935; re-en. Sec. 5094.18, R.C.M. 1935; amd. Sec. 10, Ch. 429, L. 1977; R.C.M. 1947, 11-1718; amd. Sec. 3, Ch. 63, L. 1999; amd. Sec. 16, Ch. 515, L. 2001; amd. Sec. 3, Ch. 232, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 4. Procedure in Municipal Court 46-17-403. Jury trial

46-17-403. Jury trial. In criminal causes arising under the state law, either party shall be entitled to a jury trial, as provided in justices' courts, except that the police officer shall perform the duties thereto prescribed to the sheriff or constable. History: En. Sec.

15, Ch. 177, L. 1935; re-en. Sec. 5094.15, R.C.M. 1935; R.C.M. 1947, 11-1715(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 17. Lower Court Proceedings Part 4. Procedure in Municipal Court 46-17-404. Appeals

46-17-404. Appeals. (1) A party may appeal to district court from a judgment of municipal court. (2) Appeal from a municipal court may be limited by requiring by ordinance that a minimum amount in controversy, not to exceed \$200, be met before the district court has jurisdiction to hear the appeal, except: (a) if the judgment of the municipal court includes incarceration, no minimum amount in controversy may be required for appeal; and (b) upon petition by an aggrieved party, the district court may, in the interests of justice, accept appeal jurisdiction notwithstanding the amount in controversy. History: En. Sec. 17, Ch. 177, L. 1935; re-en. Sec. 5094.17, R.C.M. 1935; amd. Sec. 9, Ch. 429, L. 1977; R.C.M. 1947, 11-1717(1), (2).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-101. Correctional and sentencing policy

46-18-101. Correctional and sentencing policy. (1) It is the purpose of this section to establish the correctional and sentencing policy of the state of Montana. Laws for the punishment of crime are drawn to implement the policy established by this section. (2) The correctional and sentencing policy of the state of Montana is to: (a) punish each offender commensurate with the nature and degree of harm caused by the offense and to hold an offender accountable; (b) protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders; (c) provide restitution, reparation, and restoration to the victim of the offense; and (d) encourage and provide opportunities for the offender's self-improvement to provide rehabilitation and reintegration of offenders back into the community. (3) To achieve the policy outlined in subsection (2), the state of Montana adopts the following principles: (a) Sentencing and punishment must be certain, timely, consistent, and understandable. (b) Sentences should be commensurate with the punishment imposed on other persons committing the same offenses. (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion, national origin, or social or economic status. (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating circumstances. (e) Sentencing practices must include punishing violent and serious repeat felony offenders with incarceration. (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those nonviolent felony offenders who do not have serious criminal records. (g) Sentencing and correctional practices must emphasize that the offender is responsible for obeying the law and must hold the offender accountable for the offender's actions. (h) Sentencing practices must emphasize restitution to the victim by the offender. A sentence must require an offender who is financially able to do so to pay restitution, costs as provided in 46-18-232, costs of assigned counsel, as provided in 46-8-113, and, if the offender is a sex offender, costs of any chemical treatment. (i) Sentencing practices should promote and support practices, policies, and programs that focus on restorative justice principles. History: En. 95-2201 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2201; amd. Sec. 1, Ch. 533, L. 1983; amd. Sec. 2, Ch. 794, L. 1991; amd. Sec. 64, Ch. 10, L. 1993; amd. Sec. 6, Ch. 125, L. 1995; amd. Sec. 211, Ch. 546, L. 1995; amd. Sec. 3, Ch. 189, L. 1997; amd. Sec. 1, Ch. 474, L. 1997; amd. Sec. 4, Ch. 581, L. 2001; amd. Sec. 51, Ch. 449, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-102. Rendering judgment and pronouncing sentence -- use of two-way electronic audio-video communication

46-18-102. Rendering judgment and pronouncing sentence -- use of two-way electronic audio-video communication. (1) The judgment must be rendered in open court. For purposes of this section, a judgment rendered through the use of two-way electronic audio-video communication, allowing all of the participants to be heard in the courtroom by all present and allowing the party speaking to be seen, is considered to be a judgment rendered in open court. Audio-video communication may be used if neither party objects and the court agrees to its use and has informed the defendant that the defendant has the right to object to its use. The audio-video communication must operate as provided in 46-12-201. (2) If the verdict or finding is not guilty, judgment must be rendered immediately and the defendant must be discharged from custody or from the obligation of a bail bond. (3) (a) Except as provided in 46-18-301, if the verdict or finding is guilty, sentence must be pronounced and judgment rendered within a reasonable time. (b) When the sentence is pronounced, the judge shall clearly state for the record the reasons for imposing the sentence. History: En. 95-2202 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2202; amd. Sec. 1, Ch. 46, L. 1983; amd. Sec. 4, Ch. 163, L. 1997; amd. Sec. 1, Ch. 378, L. 1997; amd. Sec. 5, Ch. 222, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-103. Sentence to be imposed by judge

46-18-103. Sentence to be imposed by judge. All sentences under this chapter shall be imposed exclusively by the judge of the court. History: En. 95-2212 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2212.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-104. Definitions

46-18-104. Definitions. As used in 46-18-101, 46-18-105, 46-18-201, 46-18-225, and this section, unless the context requires

otherwise, the following definitions apply: (1) "Community corrections" or "community corrections facility or program" means a community corrections facility or program as defined in 53-30-303. (2) (a) "Crime of violence" means: (i) a crime in which an offender uses or possesses and threatens to use a deadly weapon during the commission or attempted commission of a crime; (ii) a crime in which the offender causes serious bodily injury or death to a person other than the offender; or (iii) an offense under: (A) 45-5-215; (B) 45-5-502 for which the maximum potential sentence is life imprisonment or imprisonment in a state prison for a term exceeding 1 year; (C) 45-5-503, except as provided in subsection (2)(b) of this section; (D) 45-5-507 if the victim is under 16 years of age and the offender is 3 or more years older than the victim or if the offender inflicts bodily injury upon anyone in the course of committing the offense; (E) 45-5-508; (F) 45-5-702; (G) 45-5-703; (H) 45-5-705; (I) 45-5-706; or (J) 45-5-711. (b) In a prosecution under 45-5-503, if the sexual intercourse was without consent based solely on the victim's age, the victim willingly participated, and the offender is not more than 3 years older than the victim, the offense is not a crime of violence for purposes of this section. (3) "Nonviolent felony offender" means a person who has entered a plea of guilty or nolo contendere to a felony offense other than a crime of violence or who has been convicted of a felony offense other than a crime of violence. (4) "Restorative justice" has the meaning provided in 44-7-302. History: En. Sec. 1, Ch. 794, L. 1991; amd. Sec. 7(2), Ch. 794, L. 1991; amd. Sec. 18, Ch. 395, L. 1999; amd. Sec. 1, Ch. 509, L. 2001; amd. Sec. 1, Ch. 177, L. 2013; amd. Sec. 1, Ch. 132, L. 2019; amd. Sec. 9, Ch. 308, L. 2019; amd. Sec. 23, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-105. Community corrections facilities or programs

46-18-105. Community corrections facilities or programs. The department of corrections may provide community corrections facilities or programs for the rehabilitation of nonviolent felony offenders, as authorized under Title 53, chapter 30, part 3. History: En. Sec. 5, Ch. 794, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 212, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-106. through 46-18-110 reserved

46-18-106 through 46-18-110 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-111. Presentence investigation -- when required -- definition

46-18-111. Presentence investigation -- when required -- definition. (1) (a) (i) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, except as provided in subsection (1)(d), the district court may request and direct the probation and parole officer to make a presentence investigation and report unless an investigation and report has been provided to the court prior to the plea or the verdict or finding of guilty. (ii) Unless additional information is required under subsection (1)(b), (1)(c), (1)(d), or (1)(e) or unless more time is required to allow for victim input, a preliminary or final presentence investigation and report, if requested, must be available to the court within 30 business days of the plea or the verdict or finding of guilty. (iii) If a presentence investigation report has been requested, the district court shall consider the presentence investigation report prior to sentencing. (b) (i) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-601(3), 45-5-625, 45-5-627, 45-5-705, 45-5-706, 45-5-711, or 45-8-218 or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the court shall order a psychosexual evaluation of the defendant unless the defendant is sentenced under 46-18-219. The evaluation must include: (A) a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs; (B) an identification of the level of risk the defendant presents to the community using the standards established in 37-1-139; and (C) the defendant's needs. (ii) Unless a psychosexual evaluation has been provided to the court prior to the plea or the verdict or finding of guilty, the evaluation must be completed by a sexual offender evaluator selected by the court and who has a license endorsement as provided for in 37-1-139. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. (iii) All costs related to the evaluation, including an evaluation ordered by the court as allowed in subsection (1)(b)(ii), must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation, including an evaluation ordered by the court as allowed in subsection (1)(b)(ii), are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9. The district court may order subsequent psychosexual evaluations at the request of the county attorney. The requestor of any subsequent psychosexual evaluations is responsible for the cost of the evaluation. (c) (i) If the defendant was convicted of an offense under 45-5-212(2)(b) or (2)(c), the investigation may include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs. (ii) The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, licensed clinical social worker, licensed clinical professional counselor, licensed marriage and family therapist, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. (iii) All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9. (d) If the defendant is convicted of a

violent offense, as defined in 46-23-502, or if the defendant is convicted of a crime for which a victim or entity may be entitled to restitution, and the amount of restitution is not contained in a plea agreement, the court shall order a presentence investigation. (e) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113. (2) The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502. (3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5). (4) For the purposes of 46-18-112 and this section, "probation and parole officer" means: (a) a probation and parole officer who is employed by the department of corrections pursuant to 46-23-1002; or (b) an employee of the department of corrections who has received specific training or who possesses specific expertise to make a presentence investigation and report but who is not required to be licensed as a probation and parole officer by the public safety officer standards and training council created in 2-15-2029. History: En. 95-2203 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2203; amd. Sec. 1, Ch. 173, L. 1985; amd. Sec. 2, Ch. 192, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 218, Ch. 800, L. 1991; amd. Sec. 40, Ch. 262, L. 1993; amd. Secs. 1, 2, Ch. 347, L. 1993; amd. Sec. 12, Ch. 482, L. 1995; amd. Sec. 213, Ch. 546, L. 1995; amd. Sec. 4, Ch. 189, L. 1997; amd. Sec. 155, Ch. 483, L. 2001; amd. Sec. 1, Ch. 493, L. 2001; amd. Sec. 1, Ch. 517, L. 2005; amd. Sec. 12, Ch. 483, L. 2007; amd. Sec. 2, Ch. 268, L. 2009; amd. Sec. 8, Ch. 374, L. 2013; amd. Sec. 2, Ch. 378, L. 2013; amd. Sec. 1, Ch. 110, L. 2015; amd. Sec. 17, Ch. 285, L. 2015; amd. Sec. 1, Ch. 199, L. 2017; amd. Sec. 1, Ch. 113, L. 2019; amd. Sec. 10, Ch. 308, L. 2019; amd. Sec. 12, Ch. 456, L. 2019; amd. Sec. 2, Ch. 481, L. 2021; amd. Sec. 24, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-112. Content of presentence investigation report

46-18-112. Content of presentence investigation report. (1) Whenever an investigation is requested by the court, the probation and parole officer shall promptly inquire into and report upon: (a) the defendant's characteristics, circumstances, needs, and potentialities, as reflected in a validated risk and needs assessment; (b) the defendant's criminal record and social history; (c) the circumstances of the offense; (d) the time of the defendant's detention for the offenses charged; (e) the harm caused, as a result of the offense, to the victim, the victim's immediate family, and the community; and (f) the victim's pecuniary loss, if any. The officer shall make a reasonable effort to confer with the victim to ascertain whether the victim has sustained a pecuniary loss. If the victim is not available or declines to confer, the officer shall record that information in the report. (2) The following information pertaining to the defendant may also be included or considered in the report: (a) prior criminal history; (b) probation or parole history; (c) official version of the offense or offenses; (d) custody status; (e) pending cases or charges against the defendant; (f) probation officer recommendations; (g) gang affiliation; (h) background and ties to the community; (i) history of substance use disorder; (j) physical and mental health; (k) employment history and status; (l) education history; and (m) prescreening and placement options. (3) All local and state mental and correctional institutions, courts, and law enforcement agencies shall furnish, upon request of the officer preparing a presentence investigation, the defendant's criminal record and other relevant information. (4) The court may, in its discretion, require that the presentence investigation report include a physical and mental examination of the defendant. (5) Upon sentencing, the court shall forward to the sheriff all information contained in the presentence investigation report concerning the physical and mental health of the defendant, and the information must be delivered with the defendant as required in 46-19-101. History: En. 95-2204 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2204; amd. Sec. 219, Ch. 800, L. 1991; amd. Sec. 41, Ch. 262, L. 1993; amd. Sec. 7, Ch. 125, L. 1995; amd. Sec. 1, Ch. 53, L. 2009; amd. Sec. 2, Ch. 199, L. 2017; amd. Sec. 13, Ch. 456, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-113. Availability of presentence investigation report

46-18-113. Availability of presentence investigation report. (1) All presentence investigation reports must be a part of the court record but may not be opened for public inspection. A copy of the presentence investigation report must be provided to the prosecution, the defendant and the defendant's attorney, the probation and parole officer, and the agency or institution to which the defendant is committed. The prosecutor may disclose the contents of the presentence report to a victim of the offense. (2) The court having jurisdiction of the case may permit other access to the presentence investigation report as it considers necessary. History: En. 95-2205 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2205; amd. Sec. 220, Ch. 800, L. 1991; amd. Sec. 8, Ch. 125, L. 1995; amd. Sec. 5, Ch. 189, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-114. reserved

46-18-114 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-115. Sentencing hearing -- use of two-way electronic audio-video communication

46-18-115. Sentencing hearing -- use of two-way electronic audio-video communication. Before imposing sentence or making any other disposition upon acceptance of a plea or upon a verdict or finding of guilty, the court shall conduct a sentencing hearing, without unreasonable delay, as follows: (1) The court shall afford the parties an opportunity to be heard on any matter relevant to the disposition, including the imposition of a sentence enhancement penalty and the applicability of mandatory minimum sentences, persistent felony offender status, or an exception to these matters. (2) If there is a possibility of imposing the death penalty, the court shall hold a hearing as provided by 46-18-301. (3) Except as provided in 46-11-701 and 46-16-120 through 46-16-123, the court shall address the defendant personally to ascertain whether the defendant wishes to make a statement and to present any information in mitigation of punishment or reason why the defendant should not be sentenced. If the defendant wishes to make a statement, the court shall afford the defendant a reasonable opportunity to do so. For purposes of this section, the requirement that the court address the defendant personally may be satisfied by the use of two-way electronic audio-video communication. Audio-video communication may be used if neither party objects and the court agrees to its use and has informed the defendant that the defendant has the right to object to its use. The audio-video communication must operate as provided in 46-12-201. (4) (a) The court shall permit the victim to present a statement concerning the effects of the crime on the victim, the circumstances surrounding the crime, the manner in which the crime was perpetrated, and the victim's opinion regarding appropriate sentence. At the victim's option, the victim may present the statement in writing before the sentencing hearing or orally under oath at the sentencing hearing, or both. (b) The court shall give copies of any written statements of the victim to the prosecutor and the defendant prior to imposing sentence. (c) The court shall consider the victim's statement along with other factors. However, if the victim's statement includes new material facts upon which the court intends to rely, the court shall allow the defendant adequate opportunity to respond and may continue the sentencing hearing if necessary. (5) The court shall impose sentence or make any other disposition authorized by law. (6) In felony cases, the court shall specifically state all reasons for the sentence, including restrictions, conditions, or enhancements imposed, in open court on the record and in the written judgment. History: En. Sec. 221, Ch. 800, L. 1991; amd. Sec. 9, Ch. 125, L. 1995; amd. Sec. 5, Ch. 163, L. 1997; amd. Sec. 3, Ch. 524, L. 2001; amd. Sec. 6, Ch. 222, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-116. Judgment -- conflict between written judgment and oral pronouncement -- correction of factually erroneous sentence or judgment

46-18-116. Judgment -- conflict between written judgment and oral pronouncement -- correction of factually erroneous sentence or judgment. (1) The judgment must set forth the plea, the verdict or finding, and the adjudication. If the defendant is convicted, it must set forth the sentence or other disposition. The written judgment must be signed and must be entered on the record within 30 days after the oral pronouncement of the disposition of the case. At the time that the judgment is filed, the prosecutor of the county in which the sentence was imposed shall serve a copy of the judgment on the defendant. The written judgment must include a statement of the rights set forth in subsection (2). (2) If a written judgment and an oral pronouncement of sentence or other disposition conflict, the defendant or the prosecutor in the county in which the sentence was imposed may, within 120 days after filing of the written judgment, request that the court modify the written judgment to conform to the oral pronouncement. The court shall modify the written judgment to conform to the oral pronouncement at a hearing, and the defendant must be present at the hearing unless the defendant waives the right to be present or elects to proceed pursuant to 46-18-115. The defendant and the prosecutor waive the right to request modification of the written judgment if a request for modification of the written judgment is not filed within 120 days after the filing of the written judgment in the sentencing court. (3) The court may correct a factually erroneous sentence or judgment at any time. Illegal sentences must be addressed in the manner provided by law for appeal and postconviction relief. History: En. Sec. 222, Ch. 800, L. 1991; amd. Sec. 1, Ch. 74, L. 2001; amd. Sec. 1, Ch. 141, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-118. through 46-18-129 reserved

46-18-118 through 46-18-129 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-130. Terminated

46-18-130. Terminated. Sec. 5, Ch. 306, L. 1995. History: En. Sec. 1, Ch. 306, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-131. Terminated

46-18-131. Terminated. Sec. 5, Ch. 306, L. 1995. History: En. Sec. 2, Ch. 306, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 1. Policy and Preliminary Procedure 46-18-132. Terminated

46-18-132. Terminated. Sec. 5, Ch. 306, L. 1995. History: En. Sec. 3, Ch. 306, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 10. Home Arrest 46-18-1001. Definitions

46-18-1001. Definitions. As used in this part, the following definitions apply: (1) (a) "Home" means the temporary or permanent residence of an offender consisting of the actual living area approved by the supervising authority. (b) When more than one residence or family are located on a single piece of property, the term does not include the residence of any other person who is not part of the social unit formed by the offender's immediate family. (2) "Home arrest" means the use of a person's home for purposes of confinement and home arrest procedures and conditions imposed under this part. It does not include intensive supervision by the department of corrections. (3) "Monitoring device" means an electronic device or apparatus capable of recording or transmitting information concerning the offender's presence in or absence from the home. The device may include an apparatus for testing the offender's breath for the presence of alcohol. A telephone alone is not a monitoring device. (4) "Supervising authority" means: (a) in the case of an adult felon, the department of corrections; (b) in the case of an adult misdemeanor, a court-approved entity other than the department of corrections; or (c) in the case of a juvenile, the juvenile probation division of the youth court or any other person or entity appointed by the court. (5) "Violent felony offense" means deliberate homicide, mitigated deliberate homicide, negligent homicide, aggravated assault, negligent vehicular assault, kidnapping, aggravated kidnapping, robbery, sexual intercourse without consent, sexual abuse of children, arson, aggravated burglary, escape, any criminal attempt to commit an enumerated offense, or conviction as a persistent felony offender when the offender has a felony conviction for any of the listed offenses within the 5-year period preceding the date of the present conviction. History: En. Sec. 1, Ch. 105, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 218, Ch. 546, L. 1995; amd. Sec. 2, Ch. 322, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 10. Home Arrest 46-18-1002. Home arrest -- petition -- agreement

46-18-1002. Home arrest -- petition -- agreement. (1) An offender may petition a sentencing court for an order directing that all or a portion of a sentence of imprisonment be served under conditions of home arrest. The term of home arrest may not exceed 6 months. Petitions may be considered and ruled upon by the sentencing court prior to and throughout the term of the offender's sentence. (2) The petition must include: (a) either a statement by the department of corrections that it has a monitoring device available for its use on the offender or information from the offender as to a private company that can and will implement the home arrest, along with the name and credentials of the company and the type of monitoring device to be used; (b) the place of any employment of the offender and the name of the offender's supervisor; (c) if the offender has been accepted into one, a plan for participation in an educational, treatment, or training program; (d) the source and amount of any income of the offender; and (e) the address at which the home arrest will occur and a list of any other persons who will reside at that address during all or part of the home arrest, their ages, and their relationship to the offender. (3) The sentencing judge shall refer the petition to the supervising authority. The supervising authority shall review the petition and accept or reject the offender for home arrest. If the offender is rejected, the sentencing judge shall dismiss the petition. If the offender is accepted, the sentencing judge may conduct a hearing on the petition and grant or deny the petition. An order for home arrest must incorporate the home arrest plan, with any modifications by the court, and require compliance with the plan. The clerk of court shall give the county attorney a copy of the order. (4) A home arrestee is subject to the decisions and applicable rules of the supervising authority during the period of supervision. (5) The offender shall file with the court the written and notarized consent to the home arrest signed by each adult who will reside with the offender during all or part of the home arrest. History: En. Sec. 2, Ch. 105, L. 1991; amd. Sec. 3, Ch. 322, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 10. Home Arrest 46-18-1003. Home arrest -- conditions -- fees

46-18-1003. Home arrest -- conditions -- fees. (1) A home arrestee must be confined to the arrestee's home under conditions imposed by the sentencing court, which may include but are not limited to the following: (a) The home arrestee must be confined to the arrestee's home at all times except when: (i) working at approved employment or traveling directly to and from employment; (ii) seeking employment; (iii) undergoing medical, psychiatric, or mental health treatment or participating in an approved counseling or aftercare program; (iv) attending an educational institution or program approved by the supervising authority; (v) attending a regularly scheduled religious service at a place of worship; (vi) participating in an approved community service program; or (vii) conforming to a schedule prepared by the supervising authority, specifically setting forth the times when the arrestee may be absent from the home and the locations where the arrestee may be during those times. (b) The home arrestee may not change the place of home arrest or the schedule without prior approval of the supervising authority. (c) The home arrestee shall maintain a telephone in the home and the ordered monitoring device on the arrestee's person at all times. (d) Conditions set by the court or the supervising authority may include: (i) restitution; (ii) supervision fees under 7-32-2245, 46-18-702, 46-18-703, or 46-23-1031; (iii) any of the conditions imposed on persons on probation or conditional discharge under 46-23-1011 or 46-23-1021. (2) An arrest warrant may be issued if the supervising authority has reason to believe that the home arrestee has violated a condition of the home arrest. Upon arrest, the supervising authority shall notify the sentencing court and give the court a written report on the violation. The court shall conduct a hearing and, if the violation is established, may revoke the home arrest and require the home arrestee to serve all or a part of the sentence. If imposition of sentence was suspended, the court may impose any sentence that could have been originally imposed. Time spent under home arrest must be credited against any sentence to be served. History: En. Sec. 3, Ch. 105, L. 1991; amd. Sec. 4, Ch. 322, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 10. Home

Arrest46-18-1004. Home arrest -- ineligibility

46-18-1004. Home arrest -- ineligibility. A person being held under a detainer, warrant, or process issued by some other jurisdiction is not eligible for home arrest. A person convicted of a violent felony offense is not eligible for home arrest. However, this section does not prevent the use of a monitoring device as a part of an intensive supervision program or other program of the department of corrections. History: En. Sec. 4, Ch. 105, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 219, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 10. Home Arrest 46-18-1005. Home arrest -- responsibility for own living expenses -- government benefits

46-18-1005. Home arrest -- responsibility for own living expenses -- government benefits. A person serving a sentence under conditions of home arrest is responsible for food, housing, clothing, and medical care expenses and is eligible for government benefits to the same extent as a person on probation, parole, or conditional discharge. History: En. Sec. 5, Ch. 105, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 10. Home Arrest 46-18-1006. Home arrest -- list of offenders

46-18-1006. Home arrest -- list of offenders. At least once every 30 days, the supervising authority shall provide all local and county law enforcement agencies with a list of the offenders under home arrest in their jurisdictions. This list must include the following information: (1) the offender's place of home arrest; (2) the offense for which the offender was charged, convicted, or otherwise placed under home arrest; (3) the date that the sentence of home arrest will be completed; and (4) the name, address, and phone number of the officer of the supervising authority for the offender. History: En. Sec. 6, Ch. 105, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1102. Short title

46-18-1102. Short title. This part may be cited as the "Misdemeanor Expungement Clarification Act". History: En. Sec. 1, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1103. Definitions

46-18-1103. Definitions. As used in this part, the following definitions apply: (1) "Expunge" or "expungement" means to permanently destroy, delete, or erase a record of an offense from the criminal history record information system maintained by the department of justice in a manner that is appropriate for the record's physical or electronic form. (2) (a) "Record" means any: (i) identifiable description, notation, or photograph of an arrest and detention; (ii) complaint, indictment, or information or any disposition arising from a complaint, indictment, or information; (iii) sentence; (iv) correctional status; (v) release; or (vi) court document or filing. (b) The term does not include a fingerprint record or data that may be maintained for investigative purposes. History: En. Sec. 2, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1104. Eligibility for misdemeanor expungement

46-18-1104. Eligibility for misdemeanor expungement. (1) A person convicted of one or more misdemeanor offenses, whether in one court or multiple courts and whether in one case or multiple cases, and who has not had the person's records expunged under this part previously, may petition a district court for an order requiring the expungement of all records of arrest, investigation, and detention, if any, and any court proceedings that may have been held related to the misdemeanor offense or offenses. (2) A person may petition for expungement pursuant to this part no more than one time during the person's life. (3) A person submitting a petition for expungement under this part must be fingerprinted for purposes of validating the person's identity. History: En. Sec. 3, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1105. Venue

46-18-1105. Venue. A person may file a petition for expungement in the district court of a judicial district in which the person was convicted of a misdemeanor for which expungement is sought. History: En. Sec. 4, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1106. Notice

46-18-1106. Notice. (1) A person seeking expungement shall serve a copy of the petition for expungement to every prosecution office that prosecuted an offense for which expungement is being requested. (2) If a victim of an offense subject to a requested expungement exists, the prosecution office responsible for the conviction for which expungement is being requested shall attempt to notify the victim of the offense within 14 days of receiving the petition for expungement and shall document the attempt. The notification must include that the victim has the right to respond to the expungement request and must inform the victim of any dates scheduled for court hearings. History: En. Sec. 5, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1107. When expungement presumed

46-18-1107. When expungement presumed. Expungement is presumed if the person requesting expungement is not currently being detained for the commission of an offense, is not charged with the commission of an offense, and does not have charges pending for the commission of a new offense, as verified by the prosecution office responsible for a conviction for which expungement is being requested, and: (1) the person has not been convicted of any offense in this state, another state, or federal court for a period of 5 years since the person completed the sentencing terms for the offense or offenses for which expungement is being requested, including payment of any financial obligations or successful completion of court-ordered treatment; or (2) the person has applied to a United States military academy, has applied to enlist in the armed forces or national guard, or is currently serving in the armed forces or national guard and is being held back in any way from enlisting or holding a certain position due to prior conviction. History: En. Sec. 6, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1108. When expungement not presumed

46-18-1108. When expungement not presumed. (1) Expungement may not be presumed if the person seeking expungement has one or more convictions for assault under 45-5-201, partner or family member assault under 45-5-206, stalking under 45-5-220, sexual assault under 45-5-502, a violation of a protective order under 45-5-626, or driving under the influence of alcohol or drugs, however named, under Title 61, chapter 8, part 10, or any offense that carries a statutorily enhanced penalty as a result of the offender driving under the influence of alcohol or drugs. (2) In making the determination of whether expungement should be granted, the district court shall consider: (a) the age of the petitioner at the time the offense was committed; (b) the length of time between the offense and the request; (c) the rehabilitation of the petitioner; (d) the likelihood that the person will reoffend; and (e) any other factor the court considers relevant. History: En. Sec. 7, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1109. Procedure

46-18-1109. Procedure. (1) The court must make its determination for an expungement on a preponderance of the evidence. (2) A presumption in favor of expungement may be overcome upon a determination that the interests of public safety demand dismissal. (3) If a representative of a prosecution office appears, the representative must be given an opportunity to respond. (4) If a victim appears, the victim must be given an opportunity to respond. (5) (a) The rules of evidence do not apply in an expungement hearing. (b) The court may exclude irrelevant, immaterial, or unduly repetitious evidence. History: En. Sec. 8, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1110. Expungement orders

46-18-1110. Expungement orders. (1) When multiple misdemeanor offenses are requested to be expunged, the court may order expungement of all, some, or none of the misdemeanor offenses. (2) If an order of expungement is granted: (a) the order must direct, for each offense being expunged, the arresting law enforcement agency, the prosecutor's office that prosecuted the offense, and the clerk of the court in which the person was sentenced to permanently seal all records of the arrest, investigation, and detention, if any, and any court proceedings that may have been held in the case in the possession of the recipient of the order within existing resources; and (b) the person whose records are to be expunged shall send, for each offense being expunged, a copy of the order to the arresting law enforcement agency, the prosecutor's office that prosecuted the offense, the clerk of the court in which the person was sentenced, and the department of justice, along with the fingerprints taken pursuant to 46-18-1104 for validating identity and a form prepared by the department of justice that contains identifying information about the petitioner. (3) On receipt of an expungement order sent pursuant to subsection (2)(b), the department of justice shall, within existing department resources, expunge all records of arrest, investigation, detention, and court proceedings relating to the person's offenses addressed by the order. History: En. Sec. 9, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 11. Expungement of Records 46-18-1111. Rulemaking authority

46-18-1111. Rulemaking authority. For purposes of handling expunged records, the department of justice may adopt rules to implement the provisions of this section. History: En. Sec. 10, Ch. 384, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-201. Sentences that may be imposed

46-18-201. Sentences that may be imposed. (1) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may defer imposition of sentence, except as otherwise specifically provided by statute, for a period: (i) not exceeding 1 year for a misdemeanor or for a period not exceeding 3 years for a felony; or (ii) not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony if a financial obligation is imposed as a condition of sentence for either the misdemeanor or the felony, regardless of whether any other conditions are imposed. (b) Except

as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of an offender who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended. (2) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may suspend execution of sentence, except as provided in subsection (2)(b) or as otherwise specifically provided by statute, for a period up to the maximum sentence allowed or for a period of 6 months, whichever is greater, for each particular offense. (b) (i) Except as provided in subsections (2)(b)(ii) and (2)(b)(iii), a sentencing judge may not suspend execution of sentence, including when imposing a sentence under subsection (3)(a)(vii), in a manner that would result in an offender being supervised in the community as a probationer by the department of corrections for a period of time longer than: (A) 20 years for a sexual offender, as defined in 46-23-502; (B) 20 years for an offender convicted of deliberate homicide, as defined in 45-5-102, or mitigated homicide, as defined in 45-5-103; (C) 15 years for a violent offender, as defined in 46-23-502, an offender convicted of negligent homicide, as defined in 45-5-104, vehicular homicide while under the influence, as defined in 45-5-106, or criminal distribution of dangerous drugs that results in the death of an individual from use of the dangerous drug, as provided in 45-9-101(5); (D) 10 years for an offender convicted of 45-9-101, 45-9-103, 45-9-107, 45-9-109, 45-9-110, 45-9-125, 45-9-127, or 45-9-132; or (E) 5 years for all other felony offenses. (ii) The provisions of subsections (2)(b)(i)(A) and (2)(b)(i)(B) do not apply if the sentencing judge finds that a longer term of supervision is needed for the protection of society or the victim. The sentencing judge shall state as part of the sentence and the judgment the reasons a longer suspended sentence is needed to protect society or the victim. (iii) The provisions of subsections (2)(b)(i)(A) and (2)(b)(i)(B) do not apply to violations of 45-6-301 if the amount of restitution ordered exceeds \$50,000. (3) (a) Whenever a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere, a sentencing judge may impose a sentence that may include: (i) a fine as provided by law for the offense; (ii) payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113; (iii) a term of incarceration, as provided in Title 45 for the offense, at a county detention center or at a state prison to be designated by the department of corrections; (iv) commitment of: (A) an offender not referred to in subsection (3)(a)(iv)(B) to the department of corrections with a recommendation for placement in an appropriate correctional facility or program; however, all but the first 5 years of the commitment to the department of corrections must be suspended, except as provided in 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), and 45-5-711; or (B) a youth transferred to district court under 41-5-206 and found guilty in the district court of an offense enumerated in 41-5-206 to the department of corrections for a period determined by the court for placement in an appropriate correctional facility or program; (v) chemical treatment of sexual offenders, as provided in 45-5-512, if applicable, that is paid for by and for a period of time determined by the department of corrections, but not exceeding the period of state supervision of the person; (vi) commitment of an offender to the department of corrections with the requirement that immediately subsequent to sentencing or disposition the offender is released to community supervision and that any subsequent violation must be addressed as provided in 46-23-1011 through 46-23-1015; or (vii) any combination of subsection (2) and this subsection (3)(a). (b) A court may permit a part or all of a fine to be satisfied by a donation of food to a food bank program. (4) When deferring imposition of sentence or suspending all or a portion of execution of sentence, the sentencing judge may impose on the offender any reasonable restrictions or conditions during the period of the deferred imposition or suspension of sentence. Reasonable restrictions or conditions imposed under subsection (1)(a) or (2) may include but are not limited to: (a) limited release during employment hours as provided in 46-18-701; (b) incarceration in a detention center not exceeding 180 days; (c) conditions for probation; (d) payment of the costs of confinement; (e) payment of a fine and accrued interest as provided in 46-18-231; (f) payment of costs as provided in 46-18-232 and 46-18-233; (g) payment of costs of assigned counsel as provided in 46-8-113; (h) with the approval of the facility or program, an order that the offender be placed in a community corrections facility or program as provided in 53-30-321; (i) with the approval of the prerelease center or prerelease program and confirmation by the department of corrections that space is available and that the offender is a suitable candidate, an order that the offender be placed in a chemical dependency treatment program, prerelease center, or prerelease program for a period not to exceed 1 year; (j) community service; (k) home arrest as provided in Title 46, chapter 18, part 10; (l) payment of expenses for use of a judge pro tempore or special master as provided in 3-5-116; (m) participation in a day reporting program provided for in 53-1-203; (n) participation in the 24/7 sobriety and drug monitoring program provided for in Title 44, chapter 4, part 12, for a violation of aggravated driving under the influence as defined in 61-8-1001, a violation of 61-8-1002, or a second or subsequent violation of any other statute that imposes a jail penalty of 6 months or more if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime or for a violation of any statute involving domestic abuse or the abuse or neglect of a minor if the abuse of alcohol or dangerous drugs was a contributing factor in the commission of the crime regardless of whether the charge or conviction was for a first, second, or subsequent violation of the statute; (o) participation in a restorative justice program approved by court order and payment of a participation fee of up to \$150 for program expenses if the program agrees to accept the offender; (p) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of the victim or society; (q) with approval of the program and confirmation by the department of corrections that space is available, an order that the offender be placed in a residential treatment program; or (r) any combination of the restrictions or conditions listed in this subsection (4). (5) In addition to any other penalties imposed, if a person has been found guilty of an offense upon a verdict of guilty or a plea of guilty or nolo contendere and the sentencing judge finds that a victim, as defined in 46-18-243, has sustained a pecuniary loss, the sentencing judge shall, as part of the sentence, require payment of full restitution and interest to the victim, as provided in 46-18-241 through 46-18-249, whether or not any part of the sentence is deferred or suspended. (6) (a) Except as provided in subsection (6)(b), in addition to any of the penalties, restrictions, or conditions imposed pursuant to subsections (1) through (5), the sentencing judge may

include the suspension of the license or driving privilege of the person to be imposed upon the failure to comply with any penalty, restriction, or condition of the sentence. A suspension of the license or driving privilege of the person must be accomplished as provided in 61-5-214 through 61-5-217. (b) A person's license or driving privilege may not be suspended due to nonpayment of fines, costs, or restitution. (7) In imposing a sentence on an offender convicted of a sexual or violent offense, as defined in 46-23-502, the sentencing judge may not waive the registration requirement provided in Title 46, chapter 23, part 5. (8) If a felony sentence includes probation, the department of corrections shall supervise the offender unless the court specifies otherwise. (9) When imposing a sentence under this section that includes incarceration in a detention facility or the state prison, as defined in 53-30-101, the court shall provide credit for time served by the offender before trial or sentencing. (10) As used in this section, "dangerous drug" has the meaning provided in 50-32-101. History: En. 95-2206 by Sec. 1, Ch. 196, L. 1967; rep. and re-en. by Sec. 31, Ch. 513, L. 1973; amd. Sec. 36, Ch. 184, L. 1977; amd. Sec. 1, Ch. 436, L. 1977; amd. Sec. 1, Ch. 580, L. 1977; amd. Sec. 12, Ch. 584, L. 1977; R.C.M. 1947, 95-2206(1), (2), (4); amd. Sec. 21, Ch. 116, L. 1979; amd. Sec. 2, Ch. 322, L. 1979; amd. Sec. 2, Ch. 587, L. 1979; amd. Sec. 6, Ch. 198, L. 1981; amd. Sec. 1, Ch. 207, L. 1981; amd. Sec. 7, Ch. 415, L. 1981; amd. Sec. 1, Ch. 189, L. 1983; amd. Sec. 9, Ch. 581, L. 1983; amd. Sec. 1, Ch. 205, L. 1985; amd. Sec. 1, Ch. 524, L. 1985; amd. Sec. 104, Ch. 370, L. 1987; amd. Sec. 7, Ch. 610, L. 1987; amd. Sec. 1, Ch. 626, L. 1987; amd. Sec. 10, Ch. 293, L. 1989; amd. Sec. 2, Ch. 575, L. 1989; amd. Sec. 2, Ch. 42, L. 1991; amd. Sec. 10, Ch. 105, L. 1991; amd. Sec. 17, Ch. 554, L. 1991; amd. Sec. 2, Ch. 564, L. 1991; amd. Sec. 3, Ch. 794, L. 1991; amd. Sec. 5, Ch. 802, L. 1991; amd. Sec. 65, Ch. 10, L. 1993; amd. Sec. 43, Ch. 262, L. 1993; amd. Sec. 1, Ch. 365, L. 1993; amd. Sec. 3, Ch. 579, L. 1993; amd. Sec. 10, Ch. 125, L. 1995; amd. Sec. 5, Ch. 394, L. 1995; amd. Sec. 1, Ch. 407, L. 1995; amd. Sec. 13, Ch. 482, L. 1995; amd. Sec. 214, Ch. 546, L. 1995; amd. Sec. 1, Ch. 181, L. 1997; amd. Sec. 6, Ch. 189, L. 1997; amd. Sec. 1, Ch. 322, L. 1997; amd. Sec. 1, Ch. 341, L. 1997; amd. Sec. 3, Ch. 375, L. 1997; amd. Sec. 1, Ch. 525, L. 1997; amd. Sec. 2, Ch. 52, L. 1999; amd. Sec. 19, Ch. 395, L. 1999; amd. Sec. 16, Ch. 432, L. 1999; amd. Sec. 1, Ch. 505, L. 1999; amd. Sec. 1, Ch. 258, L. 2003; amd. Sec. 1, Ch. 272, L. 2003; amd. Sec. 1, Ch. 437, L. 2003; amd. Sec. 52, Ch. 449, L. 2005; amd. Sec. 2, Ch. 517, L. 2005; amd. Sec. 13, Ch. 483, L. 2007; amd. Sec. 1, Ch. 128, L. 2009; amd. Sec. 8, Ch. 318, L. 2011; amd. Sec. 4, Ch. 153, L. 2013; amd. Sec. 2, Ch. 177, L. 2013; amd. Sec. 7, Ch. 309, L. 2013; amd. Sec. 9, Ch. 374, L. 2013; amd. Sec. 22, Ch. 55, L. 2015; amd. Sec. 18, Ch. 285, L. 2015; amd. Sec. 1, Ch. 61, L. 2017; amd. Sec. 24, Ch. 321, L. 2017; amd. Sec. 12, Ch. 384, L. 2017; amd. Sec. 27, Ch. 3, L. 2019; amd. Sec. 1, Ch. 348, L. 2019; amd. Sec. 25, Ch. 498, L. 2021; amd. Secs. 1, 4, Ch. 537, L. 2021; amd. Sec. 25, Ch. 167, L. 2023; amd. Sec. 1, Ch. 509, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-202. Additional restrictions on sentence

46-18-202. Additional restrictions on sentence. (1) The sentencing judge may also impose any of the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers necessary to obtain the objectives of rehabilitation and the protection of the victim and society: (a) prohibition of the offender's holding public office; (b) prohibition of the offender's owning or carrying a dangerous weapon; (c) restrictions on the offender's freedom of association; (d) restrictions on the offender's freedom of movement; (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain; (f) a requirement that the offender surrender any registry identification card issued under 16-12-503 or license issued under 16-12-203; (g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the victim and society. (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole and participation in the supervised release program while serving that term. If the restriction is to be imposed, the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the judgment must contain a statement of the reasons for the restriction. (3) If a sentencing judge requires an offender to surrender a registry identification card issued under 16-12-503 or license issued under 16-12-203, the court shall return the card or license to the department of revenue and provide the department with information on the offender's sentence. The department shall revoke the card for the duration of the sentence and shall return the card if the offender successfully completes the terms of the sentence before the expiration date listed on the card. History: En. 95-2206 by Sec. 1, Ch. 196, L. 1967; rep. and re-en. by Sec. 31, Ch. 513, L. 1973; amd. Sec. 36, Ch. 184, L. 1977; amd. Sec. 1, Ch. 436, L. 1977; amd. Sec. 1, Ch. 580, L. 1977; amd. Sec. 12, Ch. 584, L. 1977; R.C.M. 1947, 95-2206(3); amd. Sec. 22, Ch. 116, L. 1979; amd. Sec. 10, Ch. 583, L. 1981; amd. Sec. 2, Ch. 392, L. 1987; amd. Sec. 44, Ch. 262, L. 1993; amd. Sec. 11, Ch. 125, L. 1995; amd. Sec. 17, Ch. 350, L. 1995; amd. Sec. 6, Ch. 550, L. 1995; amd. Sec. 4, Ch. 52, L. 1999; amd. Sec. 5, Ch. 147, L. 1999; amd. Sec. 2, Ch. 22, Sp. L. August 2002; amd. Sec. 14, Ch. 483, L. 2007; amd. Sec. 29, Ch. 419, L. 2011; amd. Sec. 2, I.M. No. 182, approved Nov. 8, 2016; amd. Sec. 77, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-203. Revocation of suspended or deferred sentence

46-18-203. Revocation of suspended or deferred sentence. (1) Upon the filing of a petition for revocation showing probable cause that the offender has violated any condition of a sentence, any condition of a deferred imposition of sentence, or any condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, the judge may issue an order for a hearing on revocation. The order must require the offender to appear at a specified time and place for the hearing and be served by delivering a copy of the petition and order to the offender personally. The judge may also issue an

arrest warrant directing any peace officer or a probation and parole officer to arrest the offender and bring the offender before the court. (2) The petition for a revocation must be filed with the sentencing court either before the period of suspension or deferral has begun or during the period of suspension or deferral but not after the period has expired. Expiration of the period of suspension or deferral after the petition is filed does not deprive the court of its jurisdiction to rule on the petition. (3) The provisions pertaining to bail, as set forth in Title 46, chapter 9, are applicable to persons arrested pursuant to this section. (4) Without unnecessary delay and no more than 60 days after arrest, the offender must be brought before the judge, and at least 10 days prior to the hearing the offender must be advised of: (a) the allegations of the petition; (b) the opportunity to appear and to present evidence in the offender's own behalf; (c) the opportunity to question adverse witnesses; and (d) the right to be represented by counsel at the revocation hearing pursuant to Title 46, chapter 8, part 1. (5) A hearing is required before a suspended or deferred sentence can be revoked or the terms or conditions of the sentence can be modified unless: (a) the offender admits the allegations and waives the right to a hearing; or (b) the relief to be granted is favorable to the offender and the prosecutor, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected. An extension of the term of probation is not favorable to the offender for the purposes of this subsection (5)(b). (6) (a) At the hearing, the prosecution shall prove, by a preponderance of the evidence, that there has been a violation of: (i) the terms and conditions of the suspended or deferred sentence; or (ii) a condition of supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711. (b) However, when a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered. (7) (a) If the judge finds that the offender has violated the terms and conditions of the suspended or deferred sentence by committing either compliance violations or noncompliance violations, or both, the judge may: (i) continue the suspended or deferred sentence without a change in conditions; (ii) continue the suspended sentence with modified or additional terms and conditions, which may include placement in: (A) a secure facility designated by the department for up to 9 months; or (B) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program; (iii) revoke the suspension of sentence and require the offender to serve either the sentence imposed or any sentence that could have been imposed that does not include a longer imprisonment or commitment term than the original sentence; or (iv) if the sentence was deferred, impose any sentence that might have been originally imposed. (b) If a suspended or deferred sentence is revoked, the judge shall consider any elapsed time, consult the records and recollection of the probation and parole officer, and allow all of the elapsed time served without any record or recollection of violations as a credit against the sentence. If the judge determines that elapsed time should not be credited, the judge shall state the reasons for the determination in the order. Credit must be allowed for time served in a detention center or for home arrest time already served. (c) If the judge finds that the offender has not violated a term or condition of a suspended or deferred sentence, the judge is not prevented from setting, modifying, or adding conditions of probation as provided in 46-23-1011. (8) If the judge finds that the prosecution has not proved, by a preponderance of the evidence, that there has been a violation of the terms and conditions of the suspended or deferred sentence, the petition must be dismissed and the offender, if in custody, must be immediately released. (9) All sanction and placement decisions must be documented in the offender's file. (10) As used in this section: (a) "absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful; and (b) "compliance violation" means a violation of the conditions of supervision that is not: (i) a new criminal offense; (ii) possession of a firearm in violation of a condition of probation; (iii) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of the offense or a member of the victim's immediate family or support network; (iv) absconding; or (v) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders. (11) The provisions of this section apply to any offender whose suspended or deferred sentence is subject to revocation regardless of the date of the offender's conviction and regardless of the terms and conditions of the offender's original sentence. History: En. 95-2206 by Sec. 1, Ch. 196, L. 1967; rep. and re-en. by Sec. 31, Ch. 513, L. 1973; amd. Sec. 36, Ch. 184, L. 1977; amd. Sec. 1, Ch. 436, L. 1977; amd. Sec. 1, Ch. 580, L. 1977; amd. Sec. 12, Ch. 584, L. 1977; R.C.M. 1947, 95-2206(5); amd. Sec. 1, Ch. 328, L. 1981; amd. Sec. 1, Ch. 204, L. 1983; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 224, Ch. 800, L. 1991; amd. Sec. 45, Ch. 262, L. 1993; amd. Sec. 5, Ch. 52, L. 1999; amd. Sec. 2, Ch. 493, L. 2001; amd. Sec. 1, Ch. 345, L. 2003; amd. Sec. 1, Ch. 386, L. 2003; amd. Sec. 15, Ch. 483, L. 2007; amd. Sec. 1, Ch. 230, L. 2011; amd. Sec. 10, Ch. 374, L. 2013; amd. Sec. 19, Ch. 285, L. 2015; amd. Sec. 13, Ch. 390, L. 2017; amd. Sec. 1, Ch. 391, L. 2017; amd. Sec. 26, Ch. 167, L. 2023; amd. Sec. 1, Ch. 530, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-204. Dismissal after deferred imposition

46-18-204. Dismissal after deferred imposition. (1) Whenever the court has deferred the imposition of sentence and after termination of the time period during which imposition of sentence has been deferred or upon termination of the time remaining on a deferred sentence under 46-18-208: (a) for a felony conviction, the court shall strike the plea of guilty or nolo contendere or the verdict of guilty from the record and order that the charge or charges against the defendant be dismissed provided that a petition for revocation under 46-18-203 has not been filed; or (b) for a misdemeanor conviction, upon motion of the court, the defendant, or the defendant's attorney, the court may allow the defendant to withdraw a plea of guilty or nolo contendere or may strike the verdict of guilty from

the record and order that the charge or charges against the defendant be dismissed. (2) A copy of the order of dismissal must be sent to the prosecutor and the department of justice, accompanied by a form prepared by the department of justice and containing identifying information about the defendant. After the charge is dismissed, all records and data relating to the charge are confidential criminal justice information, as defined in 44-5-103, and public access to the information may be obtained only by district court order upon good cause shown. History: En. 95-2207 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2207; amd. Sec. 1, Ch. 147, L. 1987; amd. Sec. 1, Ch. 463, L. 1989; amd. Sec. 20, Ch. 395, L. 1999; amd. Sec. 2, Ch. 515, L. 2007; amd. Sec. 1, Ch. 273, L. 2015; amd. Sec. 25, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-205. Mandatory minimum sentences -- restrictions on deferral or suspension

46-18-205. Mandatory minimum sentences -- restrictions on deferral or suspension. (1) If the victim was less than 16 years of age, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under the following sections may not be deferred or suspended and the provisions of 46-18-222 do not apply to the first 30 days of the imprisonment: (a) 45-5-503, sexual intercourse without consent; (b) 45-5-504, indecent exposure; (c) 45-5-507, incest; or (d) 45-8-218, deviate sexual conduct. (2) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: (a) 45-5-103(4), mitigated deliberate homicide; (b) 45-5-202, aggravated assault; (c) 45-5-302(2), kidnapping; (d) 45-5-303(2), aggravated kidnapping; (e) 45-5-401(2), robbery; (f) 45-5-502(3) and (4), sexual assault; (g) 45-5-503(2) and (3), sexual intercourse without consent; and (h) 45-5-706, aggravated sex trafficking. (3) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102, deliberate homicide, may not be deferred or suspended. (4) The provisions of this section do not apply to sentences imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711. History: En. Sec. 3, Ch. 52, L. 1999; amd. Sec. 5, Ch. 312, L. 2001; amd. Sec. 16, Ch. 483, L. 2007; amd. Sec. 11, Ch. 374, L. 2013; amd. Sec. 20, Ch. 285, L. 2015; amd. Sec. 26, Ch. 321, L. 2017; amd. Sec. 27, Ch. 167, L. 2023; amd. Sec. 2, Ch. 205, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-206. Sexual offenders -- electronic monitoring as additional condition of sentence

46-18-206. Sexual offenders -- electronic monitoring as additional condition of sentence. Upon sentencing a person for conviction of a sexual offense under Title 45, chapter 5, part 5, who is designated as a level 3 offender under 46-23-509, the sentencing judge shall, as a condition of probation, parole, conditional release, or deferment or suspension of sentence, require the offender to participate in the program for the continuous satellite-based monitoring of sexual offenders established under 46-23-1010. History: En. Sec. 1, Ch. 360, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-207. Sexual offender treatment

46-18-207. Sexual offender treatment. (1) Upon sentencing a person convicted of a sexual offense, as defined in 46-23-502, the court shall designate the offender as a level 1, 2, or 3 offender pursuant to 46-23-509. (2) (a) Except as provided in subsection (2)(b), the court shall order an offender convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, and sentenced to imprisonment in a state prison to: (i) enroll in and successfully complete the educational phase of the prison's sexual offender treatment program; (ii) if the person has been or will be designated as a level 3 offender pursuant to 46-23-509, enroll in and successfully complete the cognitive and behavioral phase of the prison's sexual offender treatment program; and (iii) if the person is sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711 and is released on parole, remain in an outpatient sexual offender treatment program for the remainder of the person's life. (b) A person who has been sentenced to life imprisonment without possibility of release may not participate in treatment provided pursuant to this section. (3) A person who has been ordered to enroll in and successfully complete a phase of a state prison's sexual offender treatment program is not eligible for parole unless that phase of the program has been successfully completed as certified by a sexual offender evaluator to the board of pardons and parole. (4) (a) Except for an offender sentenced pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, during an offender's term of commitment to the department of corrections or a state prison, the department may place the person in a residential sexual offender treatment program approved by the department under 53-1-203. (b) If the person successfully completes a residential sexual offender treatment program approved by the department of corrections, the remainder of the term must be served on probation unless the department petitions the sentencing court to amend the original sentencing judgment. (5) If, following a conviction for a sexual offense as defined in 46-23-502, any portion of a person's sentence is suspended, during the suspended portion of the sentence the person: (a) shall abide by the standard conditions of probation established by the department of corrections; (b) shall pay the costs of imprisonment, probation, and any sexual offender treatment if the person is financially able to pay those costs; (c) may have no contact with the victim or the victim's immediate family unless approved by the victim or the victim's parent or guardian, the person's therapists, and the person's probation officer; (d) shall comply with all requirements and conditions of sexual offender treatment as directed by the person's sex offender therapist; (e) may not enter an establishment where alcoholic beverages are sold for consumption on the premises or where gambling takes place; (f) may not consume alcoholic beverages; (g) shall enter and remain in an aftercare program as directed by the person's probation officer; (h) shall submit to random or routine drug and alcohol testing; (i) may not possess pornographic material or access pornography through

the internet; and (j) at the discretion of the probation and parole officer, may be subject to electronic monitoring or continuous satellite monitoring. (6) The sentencing of a sexual offender is subject to 46-18-202(2) and 46-18-219. (7) The sentencing court may, upon petition by the department of corrections, modify a sentence of a sexual offender to impose any part of a sentence that was previously suspended. History: En. Sec. 27, Ch. 483, L. 2007; amd. Sec. 1, Ch. 39, L. 2009; amd. Sec. 12, Ch. 374, L. 2013; amd. Sec. 21, Ch. 285, L. 2015; amd. Sec. 11, Ch. 308, L. 2019; amd. Sec. 28, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-208. Termination of remaining portion of deferred or suspended sentence -- motion

46-18-208. Termination of remaining portion of deferred or suspended sentence -- motion. (1) When imposition of a sentence has been deferred or execution of a sentence has been suspended, the prosecutor, the defendant, or the defendant's attorney may file a motion to terminate the time remaining on the sentence if: (a) in the case of a deferred imposition of sentence, the defendant has served 2 years or one-half of the sentence, whichever is less, and has demonstrated compliance with supervision requirements; or (b) in the case of a suspended sentence: (i) the defendant has served 3 years or two-thirds of the time suspended, whichever is less; and (ii) the defendant has been granted a conditional discharge from supervision under 46-23-1011 and has demonstrated compliance with the conditional discharge for a minimum of 12 months. (2) The motion must set forth the following: (a) why the defendant meets the time limitations provided in subsection (1); and (b) how the defendant has demonstrated compliance with supervision requirements. (3) The motion must be served on the county attorney serving in the county of the presiding district court. The movant does not need to file an accompanying brief as otherwise required by Rule 2 of the Montana Uniform District Court Rules. (4) The department of corrections shall make reasonable efforts to notify the victim if required by 46-24-212, and the county attorney shall make reasonable efforts to notify the victim. The victim must be provided the following information: (a) a copy of the motion; (b) written notice that: (i) the victim may provide written input regarding the motion or may ask the county attorney to state the victim's position on the motion; (ii) if a hearing is set, the date, time, and place of the hearing; and (iii) the victim may appear and testify at any hearing held on the motion. (5) The court may hold a hearing on its own motion and may consider a hearing request from the county attorney or defendant. (6) If the court requires a hearing on the motion, the court may grant the motion if it finds that: (a) termination of the remainder of the sentence is in the best interests of the defendant and society; (b) termination of the remainder of the sentence will not present an unreasonable risk of danger to the victim of the offense; and (c) the defendant has paid all restitution and court-ordered financial obligations in full. History: En. Sec. 1, Ch. 515, L. 2007; amd. Sec. 2, Ch. 391, L. 2017; amd. Sec. 1, Ch. 380, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-209. and 46-18-210 reserved

46-18-209 and 46-18-210 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-211. When no place of imprisonment is specified

46-18-211. When no place of imprisonment is specified. When a statute authorizes imprisonment for its violation but does not prescribe the place of imprisonment, a sentence not to exceed 1 year shall be to the county jail. History: En. 95-2206.2 by Sec. 31, Ch. 513, L. 1973; R.C.M. 1947, 95-2206.2.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-212. When no penalty is specified

46-18-212. When no penalty is specified. The court, in imposing sentence upon an offender convicted of an offense for which no penalty is otherwise provided or if the offense is designated a misdemeanor and no penalty is otherwise provided, may sentence the offender to a term of imprisonment not to exceed 6 months in the county jail or a fine not to exceed \$500, or both. History: En. 95-2206.3 by Sec. 31, Ch. 513, L. 1973; R.C.M. 1947, 95-2206.3(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-213. When no penalty is specified -- felony

46-18-213. When no penalty is specified -- felony. The court, in imposing sentence upon an offender convicted of an offense which is designated as a felony and no penalty is otherwise provided, may sentence the offender for any term not to exceed 10 years in the state prison or may fine the offender in an amount not to exceed \$50,000 or may impose both such fine and imprisonment. History: En. 95-2206.4 by Sec. 31, Ch. 513, L. 1973; R.C.M. 1947, 95-2206.4; amd. Sec. 7, Ch. 198, L. 1981.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-214. through 46-18-218 reserved

46-18-214 through 46-18-218 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of

Sentence 46-18-219. Life sentence without possibility of release

46-18-219. Life sentence without possibility of release. (1) (a) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of one of the following offenses or of an offense under the laws of another state or of the United States that, if committed in this state, would be one of the following offenses, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed: (i) 45-5-102, deliberate homicide; (ii) 45-5-303, aggravated kidnapping; (iii) 45-5-625, sexual abuse of children; (iv) 45-5-627, except subsection (1)(b), ritual abuse of a minor; or (v) 45-5-508, aggravated sexual intercourse without consent. (b) Except as provided in subsection (3), if an offender convicted of one of the following offenses was previously convicted of two of the following offenses, two of any combination of the offenses listed in subsection (1)(a) or the following offenses, or two of any offenses under the laws of another state or of the United States that, if committed in this state, would be one of the offenses listed in subsection (1)(a) or this subsection, the offender must be sentenced to life in prison, unless the death penalty is applicable and imposed: (i) 45-5-103, mitigated deliberate homicide; (ii) 45-5-202, aggravated assault; (iii) 45-5-215, strangulation of a partner or family member; (iv) 45-5-302, kidnapping; (v) 45-5-401, robbery; or (vi) 45-5-711, child sex trafficking. (2) Except as provided in 46-23-210 and subsection (3) of this section, an offender sentenced under subsection (1): (a) shall serve the entire sentence; (b) shall serve the sentence in prison; (c) may not for any reason, except a medical reason, be transferred for any length of time to another type of institution, facility, or program; (d) may not be paroled; and (e) may not be given time off for good behavior or otherwise be given an early release for any reason. (3) If the offender was previously sentenced for either of two or three offenses listed in subsection (1), pursuant to any of the exceptions listed in 46-18-222, then the provisions of subsections (1) and (2) of this section do not apply to the offender's present sentence. (4) The imposition or execution of the sentences prescribed by this section may not be deferred or suspended. In the event of a conflict between this section and any provision of 46-18-201 or 46-18-205, this section prevails. (5) (a) For purposes of this section, "prison" means a secure detention facility in which inmates are locked up 24 hours a day and that is operated by this state, another state, the federal government, or a private contractor. (b) Prison does not include a work release center, prerelease center, boot camp, or any other type of facility that does not provide secure detention. History: En. Sec. 1, Ch. 482, L. 1995; amd. Sec. 20, Ch. 482, L. 1995; amd. Sec. 6, Ch. 52, L. 1999; amd. Sec. 17, Ch. 432, L. 1999; amd. Sec. 6, Ch. 312, L. 2001; amd. Sec. 4, Ch. 279, L. 2017; amd. Sec. 13, Ch. 394, L. 2017; amd. Sec. 12, Ch. 308, L. 2019; amd. Sec. 29, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-220. Sentences for certain offenses committed in official detention -- death penalty

46-18-220. Sentences for certain offenses committed in official detention -- death penalty. An offender convicted of having committed attempted deliberate homicide, aggravated assault, or aggravated kidnapping while in official detention, as defined in 45-2-101, shall, if the provisions of 46-1-401 have been complied with, be sentenced to death or life imprisonment as provided in 46-18-301 through 46-18-310. History: En. Sec. 1, Ch. 696, L. 1985; amd. Sec. 7, Ch. 52, L. 1999; amd. Sec. 1, Ch. 126, L. 1999; amd. Sec. 4, Ch. 491, L. 1999; amd. Sec. 4, Ch. 524, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-221. Additional sentence for offenses committed with dangerous weapon

46-18-221. Additional sentence for offenses committed with dangerous weapon. (1) If the provisions of 46-1-401 have been complied with, a person who has been found guilty of any offense, other than an offense in which the use of a weapon is an element of the offense, and who, while engaged in the commission of the offense, knowingly displayed, brandished, or otherwise used a firearm, destructive device, as defined in 45-8-332(1), or other dangerous weapon shall, in addition to the punishment provided for the commission of the underlying offense, be sentenced to a term of imprisonment in the state prison of not less than 2 years or more than 10 years, except as provided in 46-18-222. (2) If the provisions of 46-1-401 have been complied with, a person convicted of a second or subsequent offense under this section shall, in addition to the punishment provided for the commission of the present offense, be sentenced to a term of imprisonment in the state prison of not less than 4 years or more than 20 years, except as provided in 46-18-222. For the purposes of this subsection, the following persons must be considered to have been convicted of a previous offense under this section: (a) a person who has previously been convicted of an offense, committed on a different occasion than the present offense, under 18 U.S.C. 924(c); and (b) a person who has previously been convicted of an offense in this or another state, committed on a different occasion than the present offense, during the commission of which the person knowingly displayed, brandished, or otherwise used a firearm, destructive device, as defined in 45-8-332(1), or other dangerous weapon. (3) The imposition or execution of the minimum sentences prescribed by this section may not be deferred or suspended, except as provided in 46-18-222. (4) An additional sentence prescribed by this section must run consecutively to the sentence provided for the offense. History: En. 95-2206.17 by Sec. 13, Ch. 584, L. 1977; R.C.M. 1947, 95-2206.17; amd. Sec. 1, Ch. 108, L. 1981; amd. Sec. 1, Ch. 16, L. 2001; amd. Sec. 5, Ch. 524, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-222. Exceptions to mandatory minimum sentences, restrictions on deferred imposition and suspended execution of sentence, and restrictions on parole eligibility

46-18-222. Exceptions to mandatory minimum sentences, restrictions on deferred imposition and suspended execution of sentence,

and restrictions on parole eligibility. Mandatory minimum sentences prescribed by the laws of this state, mandatory life sentences prescribed by 46-18-219, the restrictions on deferred imposition and suspended execution of sentence prescribed by 45-9-101(6), 45-9-103(3), 46-18-201(1)(b), 46-18-205, 46-18-221(3), 46-18-224, and 46-18-502(3), and restrictions on parole eligibility prescribed by 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), 45-5-711, 45-9-101(6), and 45-9-103(3) do not apply if: (1) the offender was less than 18 years of age at the time of the commission of the offense for which the offender is to be sentenced; (2) the offender's mental capacity, at the time of the commission of the offense for which the offender is to be sentenced, was significantly impaired, although not so impaired as to constitute a defense to the prosecution. However, a voluntarily induced intoxicated or drugged condition may not be considered an impairment for the purposes of this subsection. (3) the offender, at the time of the commission of the offense for which the offender is to be sentenced, was acting under unusual and substantial duress, although not such duress as would constitute a defense to the prosecution; (4) the offender was an accomplice, the conduct constituting the offense was principally the conduct of another, and the offender's participation was relatively minor; (5) except for offenses committed under 45-5-706 and 45-5-711, in a case in which the threat of bodily injury or actual infliction of bodily injury is an actual element of the crime, no serious bodily injury was inflicted on the victim unless a weapon was used in the commission of the offense; or (6) the offense was committed under 45-5-502(3), 45-5-508, or 45-5-601(3) and the judge determines, based on the findings contained in a psychosexual evaluation report prepared by a qualified sexual offender evaluator pursuant to the provisions of 46-23-509, that treatment of the offender while incarcerated, while in a residential treatment facility, or while in a local community affords a better opportunity for rehabilitation of the offender and for the ultimate protection of the victim and society, in which case the judge shall include in its judgment a statement of the reasons for its determination. History: En. 95-2206.18 by Sec. 14, Ch. 584, L. 1977; R.C.M. 1947, 95-2206.18; amd. Sec. 3, Ch. 322, L. 1979; amd. Sec. 1, Ch. 396, L. 1979; amd. Sec. 2, Ch. 207, L. 1981; amd. Sec. 2, Ch. 327, L. 1981; amd. Sec. 2, Ch. 392, L. 1983; amd. Sec. 1, Ch. 532, L. 1983; amd. Sec. 105, Ch. 370, L. 1987; amd. Sec. 3, Ch. 564, L. 1991; amd. Sec. 46, Ch. 262, L. 1993; amd. Sec. 12, Ch. 125, L. 1995; amd. Sec. 14, Ch. 482, L. 1995; amd. Sec. 8, Ch. 52, L. 1999; amd. Sec. 17, Ch. 483, L. 2007; amd. Sec. 1, Ch. 30, L. 2013; amd. Sec. 13, Ch. 374, L. 2013; amd. Sec. 2, Ch. 110, L. 2015; amd. Sec. 22, Ch. 285, L. 2015; amd. Sec. 5, Ch. 279, L. 2017; amd. Sec. 27, Ch. 321, L. 2017; amd. Sec. 30, Ch. 167, L. 2023; amd. Sec. 3, Ch. 543, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-223. Hearing to determine application of exceptions

46-18-223. Hearing to determine application of exceptions. (1) When the application of an exception provided for in 46-18-222 is an issue, the court shall grant the defendant a hearing prior to the imposition of sentence to determine the applicability of the exception. (2) The hearing shall be held before the court sitting without a jury. The defendant and the prosecution are entitled to assistance of counsel, compulsory process, and cross-examination of witnesses who appear at the hearing. (3) If it appears by a preponderance of the information, including information submitted during the trial, during the sentencing hearing, and in so much of the presentence report as the court relies on, that none of the exceptions at issue apply, the court shall impose the appropriate mandatory sentence. The court shall state the reasons for its decision in writing and shall include an identification of the facts relied upon in making its determination. The statement shall be included in the judgment. History: En. 95-2206.19 by Sec. 15, Ch. 584, L. 1977; R.C.M. 1947, 95-2206.19.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-224. Additional sentence for offense committed while carrying a handgun loaded with armor-piercing ammunition

46-18-224. Additional sentence for offense committed while carrying a handgun loaded with armor-piercing ammunition. (1) If the provisions of 46-1-401 have been complied with, a person who has been found guilty of an offense in which bodily injury occurred or was attempted or threatened and who knowingly used or carried a handgun loaded with armor-piercing ammunition during the commission of the offense must, in addition to the sentence for the offense, be sentenced to a term of imprisonment in the state prison of not less than 5 years or more than 25 years, except as provided in 46-18-222. (2) An additional sentence prescribed by this section must run consecutively to the sentence provided for the offense, and except as provided in 46-18-222, the sentence may not be suspended and imposition of it may not be deferred. (3) For purposes of this section: (a) "armor-piercing ammunition" means ammunition which, if fired from a handgun under the test procedure of the national institute of law enforcement and criminal justice standard for the ballistics resistance of police body armor promulgated December 1978, is capable of penetrating bullet-resistant apparel or body armor meeting the requirements of Type IIA of Standard NILECJ-STD-0101.01 as formulated by the United States department of justice and published in December 1978; and (b) "handgun" means any firearm, including a pistol or revolver, originally designed to be fired by the use of a single hand. History: En. Sec. 1, Ch. 392, L. 1983; amd. Sec. 6, Ch. 524, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-225. Sentencing of nonviolent felony offenders -- criteria -- alternatives to be considered -- court to state reasons for imprisonment

46-18-225. Sentencing of nonviolent felony offenders -- criteria -- alternatives to be considered -- court to state reasons for imprisonment. (1) In sentencing a nonviolent felony offender, the sentencing judge shall first consider alternatives to imprisonment of the offender in a state prison, including placement of the offender in a community corrections facility or program, a prerelease

center, a prerelease program, or a day reporting program provided for in 53-1-203. In considering alternatives to imprisonment, the sentencing judge shall examine the sentencing criteria contained in subsection (2). (2) Prior to sentencing a nonviolent felony offender to whom 46-18-219 does not apply to a term of imprisonment in a state prison, the sentencing judge shall take into account whether: (a) the interests of justice and the needs of public safety truly require the level of security provided by imprisonment of the offender in a state prison; (b) the needs of the offender can be better served in the community or in a facility or program other than a state prison; (c) there are substantial grounds tending to excuse or justify the offense, though failing to establish a defense; (d) the offender acted under strong provocation; (e) the offender has made restitution or will make restitution to the victim of the offender's criminal conduct; (f) the offender has no prior history of conviction for a criminal act or, if the offender has a prior history of conviction for a criminal act, the offender has led a law-abiding life for a substantial period of time before the commission of the present crime; (g) the offender's criminal conduct was the result of circumstances that are unlikely to recur; (h) the character and attitude of the offender indicate that the offender is likely to commit another crime; (i) the offender is likely to respond quickly to correctional or rehabilitative treatment; and (j) imprisonment of the offender would create an excessive hardship on the offender or the offender's family. (3) If the judge sentences the offender to a state prison, the judge shall state the reasons why the judge did not select an alternative to imprisonment, based on the criteria contained in subsection (2). History: En. Sec. 4, Ch. 794, L. 1991; amd. Sec. 66, Ch. 10, L. 1993; amd. Sec. 15, Ch. 482, L. 1995; amd. Sec. 215, Ch. 546, L. 1995; amd. Sec. 7, Ch. 189, L. 1997; amd. Sec. 9, Ch. 52, L. 1999; amd. Sec. 3, Ch. 517, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-226. Additional sentence for forcible felony against pregnant woman

46-18-226. Additional sentence for forcible felony against pregnant woman. (1) An offender who is convicted of committing a forcible felony, as defined in 45-2-101, against a pregnant woman and who, at the time of the offense, knew or should have known that the woman was pregnant shall, in addition to the punishment provided for commission of the offense, be sentenced to a term of imprisonment in a state prison of not less than 2 years or more than 20 years, except as provided in 46-18-222. (2) An additional sentence imposed pursuant to this section must be imposed pursuant to the requirements of 46-1-401 and must run consecutively to the sentence imposed for the offense, except as provided in 46-18-222. History: En. Sec. 1, Ch. 159, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-227. through 46-18-229 reserved

46-18-227 through 46-18-229 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-230. Legislative findings -- cost of criminal proceedings

46-18-230. Legislative findings -- cost of criminal proceedings. With respect to the cost of criminal proceedings, the legislature finds that: (1) the vast majority of the cost of the criminal proceedings in the state is borne by the general taxpaying public; (2) it is in the state's best interest to attempt to recover as much as possible of the cost of criminal proceedings from individuals who have been convicted of violating state laws; (3) various courts in the state of Montana have recently held that certain reasonable fees imposed upon defendants in criminal proceedings in the state, such as fees for general cost of prosecution, pretrial supervision, and community service supervision, were unlawful because there was no specific statutory authorization for the imposition of the costs on the defendant; and (4) the costs of prosecution and supervision of criminal defendants is a shared responsibility of the state and the counties. History: En. Sec. 1, Ch. 180, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-231. Fines in felony and misdemeanor cases

46-18-231. Fines in felony and misdemeanor cases. (1) (a) Except as provided in subsection (1)(b), whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a felony penalty of imprisonment could be imposed, the sentencing judge may, in lieu of or in addition to a sentence of imprisonment, impose a fine only in accordance with subsection (3). (b) For those crimes for which penalties are provided in the following sections, a fine may be imposed in accordance with subsection (3) in addition to a sentence of imprisonment: (i) 45-5-103(4), mitigated deliberate homicide; (ii) 45-5-202, aggravated assault; (iii) 45-5-213, assault with a weapon; (iv) 45-5-302(2), kidnapping; (v) 45-5-303(2), aggravated kidnapping; (vi) 45-5-401(2), robbery; (vii) 45-5-502(3), sexual assault when the victim is less than 16 years old and the offender is 3 or more years older than the victim or the offender inflicts bodily injury in the course of committing the sexual assault; (viii) 45-5-502(4), sexual assault when the victim is a client receiving psychotherapy services and the offender is providing or purporting to provide psychotherapy services to the victim; (ix) 45-5-503(2) through (5), sexual intercourse without consent; (x) 45-5-507(5), incest when the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense; (xi) 45-5-508, aggravated sexual intercourse without consent; (xii) 45-5-601(3), prostitution when the person patronized or engaging in prostitution was a child and the offender was 18 years of age or older at the time of the offense; (xiii) 45-5-625(4), sexual abuse of children; (xiv) 45-5-702, 45-5-703, 45-5-705, 45-5-706, or 45-5-711, sex trafficking, labor trafficking, patronizing a victim of sex trafficking, aggravated sex trafficking, or child sex trafficking; (xv) 45-9-101(3), criminal possession with intent to

distribute a dangerous drug; and (xvi) 45-9-109, criminal possession with intent to distribute dangerous drugs on or near school property. (2) Whenever, upon a verdict of guilty or a plea of guilty or nolo contendere, an offender has been found guilty of an offense for which a misdemeanor penalty of a fine could be imposed, the sentencing judge may impose a fine only in accordance with subsection (3). (3) The sentencing judge may not sentence an offender to pay a fine unless the offender is or will be able to pay the fine and interest. In determining the amount and method of payment, the sentencing judge shall take into account the nature of the crime committed, the financial resources of the offender, and the nature of the burden that payment of the fine and interest will impose. (4) Except as provided in subsection (5), a fine levied under this section in a felony case shall be in an amount fixed by the sentencing judge not to exceed \$50,000. (5) If an offender is out of compliance with court-mandated payments for 6 months or more, interest must accrue on a fine levied under this section at a rate of 3%. The interest may not compound. Interest only begins to accrue when the judgment is placed for collection with a private person or entity as provided in 3-10-601, 25-30-102, or 46-17-303. History: En. Sec. 1, Ch. 198, L. 1981; amd. Sec. 106, Ch. 370, L. 1987; amd. Sec. 8, Ch. 610, L. 1987; amd. Sec. 3, Ch. 575, L. 1989; amd. Sec. 3, Ch. 42, L. 1991; amd. Sec. 2, Ch. 519, L. 1991; amd. Sec. 10, Ch. 52, L. 1999; amd. Sec. 21, Ch. 395, L. 1999; amd. Sec. 18, Ch. 432, L. 1999; amd. Sec. 18, Ch. 483, L. 2007; amd. Sec. 14, Ch. 374, L. 2013; amd. Sec. 23, Ch. 285, L. 2015; amd. Sec. 2, Ch. 277, L. 2017; amd. Sec. 28, Ch. 321, L. 2017; amd. Sec. 13, Ch. 308, L. 2019; amd. Sec. 48, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 31, Ch. 167, L. 2023; amd. Sec. 3, Ch. 205, L. 2023; amd. Sec. 2, Ch. 509, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-232. Payment of costs by defendant

46-18-232. Payment of costs by defendant. (1) A court may require a convicted defendant in a felony or misdemeanor case to pay costs, as defined in 25-10-201, plus costs of jury service, costs of prosecution, and the cost of pretrial, probation, or community service supervision as a part of the defendant's sentence. The costs, in addition to those allowable under 25-10-201, must be limited to expenses specifically incurred by the prosecution or other agency in connection with the proceedings against the defendant or \$100 per felony case or \$50 per misdemeanor case, whichever is greater. (2) The court may not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take into account the financial resources of the defendant, the future ability of the defendant to pay costs, and the nature of the burden that payment of costs will impose. (3) A defendant who has been sentenced to pay costs and who is not in default in the payment may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs or modify the method of payment. History: En. Sec. 2, Ch. 198, L. 1981; amd. Sec. 1754, Ch. 56, L. 2009; amd. Sec. 2, Ch. 180, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-233. Fine or costs as condition on suspended or deferred sentence

46-18-233. Fine or costs as condition on suspended or deferred sentence. (1) Whenever a defendant is sentenced to pay a fine or costs under 46-18-231 or 46-18-232 and the imposition or execution of the rest of the defendant's sentence is deferred or suspended, the court may make payment of the fine or costs a condition for probation. (2) A suspended or deferred sentence may not be revoked if the defendant defaults on the payment of the fine and the default is not attributable to an intentional refusal to obey the order of the court or a failure to make a good faith effort to make the payment. History: En. Sec. 3, Ch. 198, L. 1981; amd. Sec. 1755, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-234. When payment of fine or costs due

46-18-234. When payment of fine or costs due. Whenever a defendant is sentenced to pay a fine or costs under 46-18-231 or 46-18-232, the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the sentence, the payment is due immediately. History: En. Sec. 4, Ch. 198, L. 1981.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-235. Disposition of money collected as fines and costs

46-18-235. Disposition of money collected as fines and costs. Except as provided in 61-8-726, the money collected by a court as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 must be paid: (1) by the clerk of district court to: (a) the department of revenue for deposit into the state general fund; or (b) if the fine was imposed for a violation of Title 45, chapter 9 or 10, and at the court's discretion, the drug forfeiture account maintained under 44-12-213 for the law enforcement agency that made the arrest from which the conviction and fine arose; and (2) by a justice's court pursuant to 3-10-601. History: En. Sec. 5, Ch. 198, L. 1981; amd. Sec. 6, Ch. 180, L. 1983; amd. Sec. 16, Ch. 680, L. 1985; amd. Sec. 10, Ch. 1, Sp. L. 1985; amd. Sec. 1, Ch. 553, L. 1987; amd. Sec. 30, Ch. 557, L. 1987; amd. Sec. 59, Ch. 83, L. 1989; amd. Sec. 2, Ch. 296, L. 1991; amd. Sec. 9, Ch. 704, L. 1991; amd. Sec. 51, Ch. 509, L. 1995; amd. Sec. 216, Ch. 546, L. 1995; amd. Sec. 47, Ch. 257, L. 2001; amd. Sec. 46, Ch. 585, L. 2001; amd. Sec. 4, Ch. 232, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of

Sentence 46-18-236. Imposition of charge upon conviction or forfeiture -- administration

46-18-236. (Temporary) Imposition of charge upon conviction or forfeiture -- administration. (1) Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows: (a) \$15 for each misdemeanor charge; (b) the greater of \$20 or 10% of the fine levied for each felony charge; and (c) an additional \$50 for each misdemeanor and felony charge under Title 45 or 61-8-1002. (2) If a convicting court determines under 46-18-231 and 46-18-232 that the person is not able to pay the fine and costs or that the person is unable to pay within a reasonable time, the court shall waive payment of the charge imposed by this section. (3) The charges imposed by this section are not fines and must be imposed in addition to any fine and may not be used in determining the jurisdiction of any court. (4) When the payment of a fine is to be made in installments over a period of time, the charges imposed by this section must be collected from the first payment made and each subsequent payment as necessary if the first payment is not sufficient to cover the charges. (5) The charges collected under subsection (1), except those collected under subsections (1)(a) and (1)(b) by a justice's court, must be deposited with the appropriate local government finance officer or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court or justice's court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the county finance officer or treasurer. If the court of original jurisdiction is a court within a consolidated city-county government within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be deposited with the finance officer or treasurer of the consolidated government. (6) (a) A city or town finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for the payment of salaries of the city or town attorney and deputies. (b) Each county finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed within that county. The county finance officer or treasurer shall use the money for the payment of salaries of its deputy county attorneys and for the payment of other salaries in the office of the county attorney, and any funds not needed for those salaries may be used for the payment of any other county salaries. (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or treasurer may retain the charges collected under subsection (1)(c) for payment of the expenses of a victim and witness advocate program, including a program operated by a private, nonprofit organization, that provides the services specified in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or used by the county, city, or town. (b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each charge collected under subsection (1)(c) in the collecting court's fund for mitigation of administrative costs incurred by the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to allocation under 46-18-251. (c) Except as provided in subsection (7)(b), if the county, city, or town does not operate or use a victim and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113. (Terminates June 30, 2027--secs. 1, 2, 3, Ch. 139, L. 2021.) 46-18-236. (Effective July 1, 2027) Imposition of charge upon conviction or forfeiture -- administration. (1) Except as provided in subsection (2), there must be imposed by all courts of original jurisdiction on a person upon conviction for any conduct made criminal by state statute or upon forfeiture of bond or bail a charge that is in addition to other taxable court costs, fees, or fines, as follows: (a) \$15 for each misdemeanor charge; (b) the greater of \$20 or 10% of the fine levied for each felony charge; and (c) an additional \$50 for each misdemeanor and felony charge under Title 45 or 61-8-1002. (2) If a convicting court determines under 46-18-231 and 46-18-232 that the person is not able to pay the fine and costs or that the person is unable to pay within a reasonable time, the court shall waive payment of the charge imposed by this section. (3) The charges imposed by this section are not fines and must be imposed in addition to any fine and may not be used in determining the jurisdiction of any court. (4) When the payment of a fine is to be made in installments over a period of time, the charges imposed by this section must be collected from the first payment made and each subsequent payment as necessary if the first payment is not sufficient to cover the charges. (5) The charges collected under subsection (1), except those collected under subsections (1)(a) and (1)(b) by a justice's court, must be deposited with the appropriate local government finance officer or treasurer. If a city municipal court or city or town court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the city or town finance officer or treasurer. If a district court or justice's court is the court of original jurisdiction, the charges collected under subsection (1) must be deposited with the county finance officer or treasurer. If the court of original jurisdiction is a court within a consolidated city-county government within the meaning of Title 7, chapter 3, the charges collected under subsection (1) must be deposited with the finance officer or treasurer of the consolidated government. (6) (a) A city or town finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by a city municipal court or a city or town court and may use that money for the payment of salaries of the city or town attorney and deputies. (b) Each county finance officer or treasurer may retain the charges collected under subsections (1)(a) and (1)(b) by district courts for crimes committed or alleged to have been committed within that county. The county finance officer or treasurer shall use the money for the payment of salaries of its deputy county attorneys and for the payment of other salaries in the office of the county attorney, and any funds not needed for those salaries may be used for the payment of any other county salaries. (7) (a) Except as provided in subsection (7)(b), each county, city, or town finance officer or treasurer may retain the charges collected under subsection (1)(c) for payment of the expenses of a victim and witness advocate program, including a program operated by a private, nonprofit organization, that provides the services specified in Title 40, chapter 15, and Title 46, chapter 24, and that is operated or used by the county, city, or town. (b) The appropriate county, city, or town finance officer or treasurer shall deposit \$1 of each charge collected under subsection (1)(c) in the

collecting court's fund for mitigation of administrative costs incurred by the court in the collection of the charge. The funds deposited under this subsection (7)(b) are not subject to allocation under 46-18-251. (c) Except as provided in subsection (7)(b), if the county, city, or town does not operate or use a victim and witness advocate program, all charges collected under subsection (1)(c) must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund to be used to provide services to crime victims as provided in Title 53, chapter 9, part 1. History: En. Sec. 1, Ch. 719, L. 1985; amd. Sec. 3, Ch. 17, Sp. L. June 1986; amd. Sec. 31, Ch. 557, L. 1987; amd. Sec. 4, Ch. 667, L. 1991; amd. Sec. 1, Ch. 398, L. 1999; amd. Sec. 2, Ch. 411, L. 1999; amd. Sec. 2, Ch. 118, L. 2001; amd. Sec. 4, Ch. 449, L. 2001; amd. Sec. 1, Ch. 361, L. 2005; amd. Sec. 3, Ch. 374, L. 2009; amd. Sec. 5, Ch. 153, L. 2013; amd. Sec. 26, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-237. Garnishment -- report by supervising authority

46-18-237. Garnishment -- report by supervising authority. (1) If the department of corrections becomes aware that a person while incarcerated under the legal custody of the department of corrections or a person supervised by the department is entitled to receive money from any source, the person's supervising authority may prepare a report identifying: (a) the total costs incurred by the state or county during the person's incarceration; (b) the criminal sentences imposed upon the person, including: (i) the amount of restitution, if any, ordered in each sentence; (ii) the name and current address of each victim or other person to whom restitution is owed; (iii) the amount of restitution paid by the person; and (iv) the amount of restitution currently owed by the person for each sentence; (c) the amount of any child support owed by the person. (2) The supervising authority shall provide notice and a copy of the report to the office of victims services in the department of justice and the county attorney for the county in which the person was sentenced, either of whom may submit the report along with a petition for garnishment to the court that sentenced the person. The court may order garnishment of the person's money for the payment of restitution, child support, and per diem costs of incarceration owed by the person. Upon receipt of the petition, the court shall provide a copy of the report to the person, who has 15 days following receipt to file an objection. The court may hold a hearing to consider objections raised by the person. (3) Upon compliance with the provisions of subsections (1) and (2), the court shall determine the amount of restitution, child support, and repayment for per diem costs owed by the person. The court shall order, up to the amount of money available, payment of an amount equal to the restitution owed by the person to the person designated under 46-18-245 to supervise the making of restitution payments, any outstanding child support payments to the department of public health and human services for disbursement to the obligee, and per diem costs owed by the person. All restitution owed by the person must be paid prior to payment of any child support payments. All child support owed by the person must be paid prior to the payment of any per diem costs. History: En. Sec. 2, Ch. 475, L. 1997; amd. Sec. 2, Ch. 272, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-238. through 46-18-240 reserved

46-18-238 through 46-18-240 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-241. Condition of restitution -- interest

46-18-241. (Temporary) Condition of restitution -- interest. (1) As provided in 46-18-201, a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained pecuniary loss, including a person suffering an economic loss. Full restitution includes the interest required by subsection (4). The duty to pay full restitution under the sentence remains with the offender or the offender's estate until full restitution is paid, whether or not the offender is under state supervision. If the offender is under state supervision, payment of restitution is a condition of any probation or parole. (2) (a) The offender shall pay the cost of supervising the payment of restitution, as provided in 46-18-245, by paying an amount equal to 10% of the amount of restitution ordered, but not less than \$5. (b) A felony offender shall pay the restitution and cost of supervising the payment of restitution to the department of corrections until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The department shall pay the restitution to the person or entity to whom the court ordered restitution to be paid, except that if a victim has been compensated under Title 53, chapter 9, part 1, the restitution must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113. The department may contract with a government agency or private entity for the collection of the payments for restitution and the cost of collecting the payments for restitution during the period following state supervision or state custody of the offender. The department shall adopt rules to implement this subsection (2)(b). (c) In a misdemeanor case, payment of restitution and of the cost of supervising the payment of restitution must be made to the court until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The court shall disburse the money to the entity employing the person ordered to supervise restitution under 46-18-245, which shall disburse the restitution to the person or entity to whom the court ordered restitution to be paid, except that if a victim has been compensated under Title 53, chapter 9, part 1, the restitution must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113. (3) If at any time the court finds that, because of circumstances beyond the offender's control, the offender is not able to pay any restitution, the court may order the offender to perform community service during the time that the offender is unable to pay. The offender must be given a credit against restitution due at the rate of the hours of community service times the state minimum wage in effect at the

time that the community service is performed. (4) If an offender is out of compliance with court-mandated payments for 6 months or more, interest must accrue on restitution ordered under this section at a rate of 3%. The interest may not compound. Interest only begins to accrue when the judgment is placed for collection with a private person or entity as provided in 3-10-601, 25-30-102, or 46-17-303. (Terminates June 30, 2027--secs. 1, 2, 3, Ch. 139, L. 2021.) 46-18-241. (Effective July 1, 2027) Condition of restitution -- interest.(1) As provided in 46-18-201, a sentencing court shall, as part of the sentence, require an offender to make full restitution to any victim who has sustained a pecuniary loss, including a person suffering an economic loss. Full restitution includes the interest required by subsection (4). The duty to pay full restitution under the sentence remains with the offender or the offender's estate until full restitution is paid, whether or not the offender is under state supervision. If the offender is under state supervision, payment of restitution is a condition of any probation or parole. (2) (a) The offender shall pay the cost of supervising the payment of restitution, as provided in 46-18-245, by paying an amount equal to 10% of the amount of restitution ordered, but not less than \$5. (b) A felony offender shall pay the restitution and cost of supervising the payment of restitution to the department of corrections until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The department shall pay the restitution to the person or entity to whom the court ordered restitution to be paid. The department may contract with a government agency or private entity for the collection of the payments for restitution and the cost of collecting the payments for restitution during the period following state supervision or state custody of the offender. The department shall adopt rules to implement this subsection (2)(b). (c) In a misdemeanor case, payment of restitution and of the cost of supervising the payment of restitution must be made to the court until the offender has fully paid the restitution and the cost of supervising the payment of restitution. The court shall disburse the money to the entity employing the person ordered to supervise restitution under 46-18-245, which shall disburse the restitution to the person or entity to whom the court ordered restitution to be paid. (3) If at any time the court finds that, because of circumstances beyond the offender's control, the offender is not able to pay any restitution, the court may order the offender to perform community service during the time that the offender is unable to pay. The offender must be given a credit against restitution due at the rate of the hours of community service times the state minimum wage in effect at the time that the community service is performed. (4) If an offender is out of compliance with court-mandated payments for 6 months or more, interest must accrue on restitution ordered under this section at a rate of 3%. The interest may not compound. Interest only begins to accrue when the judgment is placed for collection with a private person or entity as provided in 3-10-601, 25-30-102, or 46-17-303. History: En. Sec. 1, Ch. 426, L. 1983; amd. Sec. 1, Ch. 490, L. 1989; amd. Sec. 13, Ch. 125, L. 1995; amd. Sec. 2, Ch. 310, L. 1995; amd. Sec. 2, Ch. 181, L. 1997; amd. Sec. 3, Ch. 272, L. 2003; amd. Sec. 1, Ch. 66, L. 2009; amd. Sec. 4, Ch. 374, L. 2009; amd. Sec. 3, Ch. 509, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-242. Investigation and report of victim's loss

46-18-242. Investigation and report of victim's loss.(1) Whenever the court believes that a victim may have sustained a pecuniary loss or whenever the prosecuting attorney requests, the court shall order the probation officer, restitution officer, or other designated person to include in the presentence investigation and report if requested pursuant to 46-18-111: (a) a list of the offender's assets; and (b) an affidavit that specifically describes the victim's pecuniary loss and the replacement value in dollars of the loss, submitted by the victim. (2) When a presentence report is not requested, the court shall accept evidence of the victim's loss at the time of sentencing. History: En. Sec. 2, Ch. 426, L. 1983; amd. Sec. 14, Ch. 125, L. 1995; amd. Sec. 3, Ch. 118, L. 2001; amd. Sec. 4, Ch. 272, L. 2003; amd. Sec. 14, Ch. 456, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-243. Definitions

46-18-243. Definitions.For purposes of 46-18-241 through 46-18-249, the following definitions apply: (1) "Pecuniary loss" means: (a) all special damages, but not general damages, substantiated by evidence in the record, that a person could recover against the offender in a civil action arising out of the facts or events constituting the offender's criminal activities, including without limitation out-of-pocket losses, such as medical expenses, loss of income, expenses reasonably incurred in obtaining ordinary and necessary services that the victim would have performed if not injured, expenses reasonably incurred in attending court proceedings related to the commission of the offense, and reasonable expenses related to funeral and burial or crematory services; (b) the full replacement cost of property taken, destroyed, harmed, or otherwise devalued as a result of the offender's criminal conduct; (c) future medical expenses that the victim can reasonably be expected to incur as a result of the offender's criminal conduct, including the cost of psychological counseling, therapy, and treatment; and (d) reasonable out-of-pocket expenses incurred by the victim in filing charges or in cooperating in the investigation and prosecution of the offense. (2) (a) "Victim" means: (i) a person who suffers loss of property, bodily injury, or death as a result of: (A) the commission of an offense; (B) the good faith effort to prevent the commission of an offense; or (C) the good faith effort to apprehend a person reasonably suspected of committing an offense; (ii) the estate of a deceased or incapacitated victim or a member of the immediate family of a homicide victim; (iii) a governmental entity that: (A) suffers loss of property as a result of the commission of an offense in this state; (B) incurs costs or losses during the commission or investigation of an escape, as defined in 45-7-306, or during the apprehension or attempted apprehension of the escapee; or (C) incurs costs or losses as result of extraditing an offender from an out-of-state jurisdiction to Montana; (iv) an insurer or surety with a right of subrogation to the extent it has reimbursed the victim of the offense for pecuniary loss; (v) the crime victims compensation and assistance program established under Title 53, chapter 9, part 1, to the extent that it has reimbursed a victim for pecuniary loss;

and (vi) any person or entity whom the offender has voluntarily agreed to reimburse as part of a voluntary plea bargain. (b) Victim does not include a person who is accountable for the crime or accountable for a crime arising from the same transaction. History: En. Sec. 3, Ch. 426, L. 1983; amd. Sec. 15, Ch. 125, L. 1995; amd. Sec. 2, Ch. 26, L. 1997; amd. Sec. 5, Ch. 272, L. 2003; amd. Sec. 1, Ch. 103, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-244. Type and time of payment -- defenses -- ensuring payment

46-18-244. Type and time of payment -- defenses -- ensuring payment. (1) The court shall specify the total amount of restitution that the offender shall pay. (2) In the proceeding for the determination of the amount of restitution, the offender may assert any defense that the offender could raise in a civil action for the loss for which the victim seeks compensation. (3) In addition to other methods of payment, the court may order one or more of the following in order to satisfy the offender's restitution obligation: (a) forfeiture and sale of the offender's assets under the provisions of Title 25, chapter 13, part 7, unless the court finds, after notice and an opportunity for the offender to be heard, that the assets are reasonably necessary for the offender to sustain a living or support the offender's dependents or unless the state determines that the cost of forfeiture and sale would outweigh the amount available to the victim after sale. If the proceeds of sale exceed the amount of restitution ordered and the costs of forfeiture and sale, any remaining amount must be returned to the offender. (b) return of any property to the victim. (4) With the consent of the victim and in the discretion of the court, an offender may be ordered to make restitution in services to the victim in lieu of money or to make restitution to a person designated by the victim, if that person provided services to the victim as a result of the offense. (5) After a prosecution is commenced and upon petition of the prosecutor, the court may grant a restraining order or injunction, require a satisfactory bond, or take other action if the court finds that the restraining order or injunction, bond, or other action is necessary to preserve property or assets that could be used to satisfy an anticipated restitution order. A hearing must be held on the petition, and any person with an interest in the property is entitled to be heard. (6) For a felony offense: (a) during any period that the offender is incarcerated, the department of corrections shall take a percentage, as set by department rule, of any money in any account of the defendant administered by the department and use the money to satisfy any existing restitution obligation; (b) at the beginning of any period during which the offender is not incarcerated, the offender shall sign a statement allowing any employer of the offender to garnish up to 25% of the offender's compensation and give the garnished amounts to the department of corrections to be used by the department to satisfy any existing restitution obligation; and (c) during any period that the defendant is on probation or parole, the probation and parole officer shall set a monthly restitution payment amount by dividing the total amount of unpaid restitution by the number of remaining months of probation or parole. The probation and parole officer may adjust the monthly payment up or down by a maximum of 10%, depending on the offender's circumstances. (7) The department of corrections shall give the department of revenue a copy of the order to pay restitution. If full restitution has not been paid, the department of revenue shall, pursuant to an agreement made under 46-18-241, intercept any state tax refunds and any federal tax refunds, as provided by law, due the offender and transfer the money to the department of corrections for a felony offense and to the sentencing court for a misdemeanor offense for disbursement to the victim. The department of revenue may charge the department of corrections a fee to recover its costs of intercepting a tax refund. The fee may not exceed the amount charged a state agency for debt collection services under Title 17, chapter 4. History: En. Sec. 4, Ch. 426, L. 1983; amd. Sec. 16, Ch. 125, L. 1995; amd. Sec. 3, Ch. 181, L. 1997; amd. Sec. 1, Ch. 284, L. 2001; amd. Sec. 6, Ch. 272, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-245. Supervision of payment

46-18-245. Supervision of payment. For a felony offense, the court shall order the department of corrections to supervise the payment of restitution. For a misdemeanor offense, the court may order a restitution officer or other designated person to supervise the making of restitution and to report to the court any default in payment. If the victim of a misdemeanor has received compensation under Title 53, chapter 9, the court may also order an employee of the office of victims services provided for in 2-15-2016 to supervise the making of restitution and to report to the court any default in payment. History: En. Sec. 5, Ch. 426, L. 1983; amd. Sec. 17, Ch. 125, L. 1995; amd. Sec. 7, Ch. 272, L. 2003; amd. Sec. 23, Ch. 55, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-246. Waiver or modification of payment

46-18-246. Waiver or modification of payment. An offender may at any time petition the sentencing court to adjust or otherwise waive payment of any part of any ordered restitution or amount to be paid pursuant to 46-18-241(2)(a). The court shall schedule a hearing and give a victim to whom restitution was ordered notice of the hearing date, place, and time and inform the victim that the victim will have an opportunity to be heard. If the court finds that the circumstances upon which it based the imposition of restitution, amount of the victim's pecuniary loss, or method or time of payment no longer exist or that it otherwise would be unjust to require payment as imposed, the court may adjust or waive unpaid restitution or the amount to be paid pursuant to 46-18-241(2)(a) or modify the time or method of making restitution. The court may extend the restitution schedule. History: En. Sec. 6, Ch. 426, L. 1983; amd. Sec. 18, Ch. 125, L. 1995; amd. Sec. 4, Ch. 181, L. 1997; amd. Sec. 2, Ch. 66, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of

Sentence 46-18-247. Default

46-18-247. Default. (1) If an offender sentenced to make restitution is in default, the sentencing court, upon the motion of the prosecuting attorney or upon its own motion, may issue an order under 46-18-203 requiring the offender to show cause why the offender should not be confined for failure to obey the sentence of the court. The court may order the offender to appear at a time, date, and place for a hearing or, if the offender fails to appear as ordered, issue a warrant for the offender's arrest. The order or warrant must be accompanied by written notice of the offender's right to a hearing as provided in 46-18-203. (2) If the court finds that the offender's default was attributable to the offender's failure to make a good faith effort to obtain the necessary funds for payment of the ordered restitution, the court may take any action provided for in 46-18-203. (3) An order to pay restitution constitutes a judgment rendered in favor of the state, and following a default in the payment of restitution or any installment of restitution, the sentencing court may order the restitution to be collected by any method authorized for the enforcement of other judgments. History: En. Sec. 7, Ch. 426, L. 1983; amd. Sec. 19, Ch. 125, L. 1995; amd. Sec. 5, Ch. 181, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-248. Rights of state for crime victims compensation and assistance -- exception

46-18-248. Rights of state for crime victims compensation and assistance -- exception. (1) Except as provided in subsection (3), whenever a victim is paid from the state crime victims compensation and assistance program as provided in Title 53, chapter 9, part 1, for loss arising out of a criminal act, the state is subrogated, to the extent of the payment to the victim, to the rights of the victim to any restitution ordered by the court. (2) The rights of the state are subordinate to the claims of multiple victims who have suffered loss arising out of multiple offenses by the same offender or arising from any transaction that is part of the same continuous scheme of criminal activity of an offender. (3) Restitution paid by a youth, a youth's parent or guardian, or a person who contributed to the delinquency of a youth is not subject to subrogation, as provided in 41-5-1521. History: En. Sec. 8, Ch. 426, L. 1983; amd. Sec. 53, Ch. 18, L. 1995; amd. Sec. 4, Ch. 118, L. 2001; amd. Sec. 4, Ch. 199, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-249. Civil actions by victim

46-18-249. Civil actions by victim. (1) The total amount that a court orders to be paid to a victim may be treated as a civil judgment against the offender and may be collected by the victim at any time, including after state supervision of the offender ends, using any method allowed by law, including execution upon a judgment, for the collection of a civil judgment. However, 46-18-241 through 46-18-248 and this section do not limit or impair the right of a victim to sue and recover damages from the offender in a separate civil action. (2) The findings in the sentencing hearing and the fact that restitution was required or paid are not admissible as evidence in a separate civil action and have no legal effect on the merits of a separate civil action. (3) Any restitution paid by the offender to the victim under a restitution order contained in a criminal sentence, including an amount or amounts paid in a civil proceeding to enforce payment of a restitution order contained in a criminal sentence, must be set off against any pecuniary loss awarded to the victim in a separate civil action arising out of the facts or events that were the basis for the restitution. The court trying the separate civil action shall determine the amount of any setoff asserted by the defendant under this section. History: En. Sec. 9, Ch. 426, L. 1983; amd. Sec. 2, Ch. 284, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-250. Victim's location unknown -- payments to restitution fund -- use of restitution fund

46-18-250. (Temporary) Victim's location unknown -- payments to restitution fund -- use of restitution fund. (1) If the location of a victim on whose behalf restitution is being paid is unknown, the court may order that restitution payments made on that victim's behalf be deposited in a fund known as the county restitution fund. Subject to the availability of money in the fund, if the location of a victim whose restitution payments were deposited in the county restitution fund becomes known, the county shall refund to the victim payments that were deposited in the fund. (2) Money in the restitution fund may be used to provide payments on behalf of offenders who are ordered to pay restitution but, because of circumstances beyond their control, are unable to obtain employment or are unable to obtain employment sufficient to make restitution payments and sustain themselves and their dependents. The offender may perform community service, and for each hour of community service performed, the victim must receive an amount equal to the minimum hourly wage from the county restitution fund. A judge may order an offender to perform community service work for restitution payments upon a finding that the offender would not otherwise be able to make restitution payments and that there are funds available in the county restitution fund for payments to the victim. (3) Money in the county restitution fund that is due to a victim under this part must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113 if payments have been made to or on behalf of the victim from the state. Payment from the county restitution fund to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113 may be made only from money paid by the offender who caused the injury or death that resulted in the payment from the account. (Terminates June 30, 2027--secs. 1, 2, 3, Ch. 139, L. 2021.) 46-18-250. (Effective July 1, 2027) Victim's location unknown -- payments to restitution fund -- use of restitution fund. (1) If the location of a victim on whose behalf restitution is being paid is unknown, the court may order that restitution payments made on that victim's behalf be deposited in a fund known as the county restitution fund. Subject to the availability of money in the fund, if the location of a victim whose

restitution payments were deposited in the county restitution fund becomes known, the county shall refund to the victim payments that were deposited in the fund. (2) Money in the restitution fund may be used to provide payments on behalf of offenders who are ordered to pay restitution but, due to circumstances beyond their control, are unable to obtain employment or are unable to obtain employment sufficient to make restitution payments and sustain themselves and their dependents. The offender may perform community service, and for each hour of community service performed, the victim shall receive an amount equal to the minimum hourly wage from the county restitution fund. A judge may order an offender to perform community service work for restitution payments upon a finding that the offender would not otherwise be able to make restitution payments and that there are funds available in the county restitution fund for payments to the victim. (3) Money in the county restitution fund that is due to a victim under this part must be paid to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund if payments have been made to or on behalf of the victim from the state. Payment from the county restitution fund to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund may be made only from money paid by the offender who caused the injury or death that resulted in the payment from the account. History: En. Sec. 1, Ch. 545, L. 1989; amd. Sec. 54, Ch. 18, L. 1995; amd. Sec. 5, Ch. 118, L. 2001; amd. Sec. 5, Ch. 374, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-251. Allocation of fines, costs, restitution, interest, and other charges

46-18-251. (Temporary) Allocation of fines, costs, restitution, interest, and other charges. (1) Except as provided in 46-18-236(7)(b), if a misdemeanor offender is subjected to any combination of fines, costs, restitution, charges, interest, or other payments arising out of the same criminal proceeding, money that the court collects from the offender must be allocated as provided in this section. A felony offender shall pay restitution and interest on restitution to the department of corrections, and other fines, interest on fines, and costs must be paid to the court and allocated as provided in this section. (2) Except as otherwise provided in 46-18-236(7)(b) and this section, if a defendant is subject to payment of restitution and any combination of fines, costs, charges under the provisions of 46-18-236, interest, or other payments, 50% of all money collected from the defendant must be applied to payment of restitution and the balance must be applied to other payments in the following order: (a) payment of charges imposed pursuant to 46-18-236; (b) payment of supervisory fees imposed pursuant to 46-23-1031; (c) payment of costs imposed pursuant to 46-18-232 or 46-18-233; (d) payment of fines imposed pursuant to 46-18-231 or 46-18-233; and (e) any other payments ordered by the court. (3) The money applied under subsection (2) to the payment of restitution must be paid in the following order: (a) to the victim until the victim's unreimbursed pecuniary loss is satisfied; (b) to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113 until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1; (c) to any other government agency that has compensated the victim for the victim's pecuniary loss; and (d) to any insurance company that has compensated the victim for the victim's pecuniary loss. (4) If any fines, costs, charges, interest, or other payments remain unpaid after all of the restitution has been paid, any additional money collected must be applied to payment of those fines, costs, charges, interest, or other payments. If any restitution remains unpaid after all of the fines, costs, charges, interest, or other payments have been paid, any additional money collected must be applied toward payment of the restitution. (Terminates June 30, 2027--secs. 1, 2, 3, Ch. 139, L. 2021.) 46-18-251. (Effective July 1, 2027) Allocation of fines, costs, restitution, interest, and other charges. (1) Except as provided in 46-18-236(7)(b), if an offender is subjected to any combination of fines, costs, restitution, charges, interest, or other payments arising out of the same criminal proceeding, money collected from the offender must be allocated as provided in this section. (2) Except as otherwise provided in 46-18-236(7)(b) and this section, if a defendant is subject to payment of restitution and any combination of fines, costs, charges under the provisions of 46-18-236, interest, or other payments, 50% of all money collected from the defendant must be applied to payment of restitution and the balance must be applied to other payments in the following order: (a) payment of charges imposed pursuant to 46-18-236; (b) payment of supervisory fees imposed pursuant to 46-23-1031; (c) payment of costs imposed pursuant to 46-18-232 or 46-18-233; (d) payment of fines imposed pursuant to 46-18-231 or 46-18-233; and (e) any other payments ordered by the court. (3) The money applied under subsection (2) to the payment of restitution must be paid in the following order: (a) to the victim until the victim's unreimbursed pecuniary loss is satisfied; (b) to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1; (c) to any other government agency that has compensated the victim for the victim's pecuniary loss; and (d) to any insurance company that has compensated the victim for the victim's pecuniary loss. (4) If any fines, costs, charges, interest, or other payments remain unpaid after all of the restitution has been paid, any additional money collected must be applied to payment of those fines, costs, charges, interest, or other payments. If any restitution remains unpaid after all of the fines, costs, charges, interest, or other payments have been paid, any additional money collected must be applied toward payment of the restitution. History: En. Sec. 20, Ch. 125, L. 1995; amd. Sec. 6, Ch. 181, L. 1997; amd. Sec. 5, Ch. 186, L. 1997; amd. Sec. 2, Ch. 398, L. 1999; amd. Sec. 6, Ch. 118, L. 2001; amd. Sec. 6, Ch. 374, L. 2009; amd. Sec. 4, Ch. 509, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-252. and 46-18-253 reserved

46-18-252 and 46-18-253 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of

Sentence 46-18-255. Sentence on conviction -- restriction on employment and residency

46-18-255. Sentence on conviction -- restriction on employment and residency. (1) A judge sentencing a person convicted of a sexual or violent offense shall, as a condition to probation, parole, or deferment or suspension of sentence, impose on the defendant reasonable employment or occupational prohibitions and restrictions designed to protect the class or classes of persons containing the likely victims of further offenses by the defendant. (2) In addition to any restriction on employment imposed under subsection (1), a judge sentencing a person convicted of a sexual offense involving a minor and designated as a level 3 offender under 46-23-509 shall, as a condition to probation, parole, or deferment or suspension of sentence, impose on the defendant restrictions on the defendant's residency in the proximity of a private or public elementary or high school, preschool as defined in 20-5-402, licensed day-care center, church, or park maintained by a city, town, or county. (3) If requested by a victim of a sexual offense committed by the defendant, or if requested by an immediate family member of the victim, the judge sentencing a person convicted of a sexual offense shall, as a condition to probation, parole, or deferment or suspension of sentence, impose on the defendant a restriction prohibiting the defendant from directly or indirectly contacting the victim or the immediate family member of the victim. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf. (4) Restrictions imposed pursuant to this section must be compatible with the restrictions provided for in 45-5-513. History: En. Sec. 9, Ch. 293, L. 1989; amd. Sec. 3, Ch. 407, L. 1995; amd. Sec. 1, Ch. 390, L. 2001; amd. Sec. 1, Ch. 113, L. 2015; amd. Sec. 2, Ch. 412, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-256. Sexually transmitted disease testing -- test procedure

46-18-256. Sexually transmitted disease testing -- test procedure. (1) Following entry of judgment, a person convicted of a sexual offense, as defined in 46-23-502, except an offense under 45-5-301 through 45-5-303, must, at the request of the victim of the sexual offense or the parent or guardian of the victim, if the victim is a minor, be administered standard testing according to currently accepted protocol, using guidelines established by the centers for disease control and prevention, U.S. department of health and human services, to detect in the person the presence of antibodies indicative of the presence of human immunodeficiency virus (HIV) or other sexually transmitted diseases, as defined in 50-18-101. (2) Arrangements for the test required by subsection (1) must be made by the county attorney of the county in which the person was convicted. The test must be conducted by a health care provider, as defined in 50-16-504. (3) The county attorney of the county in which the person was convicted shall release the information concerning the test results to: (a) the convicted person; and (b) the victim of the offense committed by the convicted person or to the parent or guardian of the victim if the victim is a minor. (4) At the request of the victim of a sexual offense or the parent or guardian of the victim if the victim is a minor, the victim must be provided counseling regarding HIV disease, HIV testing (in accordance with applicable law), and referral for appropriate health care and support services. (5) For purposes of this section, "convicted" includes an adjudication, under the provisions of 41-5-1502, finding a youth to be a delinquent youth or a youth in need of intervention. (6) The provisions of the AIDS Prevention Act, Title 50, chapter 16, part 10, do not apply to this section. History: En. Sec. 1, Ch. 504, L. 1991; amd. Sec. 1, Ch. 71, L. 1993; amd. Sec. 56, Ch. 550, L. 1997; amd. Sec. 3, Ch. 22, Sp. L. August 2002; amd. Sec. 24, Ch. 55, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-257. through 46-18-260 reserved

46-18-257 through 46-18-260 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 2. Form of Sentence 46-18-261. Recovery of suppression and investigation expenses for fires caused by arson

46-18-261. Recovery of suppression and investigation expenses for fires caused by arson. (1) A person convicted of arson, negligent arson, or solicitation of or conspiracy to commit arson or negligent arson may be ordered, as part of the sentence, to reimburse law enforcement agencies, governmental fire agencies organized under Title 7, chapter 33, and the state for the cost of suppressing and investigating a fire that occurred during the commission of the crime. (2) The court may order a person doing a presentence investigation and report to include documentation of the costs of suppressing and investigating the fire and of the defendant's ability to pay and may receive evidence concerning the matters at the time of sentencing. (3) The court shall specify the amount, method, and time of payment, which may include but is not limited to installment payments. The court may order a probation officer or other appropriate officer attached to or working closely with the court in the administration of justice to supervise payment and report any default to the court. (4) Upon petition by the offender and after a hearing, the payment may be modified. Agencies receiving payment at that time must be notified of and allowed to participate in the hearing. (5) This section does not limit the right of a law enforcement agency or governmental fire agency to recover from the offender in a civil action, but the findings in the sentencing hearing and the fact that payment of costs was part of the sentence are inadmissible in and have no legal effect on the merits of a civil action. Costs paid by the offender must be deducted from a recovery awarded in a civil action. History: En. Sec. 1, Ch. 447, L. 1989; amd. Sec. 11, Ch. 449, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-301. Hearing on imposition of death penalty

46-18-301. Hearing on imposition of death penalty.(1) When a defendant is found guilty of or pleads guilty to an offense for which the sentence of death may be imposed, the judge who presided at the trial or before whom the guilty plea was entered shall conduct a separate sentencing hearing to determine the existence or nonexistence of the circumstances set forth in 46-18-303 and 46-18-304 for the purpose of determining the sentence to be imposed. The hearing must be conducted before the court alone. (2) (a) Subject to subsection (2)(b), the sentence must be pronounced and judgment rendered within 120 days after the defendant is found guilty or pleads guilty or within 120 days after the Montana supreme court enters a final decision on appeal. (b) The district court may allow not more than one extension of up to 60 days after entering findings of fact that the extension is necessary to prevent undue hardship to a party. History: En. 95-2206.6 by Sec. 1, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.6; amd. Sec. 2, Ch. 378, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-302. Evidence that may be received

46-18-302. Evidence that may be received.(1) (a) Subject to subsection (1)(b), in the sentencing hearing, evidence may be presented as to any matter the court considers relevant to the sentence, including but not limited to: (i) the nature and circumstances of the crime; (ii) the defendant's character, background, history, and mental and physical condition; (iii) the harm caused to the victim and the victim's family as a result of the offense; and (iv) any other facts in aggravation or mitigation of the penalty. (b) Evidence of an aggravating circumstance may not be admitted or considered unless the defendant pleaded guilty to the offense and admitted the aggravating circumstance or the trier of fact found beyond a reasonable doubt that the aggravating circumstance existed. (2) Any evidence that the court considers to have probative force may be received regardless of its admissibility under the rules governing admission of evidence at criminal trials. Evidence admitted at the trial relating to aggravating or mitigating circumstances must be considered without reintroducing it at the sentencing proceeding. The state and the defendant or the defendant's counsel must be permitted to present argument for or against sentence of death. History: En. 95-2206.7 by Sec. 2, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.7; amd. Sec. 21, Ch. 125, L. 1995; amd. Sec. 2, Ch. 154, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-303. Aggravating circumstances

46-18-303. Aggravating circumstances. Aggravating circumstances are any of the following: (1) (a) The offense was deliberate homicide and was committed: (i) by an offender while in official detention, as defined in 45-2-101; (ii) by an offender who had been previously convicted of another deliberate homicide; (iii) by means of torture; (iv) by an offender lying in wait or ambush; (v) as a part of a scheme or operation that, if completed, would result in the death of more than one person; or (vi) by an offender during the course of committing sexual assault, sexual intercourse without consent, deviate sexual conduct, or incest, and the victim was less than 18 years of age. (b) The offense was deliberate homicide, as defined in 45-5-102(1)(a), and the victim was a peace officer killed while performing the officer's duty. (2) The offense was aggravated kidnapping that resulted in the death of the victim or the death by direct action of the offender of a person who rescued or attempted to rescue the victim. (3) The offense was attempted deliberate homicide, aggravated assault, or aggravated kidnapping committed while in official detention, as defined in 45-2-101, by an offender who has been previously: (a) convicted of the offense of deliberate homicide; or (b) found to be a persistent felony offender pursuant to part 5 of this chapter, and one of the convictions was for an offense against the person in violation of Title 45, chapter 5, for which the minimum prison term is not less than 2 years. (4) The offense was sexual intercourse without consent, the offender has a previous conviction of sexual intercourse without consent in this state or of an offense under the laws of another state or of the United States that if committed in this state would be the offense of sexual intercourse without consent, and the offender inflicted serious bodily injury upon a person in the course of committing each offense. History: En. 95-2206.8 by Sec. 3, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.8; amd. Sec. 2, Ch. 696, L. 1985; amd. Sec. 1, Ch. 387, L. 1987; amd. Sec. 1, Ch. 81, L. 1989; amd. Sec. 2, Ch. 312, L. 1997; amd. Sec. 11, Ch. 52, L. 1999; amd. Sec. 2, Ch. 126, L. 1999; amd. Sec. 5, Ch. 491, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-304. Mitigating circumstances

46-18-304. Mitigating circumstances.(1) Mitigating circumstances are any of the following: (a) The defendant has no significant history of prior criminal activity. (b) The offense was committed while the defendant was under the influence of extreme mental or emotional disturbance. (c) The defendant acted under extreme duress or under the substantial domination of another person. (d) The capacity of the defendant to appreciate the criminality of the defendant's conduct or to conform the defendant's conduct to the requirements of law was substantially impaired. (e) The victim was a participant in the defendant's conduct or consented to the act. (f) The defendant was an accomplice in an offense committed by another person, and the defendant's participation was relatively minor. (g) The defendant, at the time of the commission of the crime, was less than 18 years of age. (2) The court may consider any other fact that exists in mitigation of the penalty. History: En. 95-2206.9 by Sec. 4, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.9; amd. Sec. 55, Ch. 18, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-305. Effect of aggravating and mitigating circumstances

46-18-305. Effect of aggravating and mitigating circumstances. In determining whether to impose a sentence of death or

imprisonment, the court shall take into account the aggravating and mitigating circumstances enumerated in 46-18-303 and 46-18-304 and shall impose a sentence of death if the trier of fact found beyond a reasonable doubt, or the defendant pleaded guilty to the offense and admitted to, one or more aggravating circumstances and the court finds that there are no mitigating circumstances sufficiently substantial to call for leniency. If the court does not impose a sentence of death and one of the aggravating circumstances listed in 46-18-303 exists, the court may impose a sentence of imprisonment for life or for any term authorized by the statute defining the offense. History: En. 95-2206.10 by Sec. 5, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.10; amd. Sec. 3, Ch. 154, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-306. Specific written findings of fact

46-18-306. Specific written findings of fact. In each case in which the court imposes the death sentence, the determination of the court shall be supported by specific written findings of fact as to the existence or nonexistence of each of the circumstances set forth in 46-18-303 and 46-18-304. The written findings of fact shall be substantiated by the records of the trial and the sentencing proceeding. History: En. 95-2206.11 by Sec. 6, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.11.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-307. Automatic review of sentence

46-18-307. Automatic review of sentence. The judgment of conviction and sentence of death are subject to automatic review by the supreme court of Montana as provided for in 46-18-308 through 46-18-310. History: En. 95-2206.12 by Sec. 7, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.12.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-308. Time for review -- consolidation with appeal

46-18-308. Time for review -- consolidation with appeal. The judgment of conviction and sentence of death are subject to automatic review by the supreme court of Montana within 60 days after certification by the sentencing court of the entire record unless the time is extended by the supreme court for good cause shown. The review by the supreme court has priority over all other cases and shall be heard in accordance with rules promulgated by the supreme court. The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration. History: En. 95-2206.13 by Sec. 8, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.13.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-309. Transmission of transcript and record of trial

46-18-309. Transmission of transcript and record of trial. The clerk of the trial court, within 10 days after receiving the transcript, shall transmit the entire record and transcript to the supreme court. History: En. 95-2206.14 by Sec. 9, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.14.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 3. Death Penalty 46-18-310. Supreme court's determination as to sentence

46-18-310. Supreme court's determination as to sentence. (1) The supreme court shall consider the punishment as well as any errors enumerated by way of appeal. With regard to the sentence, the court shall determine: (a) whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor; (b) whether the evidence supports the trier of fact's finding of the existence or nonexistence of the aggravating circumstances enumerated in 46-18-303 and the sentencing judge's finding of the existence or nonexistence of the mitigating circumstances enumerated in 46-18-304; and (c) whether the sentence of death is excessive or disproportionate to the penalty imposed in other cases in which a sentencing hearing was held pursuant to 46-18-301, whether the sentence imposed was death or a sentence other than death, considering both the crime and the defendant. The court shall include in its decision a reference to those other cases it took into consideration. (2) The supreme court shall uphold the sentencing court's findings of fact issued pursuant to 46-18-306 unless those findings are clearly erroneous. The supreme court may not substitute its judgment for that of the sentencing court in: (a) assessing the credibility of witnesses; (b) drawing inferences from testimonial, physical, documentary, or other evidence; or (c) resolving conflicts in the evidence presented at the sentencing hearing or considered by the sentencing court. History: En. 95-2206.15 by Sec. 10, Ch. 338, L. 1977; R.C.M. 1947, 95-2206.15; amd. Sec. 1, Ch. 302, L. 1997; amd. Sec. 4, Ch. 154, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 4. Factors That Reduce Sentence 46-18-401. Consecutive sentences

46-18-401. Consecutive sentences. (1) Unless the judge otherwise orders: (a) whenever a person serving a term of commitment imposed by a court in this state is committed for another offense, the shorter term or shorter remaining term may not be merged in the other term; and (b) whenever a person under suspended sentence or on probation for an offense committed in this state is sentenced for another offense, the period still to be served on suspended sentence or probation may not be merged in any new

sentence of commitment or probation. (2) The court, whether or not it merges the sentences, shall immediately furnish each of the other courts and the penal institutions in which the defendant is confined under sentence with authenticated copies of its sentence, which must cite any sentence that is merged. (3) If an unexpired sentence is merged pursuant to subsection (1), the court that imposed the sentence shall modify it in accordance with the effect of the merger. (4) Separate sentences for two or more offenses must run consecutively unless the court otherwise orders. History: En. 95-2213 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 2, Ch. 340, L. 1977; R.C.M. 1947, 95-2213; amd. Sec. 23, Ch. 116, L. 1979; amd. Sec. 11, Ch. 583, L. 1981; amd. Sec. 1, Ch. 76, L. 1989; amd. Sec. 2, Ch. 372, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 4. Factors That Reduce Sentence 46-18-402. Credit for time served

46-18-402. Credit for time served. If a defendant has served any portion of the defendant's sentence under a commitment based upon a judgment that is subsequently declared invalid or that is modified during the term of imprisonment, the time served must be credited against any subsequent sentence received upon a new commitment for the same criminal act or acts. History: En. 95-2214 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2214; amd. Sec. 3, Ch. 372, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 4. Factors That Reduce Sentence 46-18-403. Credit for incarceration prior to conviction

46-18-403. Credit for incarceration prior to conviction. (1) (a) A person incarcerated on a bailable offense against whom a judgment of imprisonment is rendered must be allowed credit for each day of incarceration prior to or after conviction, except that the time allowed as a credit may not exceed the term of the prison sentence rendered. (b) For the purposes of subsection (1)(a), incarceration includes time spent in a residential treatment facility under the order of a court. (2) A person incarcerated on a bailable offense who does not supply bail and against whom a fine is levied on conviction of the offense may be allowed a credit for each day of incarceration prior to conviction, except that the amount allowed or credited may not exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred by the detention facility for which the rate is established. History: En. 95-2215 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2215; amd. Sec. 2, Ch. 270, L. 1989; amd. Sec. 4, Ch. 388, L. 1995; amd. Sec. 1, Ch. 13, L. 2005; amd. Sec. 1, Ch. 283, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 5. Persistent Felony Offenders 46-18-502. Sentencing of persistent felony offender

46-18-502. Sentencing of persistent felony offender. (1) Except as provided in 46-18-219 and subsection (2) of this section, a persistent felony offender or a persistent felony offender under supervision shall be imprisoned in the state prison for a term of not less than 5 years or more than 100 years or shall be fined an amount not to exceed \$50,000, or both, if the offender was 21 years of age or older at the time of the commission of the present offense. (2) Except as provided in 46-18-219, an offender shall be imprisoned in a state prison for a term of not less than 10 years or more than 100 years or shall be fined an amount not to exceed \$50,000, or both, if: (a) the offender was a persistent felony offender or a persistent felony offender under supervision, as defined in 46-1-202, at the time of the offender's previous felony conviction; (b) less than 5 years have elapsed between the commission of the present offense and: (i) the previous felony conviction; or (ii) the offender's release on parole, from prison, or from other commitment imposed as a result of the previous felony conviction; and (c) the offender was 21 years of age or older at the time of the commission of the present offense. (3) Except as provided in 46-18-222, the imposition or execution of the first 5 years of a sentence imposed under subsection (1) of this section or the first 10 years of a sentence imposed under subsection (2) of this section may not be deferred or suspended. (4) Any sentence imposed under subsection (2) must run consecutively to any other sentence imposed. History: En. 95-1507 by Sec. 5, Ch. 513, L. 1973; amd. Sec. 21, Ch. 184, L. 1977; amd. Sec. 11, Ch. 584, L. 1977; R.C.M. 1947, 95-1507(2), (3); amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1, Ch. 327, L. 1981; amd. Sec. 16, Ch. 482, L. 1995; amd. Sec. 12, Ch. 52, L. 1999; amd. Sec. 29, Ch. 321, L. 2017; amd. Sec. 3, Ch. 649, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 5. Persistent Felony Offenders 46-18-503. Renumbered 46-13-108

46-18-503. Renumbered 46-13-108. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 6. Procedure After Conviction or Sentencing 46-18-601. Judgment in writing -- lien

46-18-601. Judgment in writing -- lien. (1) The judgment shall be reduced to writing and signed by the judge. (2) A judgment that the defendant pay a fine or costs constitutes a lien upon the real estate of the defendant, which lien dates from the date of the defendant's arrest. History: En. 95-2208 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2208.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 6. Procedure After Conviction or Sentencing 46-18-603. Disposition of fines and forfeitures

46-18-603. Disposition of fines and forfeitures. All fines and forfeitures collected in any court except city courts must be applied to the payment of the costs of the case in which the fine is imposed or the forfeiture incurred. After those costs are paid, the remainder, if not paid to a justice's court or otherwise provided by law, must be forwarded to the department of revenue for deposit in the state general fund. History: En. 95-2228 by Sec. 10, Ch. 513, L. 1973; R.C.M. 1947, 95-2228; amd. Sec. 32, Ch. 557, L. 1987; amd. Sec. 47, Ch. 257, L. 2001; amd. Sec. 47, Ch. 585, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 6. Procedure After Conviction or Sentencing 46-18-605. through 46-18-607 reserved

46-18-605 through 46-18-607 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 6. Procedure After Conviction or Sentencing 46-18-608. Motion to vacate conviction -- human trafficking victims

46-18-608. Motion to vacate conviction -- human trafficking victims. (1) On the motion of a person, a court may vacate a person's conviction of prostitution, sex trafficking or prior similar laws in effect at the time the act occurred, or another nonviolent offense if the court finds that the person's participation in the offense was a direct result of having been a victim of human trafficking or of sex trafficking under the federal Trafficking Victims Protection Act, 22 U.S.C. 7103 through 7112. (2) The motion must: (a) be made within a reasonable time after the person ceased to be involved in human trafficking or sought services for human trafficking victims, subject to reasonable concerns for the safety of the person, family members of the person, or other victims of human trafficking who could be jeopardized by filing a motion under this section; and (b) state why the facts giving rise to the motion were not presented to the court during the prosecution of the person. (3) No official determination or documentation is required to grant a motion by a person under this section, but official documentation from a local government or a state or federal agency of the person's status as a victim of human trafficking creates a rebuttable presumption that the person's participation in the offense was a direct result of having been a victim of human trafficking. (4) If a court vacates a conviction under this section, the court shall: (a) send a copy of the order vacating the conviction to the prosecutor and the department of justice accompanied by a form prepared by the department of justice and containing identifying information about the person; and (b) inform the person whose conviction has been vacated under this section that the person may be eligible for certain state and federal programs and services and provide the person with information for contacting appropriate state and federal victim services organizations. After the conviction is vacated, all records and data relating to the conviction are confidential criminal justice information, as defined in 44-5-103, and public access to the information may be obtained only by district court order upon good cause shown. (5) For the purposes of this section, the term "human trafficking" has the meaning provided in 45-5-701. History: En. Sec. 1, Ch. 193, L. 2013; amd. Sec. 24, Ch. 285, L. 2015; amd. Sec. 32, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 7. Jail Work Release Program 46-18-701. Limited release during employment hours

46-18-701. Limited release during employment hours. (1) A court, after having sentenced a person to confinement in a county jail, may, in its discretion, upon request of the county attorney and sheriff of the county and with the consent of the convicted person, order that any part of the imprisonment imposed be served in confinement with limited release during the hours or periods the convicted person is actually employed. (2) Upon the issuance of an order for limited release under this part, the sheriff shall arrange for the convicted person to continue the person's regular employment without interruption insofar as is reasonably possible. However, the prisoner must be confined in the county jail during the hours when the prisoner is not employed. History: En. 95-2216 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2216(a), (b); amd. Sec. 8, Ch. 189, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 7. Jail Work Release Program 46-18-702. Disposition of prisoner's earnings

46-18-702. Disposition of prisoner's earnings. The earnings of the prisoner must be collected by the sheriff. From those earnings, the sheriff shall pay the prisoner's board and personal expenses both inside and outside the jail and, to the extent directed by the court, pay the support of the prisoner's dependents, if any. Any balance must be retained until the prisoner's discharge. History: En. 95-2216 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2216(c); amd. Sec. 1756, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 7. Jail Work Release Program 46-18-703. Transfer to another county

46-18-703. Transfer to another county. The court may by order authorize the sheriff of the sentencing county to arrange with a sheriff of any other county within the state of Montana to have the convicted person transferred to the other county where it appears the convicted person can continue the person's regular employment in the latter county. When the transfer has been made to another county, the sheriff of the sentencing county shall still collect all money earned by the convicted person and shall dispose of the money as provided by 46-18-702. History: En. 95-2216 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2216(f); amd. Sec. 1757, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 7. Jail Work Release

Program46-18-704. Reduction of sentence

46-18-704. Reduction of sentence. The committing court may, in its discretion, upon request of the county attorney and sheriff of such county, reduce the sentence of the prisoner up to one-fourth of the full term if, in the opinion of the court, the prisoner's conduct, diligence, and general attitude merit such diminution. History: En. 95-2216 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2216(d).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 7. Jail Work Release Program46-18-705. Effect of violation of conditions

46-18-705. Effect of violation of conditions. In cases in which the convicted person violates the conditions of a sentence, the person must be returned to the court. The court may then require that the balance of the person's sentence be spent in full confinement, and further, the court may cancel any diminution of sentence granted under this part. History: En. 95-2216 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2216(e); amd. Sec. 1758, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 8. Effect of Conviction46-18-801. Effect of conviction -- civil disabilities

46-18-801. Effect of conviction -- civil disabilities. (1) Conviction of an offense does not deprive the offender of a civil or constitutional right, except as provided in the Montana constitution or as specifically enumerated by the sentencing judge as a necessary condition of the sentence directed toward the objectives of rehabilitation and the protection of society. If the sentencing judge incorporates by reference in the sentencing order rules of the department of corrections or the board of pardons and parole setting conditions of probation, parole, or supervised release with which the offender is required to comply, the incorporation by reference constitutes a specific enumeration of the conditions for purposes of this section. (2) Except as provided in the Montana constitution, if a person has been deprived of a civil or constitutional right by reason of conviction for an offense and the person's sentence has expired or the person has been pardoned, the person is restored to all civil rights and full citizenship, the same as if the conviction had not occurred. History: En. 95-2227 by Sec. 9, Ch. 513, L. 1973; R.C.M. 1947, 95-2227; amd. Sec. 1, Ch. 555, L. 1995; amd. Sec. 201, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 9. Appellate Review of Legal Sentences46-18-901. Review division of supreme court -- review of sentences

46-18-901. Review division of supreme court -- review of sentences. (1) The chief justice of the supreme court of Montana shall appoint three district court judges to act as a review division of the supreme court and shall designate one of the judges to act as presiding officer of the review division. The clerk of the Montana supreme court shall record the appointment and shall give notice of the appointment to the clerk of every district court. (2) The review division shall meet at least four times a year as its business requires, as determined by the presiding officer. The review division shall hold its meetings at locations as determined by the review division. (3) The decision of two of the judges is sufficient to determine any matter before the review division. (4) The review division may adopt any rules that will expedite its review of sentences. The division is also authorized to appoint a secretary. History: En. 95-2501 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2501(part); amd. Sec. 1, Ch. 69, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 9. Appellate Review of Legal Sentences46-18-902. Interested judge not to act

46-18-902. Interested judge not to act. A judge may not sit or act on a review of a sentence that was imposed by the judge. In any case in which review of a sentence imposed by any of the judges serving on the review division is to be acted on by the division or if any member is unavailable to serve, the chief justice of the supreme court of Montana may designate another judge to act in place of the judge. History: En. 95-2501 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2501(part); amd. Sec. 2, Ch. 69, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 9. Appellate Review of Legal Sentences46-18-903. Application for review

46-18-903. Application for review. (1) A person sentenced to a term of 1 year or more in the state prison or to the custody of the department of corrections by a court of competent jurisdiction may within 60 days from the date the sentence was imposed, except in a case in which a different sentence could not have been imposed, file with the clerk of the district court in the county in which judgment was rendered an application for review of the sentence by the review division. Upon imposition of the sentence, the clerk shall give written notice to the person sentenced and to the person's counsel of the right to make a request. The notice must include a statement that review of the sentence may result in a decrease or increase of the sentence within limits fixed by law. (2) The clerk shall transmit the application to the review division and shall notify the judge who imposed the sentence, the county attorney of the county in which the sentence was imposed, and the person's counsel of record. The judge may transmit to the review division a statement of the judge's reasons for imposing the sentence and shall transmit the statement within 7 days if requested to do so by the review division. (3) The review division may for cause shown consider any late request for review of sentence and may grant or deny the request. (4) The filing of an application for review may not stay the execution of the sentence. History: En. 95-2502 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2502; amd. Sec. 3, Ch. 69, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 9. Appellate Review of Legal Sentences 46-18-904. Procedure upon review

46-18-904. Procedure upon review. (1) In each case in which an application for review is filed in accordance with 46-18-903, the review division: (a) (i) shall review the judgment as it relates to the sentence imposed and any other sentence imposed on the person at the same time; and (ii) may order a different sentence or sentences to be imposed as could have been imposed at the time of the imposition of the sentence under review, including a decrease or increase in the penalty; or (b) may decide that the sentence under review should stand. (2) In reviewing a judgment, the division may require the production of presentence reports and any other records, documents, or exhibits relevant to the review proceedings. The person requesting the review may appear and has the right to be represented by counsel, and the state may be represented by the county attorney of the county in which the sentence was imposed. Any other interested person, including the sentencing judge, may attend and participate in the review proceedings. (3) The sentence imposed by the district court is presumed correct. If the review division orders a different sentence, the court sitting in any convenient county shall resentence the person as ordered by the review division. Time served on the sentence reviewed is considered to have been served on the sentence substituted. History: En. 95-2503 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2503(part); amd. Sec. 1, Ch. 654, L. 1985; amd. Sec. 4, Ch. 69, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 18. Sentence and Judgment Part 9. Appellate Review of Legal Sentences 46-18-905. Decision -- finality, report of

46-18-905. Decision -- finality, report of. (1) The decision of the review division in each case is final, and the reasons for the decision must be stated in the decision. The original of each decision must be sent to the clerk of the court for the county in which the judgment was rendered, and a copy must be sent to the judge who imposed the sentence reviewed, the person sentenced, the defense counsel, the county attorney, and the principal officer of the institution in which the person is confined. (2) The decision must be reported in the Montana Reports. History: En. 95-2503 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2503(part); amd. Sec. 5, Ch. 69, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 1. Method of Execution 46-19-101. Commitment of defendant -- transfer of information in possession of sheriff -- notification to court of delay

46-19-101. Commitment of defendant -- transfer of information in possession of sheriff -- notification to court of delay. (1) Upon oral pronouncement of a sentence imposing punishment of imprisonment, commitment to the department of corrections, placement in a prerelease center, community corrections facility, or other place of confinement, or death, the court shall commit the defendant to the custody of the sheriff, who shall deliver the defendant to the place of confinement, commitment, or execution and give that place an order, which must be signed by the sentencing judge on the date of oral pronouncement of sentence, stating that the defendant is sentenced to that place for imprisonment, commitment, placement, or execution, as the case may be. The order is authority for that place to hold the defendant pending receipt by that place of a copy of the written judgment. (2) When a sheriff delivers the defendant to the place of confinement, commitment, or execution, the sheriff shall deliver at the same time all information in the possession of the sheriff regarding the physical and mental health of the defendant, including health information contained in a presentence investigation report. (3) If a defendant is sentenced to prison or another place of confinement operated by or under contract with the department of corrections or is committed to the department and the offender is not transported to the placement within 10 days of receipt of sentencing documents, the department shall notify the court in writing of the reason for the delay. History: En. 95-2301 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2301; amd. Sec. 2, Ch. 141, L. 2003; amd. Sec. 2, Ch. 53, L. 2009; amd. Sec. 9, Ch. 491, L. 2021; amd. Sec. 1, Ch. 543, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 1. Method of Execution 46-19-102. Execution of judgment

46-19-102. Execution of judgment. (1) If a judgment is for a fine alone or for a fine and imprisonment, execution may issue on the fine portion of the judgment, any unpaid interest accrued on the fine portion of the judgment, and costs and fees incurred in collecting the fine portion of the judgment as on a judgment in a civil case. (2) If the judgment is for a fine and imprisonment until the fine is paid, the defendant must be committed to the custody of the proper officer and detained and allowed a credit for each day of incarceration as provided in 46-18-403. (3) (a) The court may contract with a private person or entity for the collection of any fine portion of a judgment. (b) In the event that a private person or entity is retained to collect the fine portion of a judgment, the court may assign the fine portion of the judgment to the private person or entity and the private person or entity may, as an assignee, institute suit or other lawful collection procedures and postjudgment remedies in the private person's or entity's own name. (c) The court, after deducting the charges provided for in 46-18-236, may pay the private person or entity a reasonable fee for collecting the fine portion of a judgment. The fee incurred by the court must be added to the fine portion of the judgment amount. History: En. 95-2302 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2302; amd. Sec. 3, Ch. 270, L. 1989; amd. Sec. 5, Ch. 388, L. 1995; amd. Sec. 8, Ch. 510, L. 2003; amd. Sec. 2, Ch. 327, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 1. Method of

Execution46-19-103. Execution of death sentence

46-19-103. Execution of death sentence.(1) In pronouncing the sentence of death, the court shall set the date of execution, which may not be less than 30 days or more than 60 days from the date the sentence is pronounced. If execution has been stayed by any court and the date set for execution has passed prior to dissolution of the stay, the court in which the defendant was previously sentenced shall, upon dissolution of the stay, set a new date of execution for not less than 20 or more than 90 days from the day the date is set. The defendant is entitled to be present in court on the day the new date of execution is set. (2) Pending execution of a sentence of death, the sheriff may deliver the defendant to the Montana state prison or the Montana women's prison for confinement, and the state shall bear the costs of imprisoning the defendant from the date of delivery. (3) The punishment of death must be inflicted by administration of a continuous, intravenous injection of a lethal quantity of an ultra-fast-acting barbiturate in combination with a chemical paralytic agent until a coroner or deputy coroner pronounces that the defendant is dead. (4) When an execution date is set, a death warrant signed by the judge and attested by the clerk of court under the seal of the court must, within 5 days, be prepared. The warrant and a certified copy of the judgment must be delivered to the director of the department of corrections. The warrant must be directed to the director and recite the conviction, judgment, appointed date of execution, and duration of the warrant. (5) The warden of the Montana state prison shall provide a suitable and efficient room or place in which executions will be carried out, enclosed from public view, within the walls of the state prison, and shall provide all implements necessary to the execution. The warden shall, subject to subsection (6), select the person to perform the execution, and the warden or the warden's designee shall supervise the execution. The identity of the executioner must remain anonymous. Facts pertaining to the selection and training of the executioner must remain confidential. (6) (a) An execution must be performed by a person selected by the warden and trained to administer a lethal injection. The person administering the injection need not be a physician, registered nurse, or licensed practical nurse licensed or registered under the laws of this or any other state. (b) The warden shall allow the execution to be observed by no more than 12 witnesses, excluding department of corrections staff necessary to carry out the execution. The witnesses must, to the extent possible, include three persons from the news media, three persons designated by the family of the victim of the crime, three persons designated by the person to be executed, and three persons chosen by the department of corrections. (c) A proposed witness is subject to rejection by the department of corrections if the department has reason to believe that the witness: (i) poses a risk to the safety or security of department of corrections personnel, the other witnesses, or other persons; or (ii) is likely to disrupt proceedings due to the witness's emotional or mental state. (7) Within 20 days after the execution, the warden shall return the death warrant to the clerk of the court from which it was issued, noting on the warrant the time it was executed. (8) The rejection of a witness under subsection (6)(c) is not grounds for stay of the execution. History: En. 95-2303 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2303; amd. Sec. 1, Ch. 191, L. 1981; amd. Sec. 1, Ch. 292, L. 1983; amd. Sec. 4, Ch. 411, L. 1983; amd. Sec. 107, Ch. 370, L. 1987; amd. Sec. 1, Ch. 552, L. 1989; amd. Sec. 1, Ch. 92, L. 1997; amd. Sec. 1, Ch. 387, L. 1999; amd. Sec. 6, Ch. 491, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 2. Suspension of Execution of Death 46-19-201. When and how mental fitness of defendant determined

46-19-201. When and how mental fitness of defendant determined.If after judgment of death there is good reason to suppose that the defendant lacks mental fitness, the mental fitness of the defendant will be determined in accordance with the provisions of chapter 14 of this title. History: En. 95-2304 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2304.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 2. Suspension of Execution of Death 46-19-202. Proceedings following determination regarding fitness

46-19-202. Proceedings following determination regarding fitness.(1) If it is found that defendant is mentally fit as provided in 46-19-201, the warden of the Montana state prison shall execute the judgment. (2) If it is found that the defendant lacks fitness, the execution of judgment must be suspended and the court shall commit the defendant to the custody of the superintendent of the Montana state hospital to be placed in an appropriate facility of the department of public health and human services for as long as the lack of fitness endures. (3) When the court, on its own motion or upon application of the superintendent of the Montana state hospital, the county prosecuting officer, or the defendant or the defendant's legal representative, determines after a hearing, if a hearing is requested, that the defendant has regained fitness to proceed, the warden must be directed by the court to carry out the execution. If, however, the court is of the view that so much time has elapsed since the commitment of the defendant that it would be unjust to proceed with execution of the sentence, the court may suspend the execution of the sentence and may order the defendant to be discharged. History: En. 95-2305 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 94, Ch. 120, L. 1974; R.C.M. 1947, 95-2305; amd. Sec. 8, Ch. 361, L. 1983; amd. Sec. 5, Ch. 411, L. 1983; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 220, Ch. 546, L. 1995; amd. Sec. 60, Ch. 130, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 2. Suspension of Execution of Death 46-19-203. Procedure for determining if woman is pregnant

46-19-203. Procedure for determining if woman is pregnant.If there is good reason to suppose that a woman against whom a judgment of death is rendered is pregnant, the sheriff of the county, with the concurrence of the judge of the court by which the judgment was rendered, shall summon a jury of three physicians to inquire into the supposed pregnancy. Immediate notice of this

inquiry must be given to the county attorney of the county who must attend the inquiry and may produce witnesses. History: En. 95-2306 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2306; amd. Sec. 1759, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 2. Suspension of Execution of Death 46-19-204. Proceedings following determination regarding pregnancy

46-19-204. Proceedings following determination regarding pregnancy. If it is found by the inquiry referred to in 46-19-203 that the woman is not pregnant, the warden of the Montana state prison shall execute the judgment. If it is found that the woman is pregnant, the warden shall suspend the execution of judgment and transmit the inquisition to the governor. When the governor is satisfied that the woman is no longer pregnant, the governor may issue a death warrant appointing a day for the execution of the judgment. The warrant must recite the conviction, the judgment, the method of execution, that execution of judgment was suspended due to pregnancy, that the governor is satisfied that the woman is no longer pregnant, the appointed date for the execution, and the duration of the warrant. History: En. 95-2307 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2307; amd. Sec. 6, Ch. 411, L. 1983; amd. Sec. 1, Ch. 551, L. 1989; amd. Sec. 1760, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 3. Commitment to Prison in Another State 46-19-301. Western Interstate Corrections Compact -- contents

46-19-301. Western Interstate Corrections Compact -- contents. The Western Interstate Corrections Compact as contained herein is hereby enacted into law and entered into on behalf of this state with any and all other states legally joining therein in a form substantially as follows: WESTERN INTERSTATE CORRECTIONS COMPACT ARTICLE I PURPOSE AND POLICY The party states, desiring by common action to improve their institutional facilities and provide programs of sufficiently high quality for the confinement, treatment, and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on the basis of cooperation with one another, thereby serving the best interests of such offenders and of society. The purpose of this compact is to provide for the development and execution of such programs of cooperation for the confinement, treatment, and rehabilitation of offenders. ARTICLE II DEFINITIONS As used in this compact, unless the context clearly requires otherwise: (1) "state" means a state of the United States or, subject to the limitation contained in Article VII, Guam; (2) "sending state" means a state party to this compact in which conviction was had; (3) "receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction was had; (4) "inmate" means a male or female, as defined in 1-1-201, offender who is under sentence to or confined in a prison or other correctional institution; (5) "institution" means any prison, reformatory, or other correctional facility (including but not limited to a facility for the mentally ill or mentally defective) in which inmates may lawfully be confined. ARTICLE III CONTRACTS (1) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for: (a) its duration; (b) payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance; (c) participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom; (d) delivery and retaking of inmates; (e) such other matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of the sending and receiving states. (2) Prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percent of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state a reasonable sum as consideration for such enlargement of capacity or provision of equipment or structures and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract. (3) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith. ARTICLE IV PROCEDURES AND RIGHTS (1) Whenever the duly constituted judicial or administrative authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in or transfer of an inmate to an institution within the territory of another party state is necessary in order to provide adequate quarters and care or desirable in order to provide an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state. (2) The appropriate officials of any state party to this compact shall have access at all reasonable times to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution. (3) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III. (4) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct

record of each inmate and certify said record to the official designated by the sending state in order that each inmate may have the benefit of the inmate's record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state. (5) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be cared for and treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state. (6) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. Costs of records made pursuant to this subsection shall be borne by the sending state. (7) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate and the sending and receiving states shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory. (8) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits, incur or be relieved of any obligations, or have such obligations modified or the inmate's status changed on account of any action or proceeding in which the inmate could have participated if confined in any appropriate institution of the sending state located within such state. (9) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in the person's exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V ACTS NOT REVIEWABLE IN RECEIVING STATE -- EXTRADITION (1) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is suspected of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference. (2) An inmate who escapes from an institution in which the inmate is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI FEDERAL AID Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto, and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that, if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII ENTRY INTO FORCE This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two contiguous states from among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. For the purposes of this article, Alaska and Hawaii shall be deemed contiguous to each other; to any and all of the states of California, Oregon, and Washington; and to Guam. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states or any other state contiguous to at least one party state upon similar action by such state. Guam may become party to this compact by taking action similar to that provided for joinder by any other eligible party state and upon the consent of congress to such joinder. For the purposes of this article, Guam shall be deemed contiguous to Alaska, Hawaii, California, Oregon, and Washington.

ARTICLE VIII WITHDRAWAL AND TERMINATION This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until 2 years after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX OTHER ARRANGEMENTS UNAFFECTED Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation, or treatment of inmates or to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X CONSTRUCTION AND SEVERABILITY The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held

invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. History: En. 95-2308 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2308; amd. Sec. 1761, Ch. 56, L. 2009; amd. Sec. 23, Ch. 685, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 3. Commitment to Prison in Another State 46-19-302. Effectuation of purposes of compact

46-19-302. Effectuation of purposes of compact. The courts, departments, agencies, and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions, including but not limited to the making and submission of such reports as are required by the compact. History: En. 95-2310 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2310.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 3. Commitment to Prison in Another State 46-19-303. Power of governor to enter into contracts

46-19-303. Power of governor to enter into contracts. The governor may designate the department of corrections to enter into contracts recommended by the department on behalf of this state as may be appropriate to implement the participation of this state in the Western Interstate Corrections Compact pursuant to 46-19-301. History: En. 95-2312 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2312; amd. Sec. 1, Ch. 59, L. 1979; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 221, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 3. Commitment to Prison in Another State 46-19-304. Commitment or transfer of inmate to institution outside of state

46-19-304. Commitment or transfer of inmate to institution outside of state. Any court or state agency having power to commit or transfer an inmate (as defined in Article II(4) of the Western Interstate Corrections Compact) to any institution for confinement may commit or transfer such inmate to any institution outside this state if this state has entered into a contract or contracts for the confinement of inmates in said institution pursuant to Article III of the Western Interstate Corrections Compact. History: En. 95-2309 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2309.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 3. Commitment to Prison in Another State 46-19-305. Hearings requested by other states

46-19-305. Hearings requested by other states. The board of pardons and parole and the department of corrections shall hold hearings as may be requested by any other party state pursuant to Article IV(6) of the Western Interstate Corrections Compact. History: En. 95-2311 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 95, Ch. 120, L. 1974; R.C.M. 1947, 95-2311; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 222, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 4. Interstate Corrections Compact 46-19-401. Compact adopted -- text

46-19-401. Compact adopted -- text. The Interstate Corrections Compact is entered into by this state with any and all other states legally joining therein in the form substantially as follows: INTERSTATE CORRECTIONS COMPACT ARTICLE I PURPOSE AND POLICY The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources. ARTICLE II DEFINITIONS As used in this compact, unless the context requires otherwise: (a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico. (b) "Sending state" means a state party to this compact in which conviction or court commitment was had. (c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had. (d) "Inmate" means a male or female, as defined in 1-1-201, offender who is committed under sentence to or confined in a penal or correctional institution. (e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates may lawfully be confined. ARTICLE III CONTRACTS (a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for: 1. Its duration. 2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance. 3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting

therefrom. 4. Delivery and retaking of inmates. 5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states. (b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV PROCEDURES AND RIGHTS (a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state. (b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution. (c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state. For transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III. (d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of the inmate's record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state. (e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state. (f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subsection, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state. (g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory. (h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or the inmate's status changed on account of any action or proceeding in which the inmate could have participated if confined in any appropriate institution of the sending state located within such state. (i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in the inmate's exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V ACTS NOT REVIEWABLE IN RECEIVING STATE -- EXTRADITION (a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference. (b) An inmate who escapes from an institution in which the inmate is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee. **ARTICLE VI FEDERAL AID** Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor. **ARTICLE VII ENTRY INTO FORCE** This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state. **ARTICLE VIII WITHDRAWAL AND TERMINATION** This compact shall continue in force and remain binding upon a party state until it shall have enacted a

statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact. ARTICLE IX OTHER ARRANGEMENTS UNAFFECTED Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements. ARTICLE X CONSTRUCTION AND SEVERABILITY The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. History: En. Sec. 1, Ch. 112, L. 1987; amd. Sec. 1762, Ch. 56, L. 2009; amd. Sec. 24, Ch. 685, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 19. Execution of Judgment Part 4. Interstate Corrections Compact 46-19-402. Effectuation of purposes of compact

46-19-402. Effectuation of purposes of compact. The department of corrections shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within its jurisdiction, including but not limited to the making and submission of the reports that are required by the compact. History: En. Sec. 2, Ch. 112, L. 1987; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 223, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 2. Jurisdiction Part 1. Jurisdiction of the State 46-2-101. State criminal jurisdiction

46-2-101. State criminal jurisdiction. (1) A person is subject to prosecution in this state for an offense that the person commits while either within or outside the state by the person's own conduct or that of another for which the person is legally accountable if: (a) the offense is committed either wholly or partly within the state; (b) the conduct outside the state constitutes an attempt to commit an offense within the state and an act in furtherance of the offense occurs in the state; or (c) the conduct within the state constitutes an attempt, solicitation, or conspiracy to commit in another jurisdiction an offense under the laws of this state and the other jurisdiction. (2) An offense is committed partly within this state if either the conduct that is an element of the offense or the result that is an element occurs within the state. In homicide, the "result" is either the physical contact that causes death or the death itself. If the body of a homicide victim is found within the state, the death is presumed to have occurred within the state. (3) An offense that is based on an omission to perform a duty imposed by the law of this state is committed within the state regardless of the location of the offender at the time of the omission. (4) This state includes the land and water and the air space above the land and water with respect to which the state has legislative jurisdiction. History: En. 95-304 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-304; amd. Sec. 1728, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 2. Jurisdiction Part 2. Jurisdiction of the Courts 46-2-201. Jurisdiction of the district court

46-2-201. Jurisdiction of the district court. The district courts have jurisdiction of all public offenses not otherwise provided for. History: En. 95-301 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-301.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 2. Jurisdiction Part 2. Jurisdiction of the Courts 46-2-202. Jurisdiction of justices' courts

46-2-202. Jurisdiction of justices' courts. The justices' courts have criminal jurisdiction as authorized by 3-10-303. History: En. 95-302.1 by Sec. 2, Ch. 184, L. 1977; R.C.M. 1947, 95-302.1.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 2. Jurisdiction Part 2. Jurisdiction of the Courts 46-2-203. Jurisdiction of city courts

46-2-203. Jurisdiction of city courts. The city courts have criminal jurisdiction as authorized by 3-11-102 and 3-11-103. History: En. 95-303 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-303(a).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 2. Jurisdiction Part 2. Jurisdiction of the Courts 46-2-204. Jurisdiction of municipal courts

46-2-204. Jurisdiction of municipal courts. Municipal courts have criminal jurisdiction as authorized by 3-6-103. History: En. 95-303 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-303(b).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 1. General Provisions 46-20-101. Single method of review in criminal cases

46-20-101. Single method of review in criminal cases. (1) This chapter shall govern review in all criminal cases. (2) All existing methods of review in criminal cases in the state are abolished. After January 1, 1968, the only method of review in criminal cases shall be by notice of appeal. History: En. 95-2401 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2401.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 1. General Provisions 46-20-102. Superseded

46-20-102. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2402 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2402.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 1. General Provisions 46-20-103. Scope of appeal by state

46-20-103. Scope of appeal by state. (1) Except as otherwise specifically authorized, the state may not appeal in a criminal case. (2) The state may appeal from any court order or judgment the substantive effect of which results in: (a) dismissing a case; (b) modifying or changing the verdict as provided in 46-16-702(3)(c); (c) granting a new trial; (d) quashing an arrest or search warrant; (e) suppressing evidence; (f) suppressing a confession or admission; (g) granting or denying change of venue; or (h) imposing a sentence that is contrary to law. History: En. 95-2403 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 41, Ch. 184, L. 1977; R.C.M. 1947, 95-2403; amd. Sec. 1, Ch. 478, L. 1989.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 1. General Provisions 46-20-104. Scope of appeal by defendant

46-20-104. Scope of appeal by defendant. (1) An appeal may be taken by the defendant only from a final judgment of conviction and orders after judgment which affect the substantial rights of the defendant. (2) Upon appeal from a judgment, the court may review the verdict or decision and any alleged error objected to which involves the merits or necessarily affects the judgment. Failure to make a timely objection during trial constitutes a waiver of the objection except as provided in 46-20-701(2). History: En. 95-2404 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2404; amd. Sec. 1, Ch. 319, L. 1983.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 1. General Provisions 46-20-105. Appeal by one codefendant

46-20-105. Appeal by one codefendant. When several defendants are tried jointly, any one or more of them may take an appeal but those who do not join in the appeal shall not be affected thereby. History: En. 95-2429 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2429.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 2. Initiation of Appeal 46-20-201. Superseded

46-20-201. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2405 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2405(a) thru (c).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 2. Initiation of Appeal 46-20-202. Superseded

46-20-202. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2405 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2405(d).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 2. Initiation of Appeal 46-20-203. Superseded

46-20-203. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2405 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2405(e).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 2. Initiation of Appeal 46-20-204. Stay of execution and relief pending appeal

46-20-204. Stay of execution and relief pending appeal. (1) If an appeal is taken, a sentence of death must be stayed by order of the trial court until final order by the supreme court. (2) If an appeal is taken and the defendant is admitted to bail, a sentence of imprisonment must be stayed by the trial court. (3) If an appeal is taken, a sentence to pay a fine or a fine and costs must be stayed by the trial court or by the reviewing court. (4) If an appeal is taken and the accused was admitted to probation, the accused shall remain on probation or post bail. History: En. 95-2406 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2406; amd. Sec. 1763, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 2. Initiation of Appeal 46-20-205. Effect of an appeal by the state

46-20-205. Effect of an appeal by the state. An appeal taken by the state in no case stays or affects the operation of the judgment or order in favor of the defendant until judgment or order is reversed. History: En. 95-2407 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2407.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-301. Superseded

46-20-301. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2408 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2408(a).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-302. Superseded

46-20-302. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2408 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2408(b); amd. Sec. 1, Ch. 148, L. 1983.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-303. Superseded

46-20-303. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2428 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2428.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-304. Superseded

46-20-304. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2408 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2408(c).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-305. Superseded

46-20-305. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2408 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2408(d).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-306. Superseded

46-20-306. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2408 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2408(e).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-307. through 46-20-310 reserved

46-20-307 through 46-20-310 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-311. Superseded

46-20-311. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2409 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2409(a), (b).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-312. Superseded

46-20-312. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2409 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2409(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-313. Superseded

46-20-313. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2409 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2409(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-314. Superseded

46-20-314. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2409 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2409(d).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-315. Superseded

46-20-315. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2409 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2409(e).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-316. Superseded

46-20-316. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2410 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2410(a).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-317. Superseded

46-20-317. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2410 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2410(b).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-318. Superseded

46-20-318. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2410 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2410(c); amd. Sec. 24, Ch. 116, L. 1979.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 3. The Record on Appeal (Superseded) 46-20-319. Superseded

46-20-319. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2411 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2411.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-401. Superseded

46-20-401. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2416 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2416(a).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-402. Superseded

46-20-402. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2416 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2416(b).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-403. Superseded

46-20-403. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2416 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2416(c).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-404. Superseded

46-20-404. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2417 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2417.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-405. Superseded

46-20-405. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2419 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2419.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-406. Superseded

46-20-406. Superseded.Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2416 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2416(d).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-407. Superseded

46-20-407. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2416 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2416(e).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-408. Superseded

46-20-408. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2416 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2416(f).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-409. Superseded

46-20-409. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2416 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2416(g).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 4. Briefs (Superseded) 46-20-410. Superseded

46-20-410. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2418 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2418.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-501. Superseded

46-20-501. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2415 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2415.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-502. Superseded

46-20-502. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2413 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2413.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-503. Superseded

46-20-503. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2414 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2414.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-504. Superseded

46-20-504. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2424 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2424(c).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-505. through 46-20-510 reserved

46-20-505 through 46-20-510 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-511. Superseded

46-20-511. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2420 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2420(a).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-512. Superseded

46-20-512. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2420 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2420(b).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 5. Motions and Papers in General (Superseded) 46-20-513. Superseded

46-20-513. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2420 by Sec. 1, Ch. 196, L. 1967; R.C.M.

1947, 95-2420(c).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 6. Oral Argument (Superseded) 46-20-601. Superseded

46-20-601. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2424 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2424(a), (b).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 6. Oral Argument (Superseded) 46-20-602. Superseded

46-20-602. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2421 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2421(a).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 6. Oral Argument (Superseded) 46-20-603. Superseded

46-20-603. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2421 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2421(b), (c), (f).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 6. Oral Argument (Superseded) 46-20-604. Superseded

46-20-604. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2421 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2421(d), (e).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 7. Action by Court 46-20-701. Elements of record court considers on review -- errors noticed

46-20-701. Elements of record court considers on review -- errors noticed. (1) Whenever the record on appeal contains any order, ruling, or proceeding of the trial court against the convicted person affecting the convicted person's substantial rights on the appeal of the cause, together with any required objection of the convicted person, the supreme court on that appeal shall consider the orders, rulings, or proceedings and the objections thereto and shall reverse or affirm the cause on the appeal according to the substantial rights of the respective parties, as shown upon the record. A cause may not be reversed by reason of any error committed by the trial court against the convicted person unless the record shows that the error was prejudicial. (2) Any error, defect, irregularity, or variance that does not affect substantial rights must be disregarded. A claim alleging an error affecting jurisdictional or constitutional rights may not be noticed on appeal if the alleged error was not objected to as provided in 46-20-104, unless the convicted person establishes that the error was prejudicial as to the convicted person's guilt or punishment and that: (a) the right asserted in the claim did not exist at the time of the trial and has been determined to be retroactive in its application; (b) the prosecutor, the judge, or a law enforcement agency suppressed evidence from the convicted person or the convicted person's attorney that prevented the claim from being raised and disposed of; or (c) material and controlling facts upon which the claim is predicated were not known to the convicted person or the convicted person's attorney and could not have been ascertained by the exercise of reasonable diligence. History: (1) En. 95-2412 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2412; (2) En. 95-2425 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2425; amd. Sec. 2, Ch. 319, L. 1983; Sec. 46-20-702, MCA 1985; redes. 46-20-701(2) by Code Commissioner, 1987; amd. Sec. 202, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 7. Action by Court 46-20-702. Renumbered 46-20-701 (2)

46-20-702. Renumbered 46-20-701(2). Code Commissioner, 1987.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 7. Action by Court 46-20-703. Action reviewing court may take

46-20-703. Action reviewing court may take. On appeal the reviewing court may: (1) reverse, affirm, or modify the judgment or order from which the appeal is taken; (2) set aside, affirm, or modify any or all of the proceedings subsequent to or dependent upon the judgment or order from which the appeal is taken; (3) reduce the offense of which the appellant was convicted to a lesser included offense; (4) reduce the punishment imposed by the trial court; or (5) order a new trial if justice so requires. History: En. 95-2426 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 42, Ch. 184, L. 1977; R.C.M. 1947, 95-2426.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 7. Action by Court 46-20-704. Superseded

46-20-704. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2422 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2422.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 7. Action by Court 46-20-705. Superseded

46-20-705. Superseded. Sup. Ct. Ord. June 16, 1986, eff. Jan. 19, 1987. History: En. 95-2423 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2423; amd. Sec. 1, Ch. 294, L. 1981.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 7. Action by Court 46-20-706. Termination of appeal -- remand

46-20-706. Termination of appeal -- remand. (1) Upon termination of the appeal, the supreme court shall remand the cause with proper instruction together with the opinion of the court. The clerk shall return all original documents to the trial court. (2) After the cause has been remanded to the trial court, the appellate court has no further jurisdiction of the appeal or the proceedings thereon and all orders necessary to carry the judgment into effect must be made by the court to which the cause is remanded. History: En. 95-2427 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2427.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 20. Appeals Part 7. Action by Court 46-20-707. Discharge of defendant on reversal of judgment

46-20-707. Discharge of defendant on reversal of judgment. If a judgment against the defendant is reversed without ordering a new trial, the appellate court shall: (1) if the defendant is in custody, direct the defendant to be discharged from custody; (2) if the defendant is on bail, direct that the defendant's bail be exonerated; or (3) if money was deposited instead of bail, direct that it be refunded to the defendant. History: En. 95-2430 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2430; amd. Sec. 1764, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-101. When validity of sentence may be challenged

46-21-101. When validity of sentence may be challenged. (1) A person adjudged guilty of an offense in a court of record who has no adequate remedy of appeal and who claims that a sentence was imposed in violation of the constitution or the laws of this state or the constitution of the United States, that the court was without jurisdiction to impose the sentence, that a suspended or deferred sentence was improperly revoked, or that the sentence was in excess of the maximum authorized by law or is otherwise subject to collateral attack upon any ground of alleged error available under a writ of habeas corpus, writ of coram nobis, or other common law or statutory remedy may petition the court that imposed the sentence to vacate, set aside, or correct the sentence or revocation order. (2) If the sentence was imposed by a justice's, municipal, or city court, the petition may not be filed unless the petitioner has exhausted all appeal remedies provided by law. The petition must be filed with the district court in the county where the lower court is located. History: En. 95-2601 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 43, Ch. 184, L. 1977; R.C.M. 1947, 95-2601; amd. Sec. 1, Ch. 195, L. 1981; amd. Sec. 1, Ch. 211, L. 1985; amd. Sec. 225, Ch. 800, L. 1991; amd. Sec. 3, Ch. 378, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-102. When petition may be filed

46-21-102. When petition may be filed. (1) Except as provided in subsection (2), a petition for the relief referred to in 46-21-101 may be filed at any time within 1 year of the date that the conviction becomes final. A conviction becomes final for purposes of this chapter: (a) when the time for appeal to the Montana supreme court expires; (b) if an appeal is taken to the Montana supreme court, when the time for petitioning the United States supreme court for review expires; or (c) if review is sought in the United States supreme court, on the date that that court issues its final order in the case. (2) A claim that alleges the existence of newly discovered evidence that, if proved and viewed in light of the evidence as a whole would establish that the petitioner did not engage in the criminal conduct for which the petitioner was convicted, may be raised in a petition filed within 1 year of the date on which the conviction becomes final or the date on which the petitioner discovers, or reasonably should have discovered, the existence of the evidence, whichever is later. History: En. 95-2604 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 44, Ch. 184, L. 1977; R.C.M. 1947, 95-2604; amd. Sec. 2, Ch. 195, L. 1981; amd. Sec. 226, Ch. 800, L. 1991; amd. Sec. 4, Ch. 378, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-103. Commencement of proceedings

46-21-103. Commencement of proceedings. The proceeding for relief under 46-21-101 must be commenced by filing a verified petition with the clerk of the appropriate court. The clerk shall docket the petition upon its receipt and bring the petition promptly to the attention of the court. History: En. 95-2602 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2602; amd. Sec. 227, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-104. Contents of petition

46-21-104. Contents of petition. (1) The petition for postconviction relief must: (a) identify the proceeding in which the petitioner was convicted, give the date of the rendition of the final judgment complained of, and clearly set forth the alleged violation or

violations; (b) identify any previous proceedings that the petitioner may have taken to secure relief from the conviction; and (c) identify all facts supporting the grounds for relief set forth in the petition and have attached affidavits, records, or other evidence establishing the existence of those facts. (2) The petition must be accompanied by a supporting memorandum, including appropriate arguments and citations and discussion of authorities. History: En. 95-2603 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2603; amd. Sec. 3, Ch. 195, L. 1981; amd. Sec. 228, Ch. 800, L. 1991; amd. Sec. 2, Ch. 302, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-105. Amendment of petition -- waiver of grounds for relief

46-21-105. Amendment of petition -- waiver of grounds for relief. (1) (a) All grounds for relief claimed by a petitioner under 46-21-101 must be raised in the original or amended original petition. The original petition may be amended only once. At the request of the state or on its own motion, the court shall set a deadline for the filing of an amended original petition. If a hearing will be held, the deadline must be reasonably in advance of the hearing but may not be less than 30 days prior to the date of the hearing. (b) The court shall dismiss a second or subsequent petition by a person who has filed an original petition unless the second or subsequent petition raises grounds for relief that could not reasonably have been raised in the original or an amended original petition. (2) When a petitioner has been afforded the opportunity for a direct appeal of the petitioner's conviction, grounds for relief that were or could reasonably have been raised on direct appeal may not be raised, considered, or decided in a proceeding brought under this chapter. Ineffectiveness or incompetence of counsel in proceedings on an original or an amended original petition under this part may not be raised in a second or subsequent petition under this part. (3) For purposes of this section, "grounds for relief" includes all legal and factual issues that were or could have been raised in support of the petitioner's claim for relief. History: En. 95-2607 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2607; amd. Sec. 4, Ch. 195, L. 1981; amd. Sec. 229, Ch. 800, L. 1991; amd. Sec. 1, Ch. 96, L. 1995; amd. Secs. 3, 4, Ch. 302, L. 1997; amd. Sec. 5, Ch. 378, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-106. through 46-21-109 reserved

46-21-106 through 46-21-109 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-110. Petition for DNA testing

46-21-110. Petition for DNA testing. (1) A person convicted of a felony may file a written petition for performance of DNA testing, as defined in 44-6-101, in the court that entered the judgment of conviction. The petition must include the petitioner's statement that the petitioner was not the perpetrator of the felony that resulted in the conviction and that DNA testing is relevant to the assertion of innocence. The petition must be verified by the petitioner under penalty of perjury and must: (a) explain why the identity of the perpetrator of the felony was or should have been a significant issue in the case; (b) present a prima facie case that the evidence to be tested has been subject to a chain of custody sufficient to establish that the evidence has not been substituted, tampered with, degraded, contaminated, altered, or replaced in any material aspect; (c) explain, in light of all the evidence, how the requested testing would establish the petitioner's innocence of the felony; (d) make every reasonable attempt to identify both the evidence that should be tested and the specific type of DNA testing sought; (e) reveal the results of any DNA or other known biological testing that was previously conducted by the prosecution or defense; and (f) state whether a petition was previously filed under this section and the results of the proceeding. (2) If the petition does not contain the information required in subsection (1), the court shall return the petition to the petitioner and advise the petitioner that the matter cannot be considered without the missing information. (3) If subsection (1) is complied with, the court shall order a copy of the petition to be served on the attorney general, the county attorney of the county of conviction, and, if known, the laboratory or government agency holding the evidence sought to be tested. The court shall order that any responses to the petition must be filed within a reasonable time after the date of service under this subsection. (4) The court may order a hearing on the petition. The hearing must be before the judge who conducted the trial, unless the court determines that that judge is unavailable. Upon request of any party, the court may in the interest of justice order the petitioner to be present at the hearing. The court may consider evidence whether or not it was introduced at the trial. (5) The court shall grant the petition if it determines that the petition is not made for the purpose of delay and that: (a) the evidence sought to be tested is available and has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, degraded, contaminated, altered, or replaced in any material aspect; (b) the identity of the perpetrator of the felony was or should have been a significant issue in the case; (c) the petitioner has made a showing that the evidence sought to be tested has a reasonable probability, assuming favorable results, of being material to the question of whether the petitioner was the perpetrator of the felony that resulted in the conviction; (d) in light of all the evidence, there is a reasonable probability that the petitioner would not have been convicted if favorable results had been obtained through DNA testing at the time of the original prosecution; and (e) the evidence sought to be tested was not previously tested or was tested previously but another test would provide results that are reasonably more discriminating and probative on the question of whether the petitioner was the perpetrator of the felony that resulted in the conviction or would have a reasonable probability of contradicting the prior test results. (6) If the court grants the petition, the court shall identify the evidence to be tested. The testing must be conducted by a laboratory mutually agreed upon by the petitioner, the attorney general, and the county attorney of the county of conviction. If the parties cannot agree on a laboratory, the court shall direct a laboratory of the court's choice to conduct the testing. At the request of the attorney general or the county attorney of the

county of conviction, the court shall order the evidence submitted to an additional laboratory designated by the requester for additional testing. The court shall impose reasonable conditions on the testing designed to protect the parties' interests in the integrity of the evidence and the testing process. (7) After a petition has been filed under this section, the court may order: (a) the state to locate and provide the petitioner with any documents, notes, logs, or reports relating to physical evidence collected in connection with the case or otherwise assist the petitioner in locating biological evidence that the state contends has been lost or destroyed; (b) the state to take reasonable measures to locate biological evidence that may be in its custody; (c) the state to assist the petitioner in locating evidence that may be in the custody of a public or private hospital or laboratory or other facility; and (d) the production of original documents from the laboratory showing the results of any analysis conducted on any items or biological material collected as evidence from the time the evidence was received to the time of disposition. This includes but is not limited to the underlying data and laboratory notes prepared in connection with DNA tests, presumptive tests for the presence of biological material, serological tests, and analysis for trace evidence. All items from the requested case file must be made available to the petitioner, including digital files and photographs. (8) The provisions of subsection (7) do not limit a court from ordering the production of any other relevant evidence. (9) Testing ordered by the court must be conducted as soon as practicable, and if the court finds that a gross miscarriage of justice would otherwise occur and that it is necessary in the interests of justice to give priority to the DNA testing, the court shall order a laboratory, if located in this state, to give the testing priority over any other pending casework of the laboratory. (10) The test results must be fully disclosed to the parties. (11) If the test results are inconclusive, the court may order further appropriate testing or terminate the proceeding. If the test results inculcate the petitioner, the court shall: (a) notify the board of pardons and parole; (b) order the petitioner's test sample to be included in the DNA identification index established under 44-6-102 and the federal combined DNA index system (CODIS) offender database; (c) notify any victim and the family of the victim that the test results were not favorable to the petitioner; and (d) terminate the proceeding. (12) If the test results are favorable to the petitioner, the court shall order a hearing to determine whether there is a reasonable probability that a different outcome at trial could have been reached and after the hearing shall make appropriate orders to serve the interests of justice, including an order that: (a) vacates and sets aside the judgment; (b) discharges the defendant if the defendant is in custody; or (c) resentences the defendant. (13) The court may order a DNA profile to be submitted to the DNA identification index established under 44-6-102 and the federal combined DNA index system (CODIS) offender database to determine whether it matches a DNA profile of a known individual or a DNA profile from an unsolved crime. The DNA profile may be obtained from probative biological material from crime scene evidence. (14) The court shall order a petitioner who is able to do so to pay the costs of testing. If the petitioner is unable to pay, the court shall order the state to pay the costs of testing. The court shall order additional testing requested by the attorney general or the county attorney of the county of conviction to be paid for by the state. (15) The remedy provided by this section is in addition to any remedy available under part 1 of this chapter. (16) When a motion is filed to vacate a conviction based on DNA results that are favorable to the petitioner, the state may provide victim services to the victim of the crime that is being reinvestigated during the reinvestigation, during the court proceedings, and, upon consultation with the victim or a victim advocate, after final adjudication of the case. History: En. Sec. 1, Ch. 79, L. 2003; amd. Sec. 1, Ch. 313, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 1. Initiating Proceedings 46-21-111. Preservation and disposal of biological evidence obtained in criminal proceeding

46-21-111. Preservation and disposal of biological evidence obtained in criminal proceeding. (1) (a) A law enforcement agency shall preserve biological evidence that the agency has reason to believe contains DNA material and that is obtained in connection with a felony for which a conviction is obtained. The agency shall preserve the evidence for a minimum of 3 years after the conviction in the case becomes final or for any period beyond 3 years that is required by a court order issued within 3 years after the conviction in the case becomes final. (b) An agency may propose to dispose of biological evidence before the expiration of the time period described in subsection (1)(a) if the agency notifies the convicted person, the attorney of record for the convicted person, and the Montana public defender division administrator. The notification must include a description of the biological evidence, a statement that the agency will dispose of the evidence unless a party files an objection in writing within 120 days from the date of service of the notification in the court that entered the judgment, and the name and mailing address of the court where an objection may be filed. If an objection to the disposition of the evidence is not filed within the 120-day period, the agency may dispose of the evidence. If a written objection is filed, the court shall consider the reasons for and against disposition of the evidence, may hold a hearing on the proposed disposition of the evidence, and shall issue an order ruling on the matter as required by the interests of justice and the integrity of the criminal justice system. (c) If a party objects to the disposition of the biological evidence, the agency has the burden of proving by a preponderance of the evidence that the evidence should be disposed of. (2) Upon completion of laboratory analysis, the laboratory operated by the forensic sciences division of the department of justice shall permanently preserve under laboratory control any remaining biological evidence collected from items submitted to it. (3) For purposes of this section, the following definitions apply: (a) "Biological evidence" means any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material, including the contents of a sexual assault examination kit, that is collected as part of a criminal investigation or that may reasonably be used to incriminate or exculpate any person of an offense. (b) "DNA" means deoxyribonucleic acid. History: En. Sec. 2, Ch. 79, L. 2003; amd. Sec. 1, Ch. 221, L. 2009; amd. Sec. 18, Ch. 358, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 2. Action of

Court46-21-201. Proceedings on petition

46-21-201. Proceedings on petition.(1) (a) Unless the petition and the files and records of the case conclusively show that the petitioner is not entitled to relief, the court shall cause notice of the petition to be sent to the county attorney in the county in which the conviction took place and to the attorney general and order that a responsive pleading be filed. The attorney general shall determine whether the attorney general will respond to the petition and, if so, whether the attorney general will respond in addition to or in place of the county attorney. Following its review of the responsive pleading, the court may dismiss the petition as a matter of law for failure to state a claim for relief or it may proceed to determine the issue. (b) If the death sentence has been imposed, upon receipt of the response or responses to the petition, the court shall promptly hold a conference to determine a schedule for the expeditious resolution of the proceeding. The court shall issue a decision within 90 days after the hearing on the petition or, if there is no hearing, within 90 days after the filing of briefs as allowed by rule or by court order. If the decision is not issued during that period, a party may petition the supreme court for a writ of mandate or other appropriate writ or relief to compel the issuance of a decision. (c) To the extent that they are applicable and are not inconsistent with this chapter, the rules of procedure governing civil proceedings apply to the proceeding. (2) If the death sentence has not been imposed and a hearing is required or if the interests of justice require, the court shall order the office of state public defender, provided for in 2-15-1029, to assign counsel for a petitioner who qualifies for the assignment of counsel under Title 46, chapter 8, part 1, and the Montana Public Defender Act, Title 47, chapter 1. (3) (a) Within 30 days after a conviction for which a death sentence was imposed becomes final, the sentencing court shall notify the sentenced person that if the person is indigent, as defined in 47-1-103, and wishes to file a petition under this chapter, the court will order the office of state public defender to assign counsel who meets the Montana supreme court's standards and the office of state public defender's standards for competency of assigned counsel in proceedings under this chapter for an indigent person sentenced to death. (b) Within 75 days after a conviction for which a death sentence was imposed upon a person who wishes to file a petition under this chapter becomes final, the sentencing court shall: (i) order the office of state public defender to assign counsel to represent the person pending a determination by the office of state public defender that the person is indigent, as defined in 47-1-103, and that the person either has accepted the offer of assigned counsel or is unable to competently decide whether to accept the offer of assigned counsel; (ii) if the offer of assigned counsel is rejected by a person who understands the legal consequences of the rejection, enter findings of fact after a hearing, if the court determines that a hearing is necessary, stating that the person rejected the offer with an understanding of the legal consequences of the rejection; or (iii) if the petitioner is determined not to be indigent, deny or rescind any order requiring the assignment of counsel. (c) The office of state public defender may not assign counsel who has previously represented the person at any stage in the case unless the person and the counsel expressly agree to the assignment. (d) If a petitioner entitled to counsel under this subsection (3) is determined not to be indigent but becomes indigent at any subsequent stage of the proceedings, the court shall order the assignment of counsel as provided in subsection (3)(b)(i). (e) The expenses of counsel assigned pursuant to this subsection (3) must be paid by the office of state public defender. (f) Violation of this subsection (3) is not a basis for a claim or relief under this chapter. (4) The court, for good cause, may grant leave to either party to use the discovery procedures available in criminal or civil proceedings. Discovery procedures may be used only to the extent and in the manner that the court has ordered or to which the parties have agreed. (5) The court may receive proof of affidavits, depositions, oral testimony, or other evidence. In its discretion, the court may order the petitioner brought before the court for the hearing. (6) If the court finds in favor of the petitioner, it shall enter an appropriate order with respect to the judgment or sentence in the former proceedings and any supplementary orders as to reassignment, retrial, custody, bail, or discharge that may be necessary and proper. If the court finds for the prosecution, the petition must be dismissed. History: En. 95-2605 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 45, Ch. 184, L. 1977; R.C.M. 1947, 95-2605; amd. Sec. 5, Ch. 195, L. 1981; amd. Sec. 230, Ch. 800, L. 1991; amd. Sec. 6, Ch. 378, L. 1997; amd. Sec. 53, Ch. 449, L. 2005; amd. Sec. 1, Ch. 51, L. 2009; amd. Sec. 19, Ch. 358, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 2. Action of Court46-21-202. Record of proceedings

46-21-202. Record of proceedings.A court that hears a petition pursuant to this chapter shall keep a record of the proceedings and enter its findings and conclusions. History: En. 95-2606 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 46, Ch. 184, L. 1977; R.C.M. 1947, 95-2606; amd. Sec. 231, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 21. Postconviction Hearing Part 2. Action of Court46-21-203. Review

46-21-203. Review.Either the petitioner or the prosecution may appeal to the supreme court from an order entered on a petition. The appeal must be taken within 60 days of the entry of the order. History: En. 95-2608 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 47, Ch. 184, L. 1977; R.C.M. 1947, 95-2608; amd. Sec. 6, Ch. 195, L. 1981; amd. Sec. 232, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 1. Availability of Writ46-22-101. Applicability of writ of habeas corpus

46-22-101. Applicability of writ of habeas corpus.(1) Except as provided in subsection (2), every person imprisoned or otherwise restrained of liberty within this state may prosecute a writ of habeas corpus to inquire into the cause of imprisonment or restraint and, if illegal, to be delivered from the imprisonment or restraint. (2) The writ of habeas corpus is not available to attack the validity

of the conviction or sentence of a person who has been adjudged guilty of an offense in a court of record and has exhausted the remedy of appeal. The relief under this chapter is not available to attack the legality of an order revoking a suspended or deferred sentence. History: En. 95-2701 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2701; amd. Sec. 7, Ch. 195, L. 1981; amd. Sec. 2, Ch. 211, L. 1985; amd. Sec. 233, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 1. Availability of Writ 46-22-102. No release for technical defects

46-22-102. No release for technical defects. A person may not be released on a writ of habeas corpus due to any technical defect in commitment not affecting the person's substantial rights. History: En. 95-2716 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2716; amd. Sec. 234, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 1. Availability of Writ 46-22-103. Writ for purpose of bail

46-22-103. Writ for purpose of bail. When a person is imprisoned or detained in custody on any criminal charge for want of bail, the person is entitled to a writ of habeas corpus for the purpose of giving bail upon averring that fact in the person's petition, without alleging that the person is illegally confined. History: En. 95-2702 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2702; amd. Sec. 1765, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 2. Issuance of Writ 46-22-201. Application for writ of habeas corpus

46-22-201. Application for writ of habeas corpus. (1) Application for a writ of habeas corpus is made by petition signed either by the party for whose relief it is intended or by some person on the petitioner's behalf. It must specify: (a) that the petitioner is unlawfully imprisoned or restrained of liberty; (b) why the imprisonment or restraint is unlawful; and (c) where and by whom the petitioner is confined or restrained. (2) All parties must be named if they are known or otherwise described so that they may be identified. (3) The petition must be verified by the oath or affirmation of the party making the application. History: En. 95-2703 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2703; amd. Sec. 25, Ch. 116, L. 1979; amd. Sec. 235, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 2. Issuance of Writ 46-22-202. Granting writ of habeas corpus

46-22-202. Granting writ of habeas corpus. (1) A writ of habeas corpus may be granted by any justice of the supreme court or by any district court judge upon petition by or on behalf of any person restrained of liberty within the justice's or judge's jurisdiction. (2) When a writ of habeas corpus is issued, it may be made returnable before the issuing court. History: En. 95-2704 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2704; amd. Sec. 26, Ch. 116, L. 1979; amd. Sec. 236, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 2. Issuance of Writ 46-22-203. Writ granted without delay

46-22-203. Writ granted without delay. Any justice or judge authorized to grant a writ of habeas corpus shall grant the writ without delay if it appears that a writ ought to issue. History: En. 95-2705 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2705; amd. Sec. 237, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 2. Issuance of Writ 46-22-204. Writ and process may issue at any time

46-22-204. Writ and process may issue at any time. The writ of habeas corpus or any associated process may be issued and served on any day or at any time. History: En. 95-2715 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2715; amd. Sec. 238, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 2. Issuance of Writ 46-22-205. Form of writ

46-22-205. Form of writ. (1) The writ of habeas corpus must be directed to the person having custody of or restraining the person on whose behalf the application is made and must command that person to have the petitioner before the judge before whom the writ is returnable at a time and place specified. (2) The issue or issues to be determined upon return of the writ may be stated either in the writ or in an order attached to the writ. If the issues to be determined are not stated in the writ or in an attached order, then a copy of the petition must be attached to the writ. History: En. 95-2707 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2707; amd. Sec. 239, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 2. Issuance of Writ 46-22-206. Service of writ

46-22-206. Service of writ. (1) The writ of habeas corpus must be served upon the person to whom it is directed. If the writ is directed to a state institution, a copy of the writ must be served upon the attorney general. If the writ is directed to a county facility, a

copy of the writ must be served upon the county attorney. (2) The writ must be served by the clerk of court, the sheriff, or any other person directed to do so by the court. (3) The writ must be served in the same manner as a summons in civil actions, except when otherwise expressly directed by the judge. History: En. 95-2708 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2708; amd. Sec. 240, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 3. Return of Writ, Hearing, Appeal 46-22-301. Return of service

46-22-301. Return of service. (1) The person upon whom the writ is served shall make a return and state in that return: (a) (i) whether the petitioner is in that person's custody or under that person's power or restraint; and (ii) if the petitioner is in custody or otherwise restrained, the authority for and cause of the custody or restraint; or (b) if the petitioner has been transferred to the custody of or otherwise restrained by another, to whom the party was transferred, the time and place of the transfer, the reason for the transfer, and the authority under which the transfer took place. (2) The return must be signed and verified by oath unless the person making the return is a sworn public officer making a return in an official capacity. History: En. 95-2709 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2709; amd. Sec. 241, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 3. Return of Writ, Hearing, Appeal 46-22-302. Appearance of petitioner

46-22-302. Appearance of petitioner. (1) The person commanded by the writ shall bring the petitioner before the court as required by the writ unless the petitioner cannot be brought before the court without danger to the petitioner's health. Sickness or infirmity must be confirmed in an affidavit by the person having custody of the petitioner. (2) If the court is satisfied with the truth of the affidavit, the court may proceed and dispose of the case as if the petitioner were present or the hearing may be postponed until the petitioner is present. History: En. 95-2710 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2710; amd. Sec. 242, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 3. Return of Writ, Hearing, Appeal 46-22-303. Refusal to obey writ -- contempt

46-22-303. Refusal to obey writ -- contempt. If the person commanded by the writ refuses to obey, that person must be adjudged in contempt of court. History: En. 95-2706 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2706; amd. Sec. 243, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 3. Return of Writ, Hearing, Appeal 46-22-304. Hearing on return

46-22-304. Hearing on return. The court before whom the writ is returned shall immediately proceed to hear and examine the return. The hearing may be summary in nature. History: En. 95-2711 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2711; amd. Sec. 244, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 3. Return of Writ, Hearing, Appeal 46-22-305. Production of evidence

46-22-305. Production of evidence. Evidence may be produced and compelled in preparation of a hearing as provided in Title 46, chapter 22. History: En. 95-2712 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2712; amd. Sec. 245, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 3. Return of Writ, Hearing, Appeal 46-22-306. Disposition of petitioner

46-22-306. Disposition of petitioner. (1) If the court finds in favor of the petitioner, an appropriate order must be entered with respect to the judgment or sentence in the former proceeding and any supplementary orders as to reassignment, retrial, custody, bail, or discharge as may be necessary and proper. (2) If the court finds for the prosecution, the petitioner must be returned to the custody of the person to whom the writ was directed. History: En. 95-2713 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2713; amd. Sec. 246, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 22. Habeas Corpus Part 3. Return of Writ, Hearing, Appeal 46-22-307. Appeal by prosecution

46-22-307. Appeal by prosecution. An appeal may be taken to the supreme court by the prosecution from an order of judgment discharging the petitioner. The court may admit the petitioner to bail pending appeal as provided in 46-9-107. The appeal must be taken in the same manner as in civil actions. History: En. 95-2714 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2714; amd. Sec. 247, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-101. Short title

46-23-101. Short title. Parts 1, 2, 3, and 10 of this chapter shall be known and may be cited as the "Parole and Executive Clemency Act". History: En. Sec. 1, Ch. 153, L. 1955; Sec. 94-9821, R.C.M. 1947; redes. 95-3203 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 2,

Ch. 333, L. 1975; R.C.M. 1947, 95-3203.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-102. Cases of juveniles excluded

46-23-102. Cases of juveniles excluded. The provisions of parts 1, 2, 3, and 10 of this chapter do not apply to probation in the youth courts or to conditional release from correctional facilities. History: En. Sec. 30, Ch. 153, L. 1955; Sec. 94-9850, R.C.M. 1947; redes. 95-3232 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3232; amd. Sec. 26, Ch. 344, L. 2019; amd. Sec. 25, Ch. 339, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-103. Definitions

46-23-103. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply: (1) "Board" means the board of pardons and parole provided for in 2-15-2305. (2) "Department" means the department of corrections provided for in 2-15-2301. (3) "Executive clemency" refers to the powers of the governor as provided by section 12 of Article VI of the constitution of Montana. (4) "Hearing panel" means a panel appointed by the presiding officer of the board and made up of at least three board members to conduct parole hearings, revocation hearings, rescission hearings, and administrative parole reviews and to make recommendations in matters of executive clemency. (5) "Parole" means the release to the community of a prisoner by the decision of a hearing panel prior to the expiration of the prisoner's term, subject to conditions imposed by the hearing panel and subject to supervision of the department. (6) "Victim" means a victim as defined in 46-18-243. History: En. Sec. 3, Ch. 153, L. 1955; Sec. 94-9823, R.C.M. 1947; amd. Sec. 1, Ch. 73, L. 1973; redes. 95-3205 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 82, Ch. 120, L. 1974; amd. Sec. 5, Ch. 333, L. 1975; R.C.M. 1947, 95-3205; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 224, Ch. 546, L. 1995; amd. Sec. 1, Ch. 450, L. 1999; amd. Sec. 2, Ch. 559, L. 2003; amd. Sec. 2, Ch. 102, L. 2011; amd. Sec. 1, Ch. 96, L. 2015; amd. Sec. 3, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-104. Board of pardons and parole

46-23-104. Board of pardons and parole. (1) The board of pardons and parole is responsible for executive clemency and parole as provided in this chapter. (2) The board shall work full time and meet in hearing panels at the times and places that the board considers necessary. (3) The principal office of the board is in Deer Lodge. (4) The presiding officer of the board shall appoint hearing panels and their presiding officers to conduct hearings and to issue final decisions concerning parole and recommendations concerning executive clemency and shall request out-of-state releasing authorities to conduct hearings pursuant to Article IV(6) of the Western Interstate Corrections Compact. The presiding officer of the board shall attempt to make hearing panel appointments in a manner that ensures equitable distribution of workload among board members. The hearing panels have the full authority and power of the board to order the denial, grant, or revocation of parole and to make recommendations in matters of executive clemency. History: En. Sec. 2, Ch. 153, L. 1955; Sec. 94-9822, R.C.M. 1947; redes. 95-3204 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 81, Ch. 120, L. 1974; amd. Sec. 3, Ch. 333, L. 1975; R.C.M. 1947, 95-3204; amd. Sec. 1, Ch. 234, L. 1981; amd. Sec. 1, Ch. 300, L. 1987; amd. Sec. 225, Ch. 546, L. 1995; amd. Sec. 1, Ch. 425, L. 2001; amd. Sec. 3, Ch. 559, L. 2003; amd. Sec. 3, Ch. 102, L. 2011; amd. Sec. 2, Ch. 96, L. 2015; amd. Sec. 4, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-105. Legal adviser

46-23-105. Legal adviser. The board may appoint any qualified attorney or the attorney general to act as its legal adviser and represent it in all proceedings whenever so requested by the board. History: En. Sec. 7, Ch. 153, L. 1955; Sec. 94-9827, R.C.M. 1947; redes. 95-3209 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3209.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-106. Information from courts to board

46-23-106. Information from courts to board. It is the duty of the court disposing of any criminal case to cause to be transmitted to the board of pardons and parole statistical data in accordance with regulations issued by the board regarding all dispositions of defendants whether found guilty or discharged. History: En. 95-2210 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2210; amd. Sec. 226, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-109. Parole hearings and administrative reviews -- telephone -- videoconference

46-23-109. Parole hearings and administrative reviews -- telephone -- videoconference. The board's hearing panels may hold any hearing via interactive videoconference, may hold an administrative review via telephone conference, and, at the applicant's request, may hold a clemency hearing via telephone conference. History: En. Sec. 4, Ch. 450, L. 1999; amd. Sec. 4, Ch. 559, L. 2003; amd.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-110. Records -- dissemination

46-23-110. Records -- dissemination. (1) (a) The department and the board shall keep a record of the board's acts and decisions. Citizens may inspect and make copies of the public records of the board, as provided in 2-6-1003, 2-6-1006, 2-6-1007, and this section. (b) (i) Except as provided in subsections (1)(b)(ii) and (1)(b)(iii), the board shall video-record and audio-record all hearings conducted under part 2 or part 3 of this chapter or 46-23-1025. (ii) If an inmate who is scheduled for a parole hearing is serving a Montana sentence in an out-of-state correctional facility and the board's video recording system is incompatible with the out-of-state facility's system, making it impossible to video-record the inmate, the board shall nevertheless create a dual audio-video recording of the parole hearing in which the board panel can be seen and heard and the subject inmate can hear the panel and be heard by the panel. (iii) If due to equipment failure a video recording of a scheduled parole hearing cannot be made, the board panel shall give the inmate an option to stipulate to an audio-only recording of the hearing in lieu of postponing the hearing until a later date after the video recording equipment failure is rectified. The stipulation and the hearing must be audio-recorded in that circumstance. (c) Except as provided in subsection (2), the board shall make video recordings publicly available. A recording is publicly available if it is available for review at the board's offices during normal business days and hours and upon reasonable advance notice. (d) A member of the public may obtain a duplicate of a recording if the duplicate can be made using technology and equipment in use by the board at the time the request is made. The board may charge the actual costs of duplicating the recording, including the staff time required to produce a duplicate. (e) A recording or transcript may not personally identify the victim without the victim's written consent. (2) Records and materials that are constitutionally protected from disclosure are not subject to disclosure under the provisions of subsection (1). Information that is constitutionally protected from disclosure is information in which there is an individual privacy or safety interest that clearly exceeds the merits of public disclosure. (3) Upon a request to inspect or copy records of the board's acts and decisions, the board or a board staff member shall review the record requested and determine whether any document in the file or any content in a video recording is subject to a personal privacy or safety interest that clearly exceeds the merits of public disclosure. (4) The board may assert the privacy or safety interest and may withhold a document or redact content of a video recording if the board determines that the demand for individual privacy clearly exceeds the merits of public disclosure or if the document's or recording's contents would compromise the safety, order, or security of a facility or the safety of facility personnel, a member of the public, or an inmate of the facility if disclosed. (5) The board may not withhold from public scrutiny under subsections (2) through (4) any more information than is required to protect an individual privacy interest or a safety interest. (6) The board may charge a reasonable fee for copying and inspecting records. (7) The board may limit the time and place that the records may be inspected or copied. History: En. Sec. 5, Ch. 450, L. 1999; amd. Sec. 54, Ch. 348, L. 2015; amd. Sec. 1, Ch. 402, L. 2015; amd. Sec. 5, Ch. 392, L. 2017; amd. Sec. 1, Ch. 249, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 1. General Provisions -- Board of Pardons and Parole 46-23-111. Compensation of board members

46-23-111. Compensation of board members. (1) Board members must be paid a salary within the occupational wage range for the occupation designated by the department of administration as provided in subsection (2). Board members must receive longevity, expense reimbursement, leave, insurance, and other benefits provided to classified state employees under Title 2, chapter 18, and must receive pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304. (2) The department of administration shall determine the appropriate occupation for the board members in the same manner that it determines the occupation for employees in state government pursuant to Title 2, chapter 18. (3) The governor shall set the salary of the board members within the occupational wage range established by the department of administration. History: En. Sec. 2, Ch. 392, L. 2017; amd. sec. 21, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1001. Definitions

46-23-1001. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply: (1) "Absconding" means when an offender deliberately makes the offender's whereabouts unknown to a probation and parole officer or fails to report for the purposes of avoiding supervision, and reasonable efforts by the probation and parole officer to locate the offender have been unsuccessful. (2) "Board" means the board of pardons and parole provided for in 2-15-2305. (3) "Compliance violation" means a violation of the conditions of supervision that is not: (a) a new criminal offense; (b) possession of a firearm in violation of a condition of probation or parole; (c) behavior by the offender or any person acting at the offender's direction that could be considered stalking, harassing, or threatening the victim of an offense or a member of the victim's immediate family or support network; (d) absconding; or (e) failure to enroll in or complete a required sex offender treatment program or a treatment program designed to treat violent offenders. (4) "Department" means the department of corrections provided for in 2-15-2301. (5) "Misdemeanor probation officer" means a person who is employed by a county or municipality or who is employed by a private entity that contracts with a local government to provide misdemeanor probation supervision services pursuant to 46-23-1005. (6) "Parole" means the release to the community of a prisoner by the decision of the board prior to the expiration of the prisoner's term, subject to conditions imposed by the board and subject to supervision of the department. (7) "Probation" means the release by the

court without imprisonment, except as otherwise provided by law, of a defendant found guilty of a crime upon verdict or plea, subject to conditions imposed by the court and subject to the supervision of the department upon direction of the court. (8) "Probation and parole officer" means an officer employed by the department pursuant to 46-23-1002. History: En. 95-3301 by Sec. 7, Ch. 333, L. 1975; R.C.M. 1947, 95-3301; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 233, Ch. 546, L. 1995; amd. Sec. 11, Ch. 392, L. 2017; amd. Sec. 1, Ch. 235, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1002. Powers of department

46-23-1002. Powers of department. The department may: (1) appoint probation and parole officers and other employees necessary to administer this part; (2) authorize probation and parole officers to carry firearms, including concealed firearms, when necessary. The department shall adopt rules establishing firearms training requirements and procedures for authorizing the carrying of firearms. (3) adopt rules for the conduct of persons placed on parole or probation, except that the department may not make any rule conflicting with conditions of parole imposed by the board or conditions of probation imposed by a court; and (4) adopt rules to administer the rental voucher program the department may implement pursuant to 46-23-1041. History: En. 95-3302 by Sec. 8, Ch. 333, L. 1975; R.C.M. 1947, 95-3302; amd. Sec. 1, Ch. 639, L. 1989; amd. Sec. 4, Ch. 179, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1003. Qualifications of probation and parole officers

46-23-1003. Qualifications of probation and parole officers. (1) (a) Probation and parole officers must have at least a college degree and some formal training in behavioral sciences. Exceptions to this rule must be approved by the department. Related work experience in the areas listed in subsection (1)(b) may be substituted for educational requirements at the rate of 1 year of experience for 9 months formal education if approved by the department. All present employees are exempt from this requirement but are encouraged to further their education at the earliest opportunity. (b) Work experience that may be substituted for the educational requirements in subsection (1)(a) includes experience in the areas of criminology, education, medicine, psychiatry, psychology, law, law enforcement, social work, sociology, psychiatric nursing, or guidance and counseling. (2) Each probation and parole officer shall, through a source approved by the officer's employer, obtain 16 hours a year of training in subjects relating to the powers and duties of probation officers, at least 1 hour of which must include training on serious mental illness and recovery from serious mental illness. In addition, each probation and parole officer must receive training in accordance with standards adopted by the Montana public safety officer standards and training council established in 2-15-2029. The training must be at the Montana law enforcement academy unless the council finds that training at some other place is more appropriate. History: En. 95-3302.1 by Sec. 4, Ch. 333, L. 1975; R.C.M. 1947, 95-3302.1; amd. Sec. 2, Ch. 544, L. 1987; amd. Sec. 2, Ch. 809, L. 1991; amd. Sec. 19, Ch. 506, L. 2007; amd. Sec. 6, Ch. 209, L. 2013; amd. Sec. 12, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1004. Duties of department

46-23-1004. Duties of department. The department is responsible for any investigation and supervision requested by the board or the courts for felony offenders. The department shall: (1) divide the state into districts and assign probation and parole officers to serve in these districts and courts; (2) obtain any necessary office quarters for the staff in each district; (3) assign the secretarial, bookkeeping, and accounting work to the clerical employees, including receipt and disbursement of money; (4) direct the work of the probation and parole officers and other employees; (5) formulate methods of investigation, supervision, recordkeeping, and reports; (6) conduct training courses for the staff, including initial training on risk assessment and evidence-based practices for new probation and parole officers and regular training for all probation and parole officers. Performance reviews of probation and parole officers must incorporate the requirements for training on risk assessment and other evidence-based practices. (7) cooperate with all agencies, public and private, that are concerned with the treatment or welfare of persons on probation or parole; (8) administer the Interstate Compact for Adult Offender Supervision; and (9) notify the employer of a probationer or parolee if the probationer or parolee has been convicted of an offense involving theft from an employer. History: En. Sec. 8, Ch. 153, L. 1955; Sec. 94-9828, R.C.M. 1947; redes. 95-3210 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 85, Ch. 120, L. 1974; Sec. 95-3210, R.C.M. 1947; amd. and redes. 95-3303 by Sec. 9, Ch. 333, L. 1975; R.C.M. 1947, 95-3303; amd. Sec. 1, Ch. 499, L. 1995; amd. Sec. 3, Ch. 493, L. 2001; amd. Sec. 93, Ch. 114, L. 2003; amd. Sec. 3, Ch. 199, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1005. Misdemeanor probation offices -- misdemeanor probation officers -- costs

46-23-1005. Misdemeanor probation offices -- misdemeanor probation officers -- costs. (1) A local government may establish a misdemeanor probation office associated with a justice's court, municipal court, or city court. The misdemeanor probation office shall monitor offenders for misdemeanor sentence compliance and restitution payments. An offender is considered a fugitive under the conditions provided in 46-23-1014. (2) A local government may appoint or contract with a private Montana entity for the provision of misdemeanor probation officers and other employees necessary to administer this section. Misdemeanor probation

officers: (a) must have the minimum training required in 46-23-1003; and (b) shall follow the supervision guidelines required in 46-23-1011. (3) A publicly employed misdemeanor probation officer may order the arrest of an offender as provided in 46-23-1012. (4) An offender who is convicted of the offense of partner or family member assault under 45-5-206 or of a violation of an order of protection under 45-5-626 and who is ordered to be supervised by misdemeanor probation must be ordered to pay for the cost of the misdemeanor probation. The actual cost of probation supervision over the offender's sentence must be paid by the offender unless the offender can show that the offender is unable to pay those costs. The costs of misdemeanor probation are in addition to any other fines, restitution, or counseling ordered. History: En. Sec. 18, Ch. 350, L. 1995; amd. Sec. 2, Ch. 235, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1006. through 46-23-1009 reserved

46-23-1006 through 46-23-1009 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1010. Sexual offenders -- electronic monitoring program -- contract -- rules

46-23-1010. Sexual offenders -- electronic monitoring program -- contract -- rules. (1) The department shall establish a program for the continuous, satellite-based monitoring of sexual offenders designated as level 3 offenders under 46-23-509. The program may include: (a) time-correlated and continuous tracking of the geographic location of a monitored person using a global positioning system based on satellite and other location-tracking technology; (b) reporting of a monitored person's violation of prescriptive and proscriptive schedule or location requirements. Frequency of reporting may range from once-a-day, passive reporting to near-real-time, active reporting. (c) an automated system that allows local and state law enforcement officials to compare the geographic positions of a monitored person with reported criminal incidents to determine whether the monitored person was at or near the scene of a reported criminal incident and to include or exclude a monitored person from the investigation of a criminal incident. (2) The department shall adopt rules for the establishment and operation of the program required under subsection (1), including rules establishing supervisory fees. The department may consult with state and local law enforcement officials in developing the rules. (3) The department shall contract with a single vendor for the procurement of the equipment and services needed to monitor persons under the program and correlate the movements of monitored persons to reported criminal incidents. The contract may provide for equipment and services necessary to implement or facilitate any of the provisions of this section and for the collection and disposition of the fees provided for in 46-23-1031 and may allow for the reasonable cost of collection of the proceeds. History: En. Sec. 2, Ch. 360, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1011. Supervision on probation

46-23-1011. Supervision on probation. (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title. (2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or an immediate family member of the victim. If the victim or an immediate family member of the victim requests to the department that the probationer not contact the victim or immediate family member, the department shall request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf. (3) A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer's return to Montana. (4) The probation and parole officer shall regularly advise and consult with the probationer using effective communication strategies and other evidence-based practices to encourage the probationer to improve the probationer's condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence. (5) (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time. (b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions. (c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer. (d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203. (e) Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-625(4), or 45-5-711, the provisions of 46-18-203(7)(a)(ii) do not apply to this section. (f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246. (6) Based on the risk and needs of each individual as determined by the individual's most recent risk and needs assessment, the probation and parole officer shall notify the probationer of eligibility for conditional discharge from supervision when a probationer is in compliance with the conditions of supervision when: (a) under the women's risks and needs assessment: (i) a low-risk probationer has served 9 months; (ii) a moderate-risk probationer has served 12 months; (iii) a medium-risk probationer has served 18 months; and (iv) a high-risk probationer has served 24 months; and (b) under

the Montana offender reentry and risk assessment: (i) a low-risk probationer has served 9 months; (ii) a moderate-risk probationer has served 12 months; (iii) a high-risk probationer has served 18 months; and (iv) a very high-risk probationer has served 24 months. (7) The probationer, the probationer's attorney, or the prosecutor may file a motion recommending conditional discharge. The motion must set forth the following: (a) why the probationer meets the requirements of subsection (6); and (b) whether the department of corrections supports or opposes the motion. (8) The motion must be served on the county attorney serving in the county of the presiding district court. The movant does not need to file an accompanying brief as otherwise required by Rule 2 of the Montana Uniform District Court Rules. (9) The department of corrections shall make reasonable efforts to notify the victim if required by 46-24-212, and the county attorney shall make reasonable efforts to notify the victim. The victim must be provided the following: (a) a copy of the motion; (b) written notice that: (i) the victim may provide written input regarding the motion or may ask the county attorney to state the victim's position on the motion; (ii) if a hearing is set, the date, time, and place of the hearing; and (iii) the victim may appear and testify at any hearing held on the motion. (10) (a) The court may hold a hearing on the motion. A judge may conditionally discharge a probationer from supervision before expiration of the probationer's sentence if: (i) the judge determines that a conditional discharge from supervision: (A) is in the best interests of the probationer and society; and (B) will not present unreasonable risk of danger to the victim of the offense; and (ii) the offender has paid all restitution and court-ordered financial obligations in full. (b) Subsection (10)(a) does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from supervision. History: En. 95-3304 by Sec. 10, Ch. 333, L. 1975; R.C.M. 1947, 95-3304; amd. Sec. 1, Ch. 195, L. 1989; amd. Sec. 5, Ch. 579, L. 1993; amd. Sec. 26, Ch. 125, L. 1995; amd. Sec. 13, Ch. 52, L. 1999; amd. Sec. 2, Ch. 505, L. 1999; amd. Sec. 4, Ch. 493, L. 2001; amd. Sec. 25, Ch. 483, L. 2007; amd. Sec. 16, Ch. 374, L. 2013; amd. Sec. 3, Ch. 113, L. 2015; amd. Sec. 26, Ch. 285, L. 2015; amd. Sec. 3, Ch. 391, L. 2017; amd. Sec. 2, Ch. 380, L. 2019; amd. Sec. 13, Ch. 566, L. 2021; amd. Sec. 34, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1012. Arrest when violations of probation alleged -- probation compliance plan -- probation violator intervention

46-23-1012. Arrest when violations of probation alleged -- probation compliance plan -- probation violator intervention. (1) At any time during probation, if a probation and parole officer reasonably believes that the probationer has violated a condition of probation, a court may issue a warrant for the arrest of the probationer or a county attorney may issue a notice to appear to answer to a charge of probation violation. The notice must be personally served upon the probationer. The warrant must authorize law enforcement officers to return the probationer to any suitable detention center. (2) Any probation and parole officer may arrest the probationer without a warrant or may orally deputize any other officer with power of arrest to do so by giving the officer oral authorization and within 12 hours delivering to the detention center a written statement setting forth that the probationer has, in the judgment of the probation and parole officer, violated the conditions of probation. A written statement or oral authorization delivered with the probationer by the arresting officer to the official in charge of a detention center is sufficient warrant for the detention of the probationer if the probation and parole officer delivers the written statement within 12 hours of the probationer's arrest. The probation and parole officer, after making an arrest, shall present to the detaining authorities a similar statement of the circumstances of violation. (3) A probation and parole officer may authorize a detention center to hold a probationer arrested under this section without bail for 72 hours. Within 72 hours following the probationer's detention, the probation and parole officer shall: (a) authorize the detention center to release the probationer; (b) hold an intervention hearing pursuant to 46-23-1015; or (c) arrange for the probationer to appear before a magistrate to set bail. In setting bail, the provisions of chapter 9 of this title regarding release on bail of persons charged with a crime apply. (4) If the probationer is detained and bond is set, the probation and parole officer shall file a report of violation within 10 days of the arrest of the probationer. (5) After the probation and parole officer files a report of violation, the court may proceed with revocation of probation in the manner provided in 46-18-203. History: En. Sec. 11, Ch. 153, L. 1955; Sec. 94-9831, R.C.M. 1947; redes. 95-3213 by Sec. 29, Ch. 513, L. 1973; Sec. 95-3213, R.C.M. 1947; redes. 95-3305 by Sec. 15, Ch. 333, L. 1975; R.C.M. 1947, 95-3305(part); amd. Sec. 3, Ch. 505, L. 1999; amd. Sec. 5, Ch. 493, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1014. When probationer considered a fugitive

46-23-1014. When probationer considered a fugitive. A probationer or defendant under suspension of sentence for whose return a warrant has been issued by the court shall after the issuance of the warrant, if it is found that such warrant cannot be served, be deemed a fugitive from or to have fled from justice. History: En. Sec. 11, Ch. 153, L. 1955; Sec. 94-9831, R.C.M. 1947; redes. 95-3213 by Sec. 29, Ch. 513, L. 1973; Sec. 95-3213, R.C.M. 1947; redes. 95-3305 by Sec. 15, Ch. 333, L. 1975; R.C.M. 1947, 95-3305(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1015. Informal probation violation intervention hearing

46-23-1015. Informal probation violation intervention hearing. (1) A probation and parole officer who reasonably believes that a probationer has violated a condition of probation shall consult the incentives and interventions grid adopted under 46-23-1028 to determine an appropriate response and may initiate an informal probation violation intervention hearing to gain the probationer's

compliance with the conditions of probation without a formal revocation hearing under 46-18-203. (2) A hearings officer designated by the department shall conduct the intervention hearing. (3) If the hearings officer determines by a preponderance of the evidence that the probationer has violated a condition of probation, the hearings officer shall consult the incentives and interventions grid and determine an appropriate response, including whether to: (a) order the probationer to serve, or receive credit for serving, up to 30 days in detention; (b) recommend electronic monitoring or day reporting for up to a 90-day period; (c) recommend placement in a community corrections facility or program for up to a 90-day period, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program; or (d) direct the probation and parole officer to initiate a petition for revocation under 46-18-203, if the violation is not a compliance violation or if it is a compliance violation and appropriate responses under the incentives and interventions grid have been exhausted. (4) If the hearings officer recommends a response under subsection (3)(b), the hearings officer shall notify the probationer of the recommendation and of the probationer's right to instead have the matter referred by petition for a revocation hearing under 46-18-203. (5) The provisions of chapter 9 of this title regarding release on bail of a person charged with a crime do not apply to a probationer ordered to be held in a county detention center or other facility under this section. (6) All sanction and placement decisions must be documented in the offender's file. History: En. Sec. 6, Ch. 493, L. 2001; amd. Sec. 4, Ch. 517, L. 2005; amd. Sec. 13, Ch. 390, L. 2017; amd. Sec. 4, Ch. 391, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10.

Supervision of Probationers and Parolees 46-23-1016. Commitments to department -- report to sentencing court -- data

46-23-1016. Commitments to department -- report to sentencing court -- data. (1) If the department does not honor a placement recommendation made by a district court judge when the judge sentences an offender pursuant to 46-18-201(3)(a)(iv), (3)(a)(vi), or (3)(a)(vii) and includes a placement recommendation, the department shall provide a rationale for the placement and written notice to the sentencing court within 40 days after the placement decision. (2) The department shall collect and analyze data on: (a) court placement recommendations and department placement decisions for offenders sentenced pursuant to 46-18-201(3)(a)(iv), (3)(a)(vi), or (3)(a)(vii); and (b) the number and type of new criminal offenses committed by offenders under the department's supervision. (3) (a) Beginning September 1, 2022, and in accordance with 5-11-210, the department shall collect data and report no later than September 1 of each year to the law and justice interim committee and the criminal justice oversight council on offenders who were under the department's supervision during the previous fiscal year and were: (i) convicted of a new felony offense; or (ii) revoked for a violation of the terms and conditions of a suspended or deferred sentence and the violation: (A) is a compliance violation as defined in 46-18-203; or (B) is not a compliance violation as defined in 46-18-203. (b) The report must include the offenses or violations that triggered the report. History: En. Sec. 1, Ch. 482, L. 2021; amd. Sec. 9, Ch. 166, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10.

Supervision of Probationers and Parolees 46-23-1017. through 46-23-1019 reserved

46-23-1017 through 46-23-1019 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10.

Supervision of Probationers and Parolees 46-23-1020. Conditional discharge -- definition -- revocation

46-23-1020. Conditional discharge -- definition -- revocation. (1) (a) A conditional discharge granted under 46-23-1011 or 46-23-1021 is: (i) a discharge from supervision by the department for the time remaining on the sentence imposed if the probationer or parolee complies with all the conditions imposed by the district court or the board; and (ii) a release from the obligation to pay supervision fees imposed as part of a sentence or as terms of parole or probation. (b) If an individual who has been granted a conditional discharge under 46-23-1011 or 46-23-1021 becomes a resident of another state, the conditional discharge must be construed as a discharge of the imposed sentence subject to revocation as provided in subsection (2). (2) A conditional discharge may be revoked if, within the time remaining on the sentence that was conditionally discharged, the individual: (a) is charged with a felony offense; (b) is charged with a misdemeanor offense for which the individual could be sentenced to incarceration for a period of more than 6 months; or (c) violates any condition imposed by the district court or the board. (3) A sexual or violent offender who is subject to lifetime supervision by the department is not eligible for a conditional discharge from supervision. History: En. Sec. 1, Ch. 228, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10.

Supervision of Probationers and Parolees 46-23-1021. Supervision on parole

46-23-1021. Supervision on parole. (1) The department shall retain custody of all persons placed on parole and shall supervise the persons during their parole periods in accordance with the conditions set by the board. (2) The department shall assign personnel to assist a person who is eligible for parole in preparing a parole plan. Department personnel shall make a report of their efforts and findings to the board prior to its consideration of the case of the eligible person. (3) A copy of the conditions of parole must be signed by the parolee and given to the parolee and to the parolee's probation and parole officer, who shall report on the parolee's progress under the rules of the board. (4) The probation and parole officer shall regularly advise and consult with the parolee, use effective communication strategies and other evidence-based practices, assist the parolee in adjusting to community life, and inform

the parolee of the restoration of rights on successful completion of the sentence. (5) The probation and parole officer shall keep records as the board or department may require. All records must be entered in the master file of the individual. (6) (a) Upon recommendation of the probation and parole officer, the board may conditionally discharge a parolee from supervision before expiration of the parolee's sentence if the board determines that a conditional discharge from supervision is in the best interests of the parolee and society and will not present unreasonable risk of danger to the victim of the offense. (b) Any of the achievements listed in 46-23-1027(2) must be considered a significant achievement by the board in deciding whether to grant a conditional discharge from supervision to a parolee. (c) If the board discharges a parolee from supervision, the department is relieved of the obligation of supervising the parolee. (d) For good cause, the board may return a parolee who was conditionally discharged to the status of a regular parolee. (e) Subsection (6)(a) does not prohibit the board from revoking the parole, as provided in 46-23-1025, of a parolee who has been conditionally discharged from supervision. History: En. 95-3306 by Sec. 11, Ch. 333, L. 1975; amd. Sec. 62, Ch. 184, L. 1977; R.C.M. 1947, 95-3306; amd. Sec. 2, Ch. 195, L. 1989; amd. Sec. 6, Ch. 579, L. 1993; amd. Sec. 27, Ch. 125, L. 1995; amd. Sec. 2, Ch. 238, L. 2007; amd. Sec. 13, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1022. Parole services

46-23-1022. Parole services. (1) To assist parolees the department may, in addition to other services, provide the following: (a) employment counseling, job placement, and assistance in residential placement; (b) family and individual counseling and treatment placement; (c) financial counseling; (d) vocational and educational counseling and placement; and (e) referral services to any other state or local agencies. (2) The department may purchase necessary services for a parolee if they are otherwise unavailable and the parolee is unable to pay for them. It may assess all or part of the costs of such services to a parolee in accordance with the parolee's ability to pay for them. History: En. 95-3307 by Sec. 12, Ch. 333, L. 1975; R.C.M. 1947, 95-3307; amd. Sec. 1768, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1023. Arrest of alleged parole violator

46-23-1023. Arrest of alleged parole violator. (1) At any time during release on parole or conditional release, the department may issue a warrant for the arrest of the parolee for violation of any of the conditions of release or a notice to appear to answer to a charge of violation. The notice must be served personally upon the parolee. The warrant must authorize all officers named in the warrant to return the parolee to the actual custody of the penal institution from which the parolee was released or to any other suitable detention facility designated by the department. (2) Any probation and parole officer may arrest the parolee without a warrant or may deputize any other officer with power to arrest to do so by giving the officer oral authorization and within 12 hours delivering to the place of detention a written statement setting forth that the parolee has, in the judgment of the probation and parole officer, violated the conditions of the parolee's release. A written statement or oral authorization delivered with the parolee by the arresting officer to the official in charge of the institution from which the parolee was released or other place of detention is sufficient warrant for the detention of the parolee or conditional releasee if the probation and parole officer delivers a written statement within 12 hours of the arrest. The probation and parole officer, after making an arrest, shall present to the detaining authorities a similar statement of the circumstances of violation. (3) Pending a hearing, as provided in 46-23-1024 and 46-23-1025, upon any charge of violation the parolee may, if circumstances warrant, be incarcerated in the institution. (4) A probation and parole officer may authorize a detention center to hold a parolee arrested under this section without bail for 72 hours. Within 72 hours following the parolee's detention, the probation and parole officer shall: (a) authorize the detention center to release the parolee; (b) initiate an intervention hearing; or (c) initiate the revocation process with an initial hearing. History: En. Sec. 18, Ch. 153, L. 1955; Sec. 94-9838, R.C.M. 1947; amd. Sec. 1, Ch. 140, L. 1973; redes. 95-3220 by Sec. 29, Ch. 513, L. 1973; Sec. 95-3220, R.C.M. 1947; amd. and redes. 95-3308 by Sec. 13, Ch. 333, L. 1975; amd. Sec. 63, Ch. 184, L. 1977; R.C.M. 1947, 95-3308(1); amd. Sec. 5, Ch. 505, L. 1999; amd. Sec. 14, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1024. Initial hearing after arrest

46-23-1024. Initial hearing after arrest. (1) After the arrest of the parolee, an initial hearing must be held unless: (a) the hearing is waived by the parolee; (b) the parolee has been charged in any court with a violation of the law; or (c) the probation and parole officer authorizes release or initiates an intervention hearing under subsection (4). (2) The initial hearing is an onsite hearing but may be conducted via interactive videoconference and must be held to determine whether there is probable cause or reasonable grounds to believe that the arrested parolee has committed acts that would constitute a violation of parole conditions. An independent officer, who need not be a judicial officer, shall preside over the hearing. The hearing must be conducted at or reasonably near the place of the alleged parole violation or arrest and within 5 days after arrest. The parolee must be given notice of the hearing and must be allowed to appear and speak in the parolee's own behalf and introduce relevant information to the hearings officer. (3) The hearings officer shall make a summary of what transpires at the hearing in terms of the responses and position of the parolee and the substance of the documents or evidence given in support of parole revocation. Based on the information given to the hearings officer, the hearings officer shall determine whether there is probable cause and then determine whether to initiate an informal violation intervention hearing or to hold the parolee for the final decision of the board of pardons and parole as provided in 46-23-1025. (4) (a) In lieu of an initial hearing, a probation and parole officer who reasonably believes that a parolee has violated a

condition of parole: (i) shall consult the department's incentives and interventions grid to determine an appropriate response; and (ii) may initiate an informal violation intervention hearing to gain the parolee's compliance with the conditions of parole without a formal revocation hearing. (b) A hearings officer designated by the department in conjunction with the board shall conduct the intervention hearing. The hearing may be conducted by interactive videoconference. (c) If the hearings officer determines by a preponderance of the evidence that a parolee has violated a condition of parole, the hearings officer shall consult the department's incentives and interventions grid and determine an appropriate response, including whether to: (i) order the parolee to serve or receive credit for serving up to 30 days of detention; (ii) recommend electronic monitoring or day reporting for up to a 90-day period; (iii) recommend placement in a community corrections facility or program for up to a 90-day period, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program; or (iv) direct the probation and parole officer to initiate a petition for revocation under 46-23-1025 if the violation is not a compliance violation or if it is a compliance violation and the appropriate responses under the department's incentives and interventions grid have been exhausted. (5) If the hearings officer recommends a response under subsection (4)(c)(ii), the officer shall notify the parolee of the recommendation and of the parolee's right to instead have the matter referred for a revocation hearing under 46-23-1025. (6) The provisions of Title 46, chapter 9, regarding release on bail of a person charged with a crime are not applicable to a parolee ordered to be held in a county detention center or other facility under this section. (7) All sanction and placement decisions must be documented in the offender's file. History: En. Sec. 18, Ch. 153, L. 1955; Sec. 94-9838, R.C.M. 1947; amd. Sec. 1, Ch. 140, L. 1973; redes. 95-3220 by Sec. 29, Ch. 513, L. 1973; Sec. 95-3220, R.C.M. 1947; amd. and redes. 95-3308 by Sec. 13, Ch. 333, L. 1975; amd. Sec. 63, Ch. 184, L. 1977; R.C.M. 1947, 95-3308(2); amd. Sec. 234, Ch. 546, L. 1995; amd. Sec. 6, Ch. 505, L. 1999; amd. Sec. 15, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1025. Report to and action by board

46-23-1025. Report to and action by board. (1) If the hearings officer determines that there is probable cause to believe that the prisoner has violated a condition of parole and directs the probation and parole officer to initiate a petition for revocation, the probation and parole officer shall immediately notify the board and shall submit in writing a report showing in what manner the prisoner has violated the conditions of release and describe the exhaustion of appropriate violation responses according to the department's incentives and interventions grid. This report must be accompanied by the findings of the hearings officer and placed in the offender's file. (2) Upon receipt of a report, the board shall cause the prisoner to be promptly brought before a hearing panel for a hearing on the violation charged under rules that the board may adopt. The hearing may be conducted via interactive videoconference. If the violation is established and the hearing panel finds that the violation is a compliance violation and that appropriate violation responses under the department's incentives and interventions grid have not been exhausted, the panel shall notify the department and refer the matter back to the hearings officer. If the violation is established and the hearing panel finds that the violation is a compliance violation and that appropriate violation responses under the department's incentives and interventions grid have been exhausted, the hearing panel may: (a) continue the parole without a change in conditions; or (b) continue the parole with modified or additional terms and conditions, which may include placement in: (i) a secure facility designated by the department for up to 9 months; or (ii) a community corrections facility or program designated by the department for up to 9 months, including but not limited to placement in a prerelease center, sanction or hold bed, transitional living program, enhanced supervision program, relapse intervention bed, chemical dependency treatment, or 24/7 sobriety program. (3) If the hearing panel finds that the violation is not a compliance violation, the panel may: (a) continue the parole without a change in conditions; (b) continue the parole with modified or additional terms and conditions, which may include placement as provided in subsection (2)(b) for up to 9 months; or (c) revoke the parole or enter an order as the hearing panel sees fit. (4) If the prisoner has violated a condition of release requiring the payment of restitution, the supervising parole officer shall notify the victim of the offense prior to the hearing required by 46-23-1024 and give the victim an opportunity to provide written or oral comment. (5) If the hearing panel finds that because of circumstances beyond the prisoner's control the prisoner is unable to make the required restitution payments, the hearing panel may not revoke the prisoner's parole for failure to pay restitution. The hearing panel may modify the time or method of making restitution and may extend the restitution schedule, but the schedule may not be extended beyond the period of state supervision over the prisoner. (6) If the hearing panel determines that the prisoner has violated the provisions of release, the hearing panel shall determine the amount of time, if any, that will be counted as time served while the prisoner was in violation of the provisions of release. (7) All decisions regarding sanctions, placements, or revocation must be documented in the offender's file. History: En. Sec. 18, Ch. 153, L. 1955; Sec. 94-9838, R.C.M. 1947; amd. Sec. 1, Ch. 140, L. 1973; redes. 95-3220 by Sec. 29, Ch. 513, L. 1973; Sec. 95-3220, R.C.M. 1947; amd. and redes. 95-3308 by Sec. 13, Ch. 333, L. 1975; amd. Sec. 63, Ch. 184, L. 1977; R.C.M. 1947, 95-3308(3); amd. Sec. 28, Ch. 125, L. 1995; amd. Sec. 10, Ch. 559, L. 2003; amd. Sec. 14, Ch. 102, L. 2011; amd. Sec. 16, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1026. When prisoner considered a fugitive

46-23-1026. When prisoner considered a fugitive. A prisoner for whose return a warrant has been issued shall, after the issuance of the warrant, if it is found that the warrant cannot be served, be considered a fugitive or to have fled from justice. History: En. Sec. 18, Ch. 153, L. 1955; Sec. 94-9838, R.C.M. 1947; amd. Sec. 1, Ch. 140, L. 1973; redes. 95-3220 by Sec. 29, Ch. 513, L. 1973; Sec.

95-3220, R.C.M. 1947; amd. and redes. 95-3308 by Sec. 13, Ch. 333, L. 1975; amd. Sec. 63, Ch. 184, L. 1977; R.C.M. 1947, 95-3308(4).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1027. Parole achievement credit

46-23-1027. Parole achievement credit. (1) The department shall acknowledge achievements by a parolee who, by completion of an activity described in subsection (2), has shown a willingness to reenter society as a productive and responsible member. (2) The department shall acknowledge achievements, such as: (a) obtaining a high school diploma or a high school equivalency diploma; (b) obtaining a degree from an accredited postsecondary educational institution; (c) completion of an approved apprenticeship program; (d) completion of an accredited vocational certification program; (e) employment of at least 20 scheduled hours a week, for 6 or more months; (f) attendance at a faith-based, social service, or rehabilitation activity for 6 or more months; or (g) any other achievement designated by a department rule. History: En. Sec. 1, Ch. 238, L. 2007; amd. Sec. 25, Ch. 55, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1028. Supervision responses grid -- report

46-23-1028. Supervision responses grid -- report. (1) The department shall revise, maintain, and fully implement the policy known as the Montana incentives and interventions grid. The grid must guide responses to negative and positive behavior by people under supervision by the department, including responses to violations of supervision conditions, in a swift, certain, and proportional manner. The grid must include guidance and procedures to determine when and how to: (a) request a warrant or arrest without a warrant; (b) use a 72-hour detention; (c) initiate an intervention hearing; (d) seek departmental approval to use up to 90-day interventions; and (e) exhaust and document appropriate graduated violation responses before initiating the revocation process. (2) The grid must recommend the least restrictive placement for offenders based on the result of a validated risk and needs assessment. Placement decisions must be documented in the offender's file and must indicate any other less secure sanction options considered by the probation and parole officer before utilizing a higher level of custody. (3) The department shall: (a) provide information and training on the grid for probation and parole officers and supervisors and for members and staff of the board of pardons and parole; (b) offer information and training on the grid to district court judges, prosecution and defense attorneys, law enforcement personnel, county detention center personnel, contracted service providers, and other interested personnel; (c) review the grid every 5 years to ensure that it adheres to evidence-based practices and that the use of sanctions and incentives by probation and parole officers is consistent across the state; (d) ensure that the guidance and procedures established in the grid consider community safety and the needs of the victim and offender; (e) collect data relating to placement decisions based on the grid; and (f) aggregate collected data and provide a report to the law and justice interim committee in accordance with 5-11-210. History: En. Sec. 5, Ch. 390, L. 2017; amd. Sec. 77, Ch. 261, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1029. and 46-23-1030 reserved

46-23-1029 and 46-23-1030 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1031. Supervisory fees -- account established

46-23-1031. Supervisory fees -- account established. (1) (a) Except as provided in subsection (1)(c), a probationer, parolee, or person committed to the department who is supervised by the department: (i) shall pay to the department a supervisory fee of no less than \$120 a year and no more than \$360 a year, prorated at no less than \$10 a month for the number of months under supervision; or (ii) under continuous satellite-based monitoring shall pay to the department a supervisory fee of no more than \$4,000 a year as established by rules adopted by the department under 46-23-1010. (b) A person allowed to transfer supervision to another state shall pay a fee of \$50 to cover the cost of processing the transfer. The interstate transfer fees required by this subsection must be collected by the department. (c) The court, department, or board may reduce or waive a fee required by subsection (1)(a) or (1)(b) or suspend the monthly payment of the supervisory fee if it determines that the payment would cause the person a significant financial hardship. (2) (a) There is an account in the state special revenue fund for the supervisory fees collected under the provisions of this section. (b) The department shall deposit the total supervisory fees collected pursuant to subsection (1) into the state special revenue account established in subsection (2)(a). History: En. Sec. 1, Ch. 577, L. 1993; amd. Sec. 7, Ch. 505, L. 1999; amd. Sec. 13, Ch. 13, Sp. L. August 2002; amd. Sec. 2, Ch. 386, L. 2003; amd. Sec. 6, Ch. 360, L. 2005; amd. Sec. 2, Ch. 473, L. 2005; amd. Sec. 3, Ch. 66, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1032. Federal forfeiture funds -- use

46-23-1032. Federal forfeiture funds -- use. (1) Money forfeited under federal law and provided to the department of corrections may be deposited in an account in the federal special revenue fund. (2) Money from federal forfeiture funds deposited in the account may be used for training probation and parole officers, for the purchase of equipment for probation and parole officers, or for other

criminal justice purposes upon appropriation by the legislature. History: En. Sec. 1, Ch. 219, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1034. through 46-23-1039 reserved

46-23-1034 through 46-23-1039 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1040. Policy -- housing options after release

46-23-1040. Policy -- housing options after release. (1) It is the policy of the state of Montana that individuals released from the Montana state prison or community corrections programs be afforded every reasonable opportunity to obtain permanent housing in order to increase the likelihood that the individuals will succeed in: (a) finding employment; (b) establishing ties to the community; and (c) avoiding recidivism and a return to prison or other corrections programs. (2) In order to accomplish the purposes of this section, the department shall: (a) coordinate with local governments and local agencies to identify all available housing options within a community; (b) encourage efforts to increase available housing options; and (c) identify for each individual leaving the corrections system the community resources available to the individual to assist with housing needs. History: En. Sec. 1, Ch. 179, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 10. Supervision of Probationers and Parolees 46-23-1041. Rental vouchers

46-23-1041. Rental vouchers. (1) If the department does not approve an offender's parole plan because the offender is unable to secure suitable living arrangements, the department may provide rental vouchers to the offender for a period not to exceed 3 months if the rental assistance will result in an approved parole plan. (2) The voucher must be provided in conjunction with additional transition support that enables the offender to participate in programs and services, including but not limited to substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming. (3) To receive rental vouchers and transitional assistance funds from the department of corrections, a recovery residence: (a) must be a certified recovery residence, as defined in 53-24-310; (b) shall notify a resident's probation or parole officer within 24 hours of the resident moving out, if a resident is on probation or parole when the resident moves out of the recovery residence; and (c) shall permit residents to receive treatment and take medication prescribed by a qualified health care provider. The provisions of this subsection (3)(c) do not include a recovery residence or program that limits or prohibits the use of narcotic medication in order to provide a safe recovery environment to individuals who may be addicted to legal medication. The recovery residence or program shall report this practice as required in 53-24-311(3)(b) and 53-24-313. History: En. Sec. 3, Ch. 179, L. 2017; amd. Sec. 10, Ch. 574, L. 2021; amd. Sec. 6, Ch. 648, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 11. Interstate Compact for Adult Offender Supervision 46-23-1107. through 46-23-1114 reserved

46-23-1107 through 46-23-1114 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 11. Interstate Compact for Adult Offender Supervision 46-23-1115. Interstate Compact for Adult Offender Supervision -- enactment and text -- short title

46-23-1115. Interstate Compact for Adult Offender Supervision -- enactment and text -- short title. (1) The Interstate Compact for Adult Offender Supervision is enacted into law as contained in this section and is entered into with any other states legally joining in the compact in substantially the same form as contained in this section. (2) This section may be cited as the "Interstate Compact for Adult Offender Supervision". Article I. Purpose (1) The states entering into this compact recognize that they are responsible for the supervision of offenders who are authorized pursuant to this compact to travel across state lines to and from the compacting states and that the compacting states are responsible for tracking the location of offenders, transferring supervision authority in an orderly and efficient manner, and when necessary, returning an offender to the originating jurisdiction. The compacting states also recognize that Congress has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. (2) It is the purpose of this compact and the commission to provide the framework for the promotion of public safety, to protect the rights of victims through the control and regulation of the interstate movement of offenders, to provide for the effective tracking, supervision, and rehabilitation of offenders by the sending and receiving states, and to equitably distribute the costs, benefits, and obligations of the compact among the compacting states. (3) This compact creates a commission that will: (a) establish uniform procedures to manage the movement between states of offenders placed under and released under the jurisdiction of courts, parole officers, correctional institutions, and other criminal justice agencies; (b) ensure an opportunity for input and timely notice to victims and to jurisdictions where offenders are authorized to travel or to relocate across state lines; (c) establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils and to state executive, judicial, and legislative branches and criminal justice administrators; (d) monitor compliance with rules governing the interstate movement of offenders and initiate interventions to

address and correct noncompliance; and (e) coordinate training and education regarding the regulation of interstate movement of offenders for officials involved in that activity. (4) The compacting states recognize that an offender does not have a right to live in another state and that accredited officers of a sending state may at any time enter a receiving state and apprehend an offender under supervision, subject to the provisions of state laws, this compact, and rules promulgated under this compact. It is the policy of the compacting states that the activities conducted by the commission are the formation of public policies and are therefore public business. Article II. Definitions As used in this compact, unless the context clearly requires a different construction, the following definitions apply: (1) "Adult" means a person legally classified as an adult and a minor treated as an adult by court order or by a statute or other operation of law. (2) "Commission" means the interstate commission for adult offender supervision. (3) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article IV of this compact. (4) "Compact" means the Interstate Compact for Adult Offender Supervision. (5) "Compact administrator" means the individual in each compacting state, appointed pursuant to Article IV of this compact, who is responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact and rules adopted under this compact. (6) "Compacting state" means a state that has enacted this compact. (7) "Department" means the department of corrections. (8) "Member" means the commissioner of a compacting state or the commissioner's designee, who must be an individual officially connected with the commissioner. (9) "Noncompacting state" means a state that has not enacted this compact. (10) "Offender" means an adult subject to supervision as the result of the commission of a criminal offense and released under the jurisdiction of a court, parole officer, correctional institution, or other criminal justice agency. (11) "State" means a state of the United States, the District of Columbia, or a territorial possession of the United States. (12) "State council" means the state council for interstate adult offender supervision created pursuant to Article IV of this compact. Article III. The Compact Commission (1) There is an interstate commission for adult offender supervision. The commission is a joint agency of the compacting states. The commission has the powers and duties set forth in this compact and any additional powers conferred upon it by subsequent action of the legislatures of the compacting states in accordance with the terms of this compact. (2) The commission consists of commissioners appointed by resident members of the state councils for the compacting states. The commission also includes individuals appointed by the commission who are not commissioners and who are members of interested organizations. The noncommissioner members must include one member each of national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. Noncommissioner members are ex officio nonvoting members. The commission may provide by rule for additional, ex officio nonvoting members as it considers necessary. (3) Each compacting state represented at a meeting of the commission is entitled to one vote. A majority of the compacting states constitutes a quorum for the transaction of business, unless a larger quorum is required by a commission rule. (4) The commission shall establish an executive committee, which must include commission officers, members, and others as determined by commission rule. The executive committee may act on behalf of the commission when the commission is not in session, except that the executive committee may not adopt commission rules. The executive committee shall conduct the daily activities of the commission, administer enforcement of and compliance with the compact and commission rules, and perform other duties assigned by the commission or set forth in commission rules. Article IV. The State Council (1) There is a state council. The state council is composed of: (a) a house member appointed by the speaker of the house; (b) a senate member appointed by the president of the senate; (c) a judge appointed by the chief justice; (d) the compact administrator; and (e) a parole officer, a law enforcement officer, and a member of a victim's rights group, each appointed by the director of the department. (2) State council members serve at the pleasure of the appointing authority. (3) The state council is attached to the department for administrative purposes only as provided in 2-15-121. (4) The governor shall appoint an individual who is knowledgeable concerning the interstate supervision of offenders as the compact administrator. The compact administrator is the compact commissioner and presiding officer of the council. (5) The state council shall develop policies concerning the operation of the compact within this state. The state council may adopt rules, including rules proposed by the commission for adoption by this state, to implement the compact. Article V. Powers and Duties of the Commission The commission may: (1) adopt a seal and suitable rules governing the management and operation of the commission; (2) propose rules for adoption by the compacting states; (3) oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and applicable rules; (4) enforce compliance with compact provisions and applicable commission rules, using all necessary and proper means, including but not limited to the use of judicial process; (5) establish and maintain offices; (6) purchase and maintain insurance and bonds; (7) borrow, accept, or contract for services of personnel, agents, and consultants; (8) appoint officers and committees; (9) establish personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel; (10) accept donations and grants of money or services or equipment, supplies, materials, or other personal property; (11) lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use real or personal property; (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of real and personal property; (13) establish a budget, make expenditures, and levy dues as provided in Article X of this compact; (14) sue and be sued; (15) provide by rule for resolution of disputes among compacting states; (16) report annually to the legislatures, governors, judiciaries, and state councils of the compacting states concerning the activities of the commission, including any recommendations of the commission; (17) coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in that activity; (18) establish uniform standards for reporting, collecting, and exchanging data; and (19) perform other functions that may be necessary or appropriate to achieve the purposes of this compact. Article VI. Organization and the Operation of the Commission (1) The commission shall, by a majority vote of the members, adopt rules to govern its conduct and necessary or appropriate to carry out the purposes of the compact, including but not limited to rules: (a) establishing the fiscal year of the commission; (b) establishing an

executive committee and other necessary committees, providing reasonable standards and procedures for the committees, and governing general and specific delegations of authority or functions to the committees; (c) providing reasonable procedures for calling and conducting meetings of the commission; (d) establishing the titles and responsibilities of the officers of the commission; (e) establishing personnel policies for commission staff; (f) providing a mechanism for concluding the operations of the commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and other obligations; (g) providing transition rules for initial administration of the compact; (h) establishing standards and procedures for compliance and technical assistance in carrying out the compact; (i) providing for notice to offenders' victims and an opportunity for the victims to be heard; (j) relating to offender registration and compliance; (k) relating to violations by and return of offenders; (l) establishing offender transfer procedures and forms; (m) providing standards for offender eligibility for transfer; (n) providing for the collection of restitution and fees from offenders; (o) providing for data collection and reporting; (p) establishing the level of offender supervision to be provided by a receiving state; (q) providing for mediation, arbitration, and other methods of dispute resolution; and (r) establishing conditions and procedures under which commission records are available to the public for inspection or copying. The rules may exempt records from disclosure that would adversely affect personal privacy rights or proprietary interests. The rules may make available to law enforcement agencies records and information otherwise exempt from disclosure, and the commission may enter into agreements with law enforcement agencies to exchange records and information otherwise exempt from disclosure. (2) The commission's initial rules must be adopted within 12 months of the commission's first meeting. (3) (a) The commission shall, by a majority vote of the members, elect from among its members a presiding officer and a vice presiding officer, each of whom has the powers and duties specified in commission rules. The presiding officer or the vice presiding officer in the event of the presiding officer's absence or disability shall preside at all meetings of the commission. The presiding officer and vice presiding officer shall serve without compensation or remuneration from the commission other than, subject to the availability of budgeted funds, reimbursement for actual and necessary costs and expenses incurred in the performance of their duties. (b) The commission shall, through its executive committee, appoint an executive director for a term and upon conditions and for compensation that the commission considers appropriate. The executive director shall serve as secretary to the commission and shall hire and supervise staff as authorized by the commission. A member may not be appointed as executive director. (4) The commission shall maintain its books and records in accordance with commission rules. (5) (a) Except for a claim arising from intentional conduct or gross negligence, the members, officers, executive director, and employees of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for personal injury or property damage arising out of an act, error, or omission that occurred within the course and scope of commission employment or duties. (b) The commission shall defend an individual referred to in subsection (5)(a) in any civil action for which the individual is granted immunity under subsection (5)(a). (c) The commission shall indemnify an individual referred to in subsection (5)(a) in the amount of any settlement obtained against the individual arising out of a civil action for which the individual is granted immunity under subsection (5)(a).

Article VII. Activities of the Commission (1) The commission may take actions that are consistent with the provisions of this compact. (2) Except as otherwise provided in this compact and unless a greater percentage is required by commission rule, the commission may act at a commission meeting by an affirmative vote of a majority of the members present. (3) Each member of the commission may cast a vote and participate in the business and affairs of the commission. A member shall vote in person on behalf of the member's state and may not delegate a vote to another member, except that a state council may appoint another individual, in the absence of the member from that state, to cast a vote on behalf of the member at a specified meeting. The commission's rules may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Voting conducted by telephone or other means of telecommunication or electronic communication is subject to the quorum and majority vote requirements of meetings at which members are present in person. (4) The commission shall meet at least once during each calendar year. The presiding officer may call additional meetings at any time and shall call a meeting upon the request of a majority of the members. (5) Except as otherwise provided in this compact or commission rule, public notice must be given of all meetings and all meetings are open to the public. Commission rules closing meetings must be consistent with the principles contained in 5 U.S.C. 552(b). The commission or any committee may close a meeting if it determines by a two-thirds vote that an open meeting would be likely to: (a) relate solely to the commission's internal personnel practices and procedures; (b) disclose matters specifically exempted from disclosure by statute; (c) disclose trade secrets or commercial or financial information that is privileged or confidential; (d) involve accusing an individual of a crime or formally censuring an individual or disclose information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy; (e) disclose investigatory records compiled for law enforcement purposes; (f) disclose information contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the commission with respect to a regulated entity for the purpose of regulation or supervision of the entity; (g) disclose information that would significantly endanger the life of an individual or the stability of a regulated entity; or (h) specifically relate to the commission's issuance of a subpoena or participation in a civil proceeding. (6) If a meeting is closed under this section, the commission's chief legal officer shall publicly certify that in the officer's opinion, the meeting was properly closed to the public, stating the grounds under subsection (5) for closure of the meeting. (7) The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting, actions taken, and the reasons for each action, including a description of each of the views expressed on any item and the roll call or other vote on each action. Any document considered in connection with any action must be included in the minutes or identified in the minutes in a manner reasonably allowing a person to obtain a copy of the document. (8) The commission shall collect standardized data, as provided in its rules, concerning the interstate movement of offenders. The rules must specify the data to be collected, the means of

collection, and data exchange and reporting requirements. Article VIII. Rulemaking Functions of the Commission (1) Commission rulemaking must conform to rulemaking criteria contained in this compact and commission rules and must substantially conform to the principles of the federal Administrative Procedure Act and the Federal Advisory Committee Act. (2) A rule proposed or adopted by the commission is not binding on this state unless adopted by the department. (3) Upon determination by the commission that an emergency exists, it may promulgate an emergency rule that becomes effective immediately upon adoption. The rule does not bind this state unless the department adopts it as an emergency rule of this state. The commission's emergency rule is effective for 90 days, but the commission may adopt the same rule using the principles referred to in subsection (1). Article IX. Judicial and Administrative Proceedings Affecting Compact The courts and executive agencies in each compacting state may enforce this compact and take any action allowed by this compact or other law and necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the commission, the commission must be given a copy of any process served within the time for service on the party or parties served and may intervene in the proceeding. Article X. Finance (1) The commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities. (2) The commission shall levy an annual assessment on each compacting state to cover the cost of the internal operations and activities of the commission and its staff. The total aggregate annual assessment on the compact states combined must be allocated among those states based upon a formula contained in a commission rule, taking into consideration the population of each state and the volume of interstate movement of offenders in each state. Each state council shall present its state's annual assessment to its legislature for an appropriation funding that amount. (3) The commission may not incur a financial obligation prior to securing funds adequate to meet the obligation. (4) The commission shall keep accurate accounts of all receipts and disbursements. A commission rule must provide for an annual audit of the receipts and disbursements by a certified or licensed public accountant, and the audit report must be included in the commission's annual report. Article XI. Effective Date of Compact and Amendments (1) This compact is effective and binding upon the later of July 1, 2001, or the enactment of the compact into law by 35 states. After that date, the compact is effective as to and binding upon a state upon enactment of the compact into law by that state. (2) Amendments to the compact may be proposed by the commission for enactment by the compacting states. An amendment is effective upon enactment into law by unanimous consent of the compacting states. Article XII. Withdrawal, Default, Termination, and Judicial Enforcement (1) (a) A compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact into law. (b) The effective date of withdrawal is the effective date of the repeal. (c) A compact administrator shall immediately notify the presiding officer of the commission in writing upon the introduction of legislation for the repeal of this compact. The commission shall notify the other compacting states of the intent to withdraw within 60 days of the commission's receipt of the notice. (d) A withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal. (2) (a) If the commission determines that a compacting state has defaulted in the performance of its obligations or responsibilities under this compact, the commission may, as provided in commission rules, impose one or more of the following penalties: (i) reasonable fines, fees, and costs; (ii) remedial training and technical assistance as directed by the commission; (iii) suspension or termination of participation in the compact. Suspension or termination may be imposed only after all other reasonable means of securing compliance have been exhausted. The commission shall give immediate notice of suspension or termination to the governor, the chief justice, the majority and minority leaders of each house of the legislature, and the state council. (b) The commission shall immediately notify the defaulting state in writing of any other penalty imposed by the commission. The commission shall stipulate the conditions and the time period for the state to cure its default. If the state fails to cure the default under the conditions or within the time period specified by the commission and the penalty imposed was not suspension or termination of participation in the compact, the commission may suspend or terminate participation in the compact. (c) A defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of a suspension or termination of participation, including obligations the performance of which extends beyond the effective date of the suspension or termination. (d) The commission may not assume any assessments, obligations, or liabilities of a defaulting state except as agreed upon between the commission and the defaulting state. Reinstatement following a suspension or termination of participation in the compact must be by commission approval as provided in the commission's rules. (3) The commission may, by a majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the commission, in the federal district where the commission has its offices against a compacting state in default to enforce compliance with the provisions of the compact or applicable rules. The prevailing party is entitled to all costs of litigation, including reasonable attorney fees. (4) (a) The compact is dissolved effective upon the date that membership in the compact is reduced to one state because of withdrawals and terminations of participation. (b) Upon dissolution of the compact, the compact is null and of no further force or effect, except that the business and affairs of the commission must be settled and any surplus funds must be distributed in accordance with applicable rules. Article XIII. Severability and Construction (1) The provisions of this compact are severable, and if a provision is invalid, the remaining provisions remain valid. (2) This compact must be liberally constructed to effectuate its purposes. Article XIV. Advisory Opinions Upon the request of a party to a conflict over the meaning or interpretation of a commission action and upon a majority vote of the compacting states, the commission may issue an advisory opinion regarding the meaning or interpretation. History: En. Sec. 1, Ch. 18, L. 2001.

of Parole46-23-201. Prisoners eligible for nonmedical parole

46-23-201. Prisoners eligible for nonmedical parole.(1) Subject to the restrictions contained in subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole by appropriate order any person who is: (a) confined in a state prison; (b) sentenced to the state prison and confined in a prerelease center; (c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a correctional facility as defined in 41-5-103; (d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center. (2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole. (3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term. (4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years. (5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the prisoner is confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is confined for any other offense before a hearing panel conducts another hearing or review. (6) Nothing in this section prohibits the department from transferring a prisoner who is within 14 months of parole eligibility to a prerelease or treatment center for the purposes of preparing the prisoner for release into the community. History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(1), (2); amd. Secs. 1, 2, Ch. 235, L. 1983; amd. Sec. 1, Ch. 451, L. 1985; amd. Sec. 2, Ch. 188, L. 1989; amd. Sec. 2, Ch. 248, L. 1991; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 1, Ch. 315, L. 1991; amd. Sec. 3, Ch. 519, L. 1991; amd. Sec. 68, Ch. 10, L. 1993; amd. Sec. 4, Ch. 372, L. 1995; amd. Sec. 17, Ch. 482, L. 1995; amd. Sec. 227, Ch. 546, L. 1995; amd. Sec. 9, Ch. 189, L. 1997; amd. Sec. 7, Ch. 491, L. 1999; amd. Sec. 5, Ch. 559, L. 2003; amd. Sec. 5, Ch. 102, L. 2011; amd. Sec. 1, Ch. 176, L. 2011; amd. Sec. 5, Ch. 209, L. 2013; amd. Sec. 2, Ch. 198, L. 2015; amd. Sec. 6, Ch. 392, L. 2017; amd. Sec. 26, Ch. 339, L. 2021; amd. Sec. 1, Ch. 200, L. 2023.

2024 Montana Code AnnotatedTitle 46. Criminal ProcedureChapter 23. Probation, Parole, and ClemencyPart 2. Granting of Parole46-23-202. Initial parole hearing

46-23-202. Initial parole hearing.Within the 2 months prior to a prisoner's official parole eligibility date or as soon after that date as possible, the department shall make the prisoner available for a hearing before a hearing panel. The hearing panel shall consider the prisoner's score under the parole guidelines and other case-specific and pertinent information regarding the prisoner, including the criteria in 46-23-208. History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(3); amd. Sec. 1, Ch. 45, L. 1983; amd. Sec. 4, Ch. 579, L. 1993; amd. Sec. 22, Ch. 125, L. 1995; amd. Sec. 5, Ch. 372, L. 1995; amd. Sec. 2, Ch. 450, L. 1999; amd. Sec. 2, Ch. 425, L. 2001; amd. Sec. 6, Ch. 559, L. 2003; amd. Sec. 6, Ch. 102, L. 2011; amd. Sec. 3, Ch. 198, L. 2015; amd. Sec. 7, Ch. 392, L. 2017.

2024 Montana Code AnnotatedTitle 46. Criminal ProcedureChapter 23. Probation, Parole, and ClemencyPart 2. Granting of Parole46-23-203. Information from prison officials

46-23-203. Information from prison officials.It shall be the duty of all prison officials to grant to the members of the board or its properly accredited representatives access at all reasonable times to any prisoner over whom the board has jurisdiction under parts 1, 2, 3, and 10 of this chapter, to provide for the board or such representatives facilities for communicating with and observing such prisoner, and to furnish to the board such reports as the board shall require concerning the conduct and character of any prisoner in their custody and any other facts deemed by the board pertinent in determining whether such prisoner shall be paroled. History: En. Sec. 14, Ch. 153, L. 1955; Sec. 94-9834, R.C.M. 1947; redes. 95-3216 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3216.

2024 Montana Code AnnotatedTitle 46. Criminal ProcedureChapter 23. Probation, Parole, and ClemencyPart 2. Granting of Parole46-23-205. Subpoenas -- issuance, service

46-23-205. Subpoenas -- issuance, service.(1) The board shall have the power to issue subpoenas compelling the attendance of such witnesses and the production of such records, books, papers, and documents as it may deem necessary for investigation of the case of any person before it. Subpoenas may be signed and oaths administered by the board or any member thereof. (2) Subpoenas so issued may be served by any sheriff, constable, police officer, parole and probation officer, or other law enforcement officer. History: En. Sec. 16, Ch. 153, L. 1955; Sec. 94-9836, R.C.M. 1947; redes. 95-3218 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3218(part).

2024 Montana Code AnnotatedTitle 46. Criminal ProcedureChapter 23. Probation, Parole, and ClemencyPart 2. Granting of Parole46-23-206. Enforcement of subpoenas by court

46-23-206. Enforcement of subpoenas by court.In case of contumacy by or refusal of any person to obey a subpoena issued to such person, any member of the board or duly authorized representative of any of them may make application to any court of record of this state and such court shall have jurisdiction to issue to such person an order requiring such person to appear before the board and

there to produce evidence if so ordered or there to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by said court as a contempt thereof. History: En. Sec. 16, Ch. 153, L. 1955; Sec. 94-9836, R.C.M. 1947; redes. 95-3218 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3218(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-207. Penalty for disobedience

46-23-207. Penalty for disobedience. Any person who without just cause fails or refuses to attend and testify, to answer any lawful inquiry, or to produce records, books, papers, and other documents if it is in the person's power to do so in obedience to a subpoena of the board or any member of the board shall be punished by a fine of not more than \$200, by imprisonment for not longer than 60 days, or by both. Each day that a violation continues is considered to be a separate offense. History: En. Sec. 16, Ch. 153, L. 1955; Sec. 94-9836, R.C.M. 1947; redes. 95-3218 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3218(part); amd. Sec. 1766, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-208. Nonmedical parole criteria -- information board may consider

46-23-208. Nonmedical parole criteria -- information board may consider. (1) The board may release an eligible prisoner on nonmedical parole only when: (a) there is reasonable probability that the prisoner can be released without detriment to the prisoner or to the community; (b) release is in the best interests of society; (c) the prisoner is able and willing to fulfill the obligations of a law-abiding citizen; and (d) the prisoner does not require: (i) continued correctional treatment that cannot be found in the community; or (ii) other programs available only in a correctional facility that will substantially enhance the prisoner's capability to lead a law-abiding life if released, including mental health therapy or vocational training. (2) Parole may not be ordered as an award of clemency or a reduction of sentence or pardon. (3) For a prisoner sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312: (a) the board may require as a condition of parole participation in a supervised mental health treatment program, if consistent with mental health services recommendations provided by a mental health professional, as that term is defined in 53-21-102, to ensure that the prisoner continues to treat the prisoner's mental disorder; and (b) parole may be revoked if a prisoner fails to comply with the terms of a supervised mental health treatment program described in subsection (3)(a), in which case the prisoner must be recommitted to the custody of the director of the department of public health and human services pursuant to 46-14-312. (4) In making its determination regarding nonmedical parole release, a hearing panel shall consider all available and pertinent information regarding the prisoner, including the following factors: (a) the circumstances of the offense; (b) the prisoner's social history and prior criminal record, including the nature and circumstances of the offense, date of offense, and frequency of previous offenses; (c) the prisoner's conduct, employment, and attitude in prison, including particularly whether the prisoner has taken advantage of opportunities for treatment and whether the prisoner is clear of major disciplinary violations prior to the hearing; (d) the reports of any physical, psychological, and mental evaluations that have been made; (e) the prisoner's maturity, stability, sense of responsibility, and development of traits and behaviors that increase the likelihood the prisoner will conform the prisoner's behavior to the requirements of law; (f) the adequacy of the prisoner's release plan; (g) the prisoner's ability and readiness to assume obligations and undertake responsibilities; (h) the prisoner's education and training; (i) the prisoner's family status and whether the prisoner has relatives who display an interest or whether the prisoner has other close and constructive associations in the community; (j) the prisoner's employment history and occupational skills and the stability of the prisoner's past employment; (k) the type of residence, neighborhood, or community in which the prisoner plans to live; (l) the prisoner's past use of chemicals, including alcohol, and past habitual or abusive use of chemicals; (m) the prisoner's mental health needs; (n) the prisoner's attitude toward law and authority; (o) the prisoner's behavior and attitude during any previous experience of supervision and the recency of the supervision; (p) written or oral statements from criminal justice authorities or any other interested person or the interested person's legal representative, including written or oral statements from a victim regarding the effects of the crime on the victim. A victim's statement may also include but is not limited to the circumstances surrounding the crime, the manner in which the crime was committed, and the victim's opinion as to whether the offender should be paroled. (q) whether parole at this time would diminish the seriousness of the offense; and (r) any and all other factors that the hearing panel determines to be relevant. (5) A victim's statement may be kept confidential. History: En. Sec. 1, Ch. 198, L. 2015; amd. Sec. 8, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-209. reserved

46-23-209 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-210. Medical parole

46-23-210. Medical parole. (1) The board may release on medical parole by appropriate order any person confined in a state prison or adult community corrections facility or any person sentenced to a state prison and confined in a prerelease center who: (a) is not under sentence of death or sentence of life imprisonment without possibility of release; (b) is unlikely to pose a detriment to the

person, victim, or community; and (c) (i) has a medical condition requiring extensive medical attention; or (ii) has been determined by a physician to have a medical condition that will likely cause death within 6 months or less. (2) A person designated ineligible for parole under 46-18-202(2) must have approval of the sentencing judge before being eligible for medical parole. If the court does not respond within 30 days to a written request from the department, the person is considered to be approved by the court for medical parole. The provisions of this subsection do not apply to a person who is ineligible for medical parole under subsection (1)(a). (3) Medical parole may be requested by the board, the department, an incarcerated person, or an incarcerated person's spouse, parent, child, grandparent, or sibling by submitting a completed application to the administrator of the correctional institution in which the person is incarcerated. The application must include a detailed description of the person's proposed placement and medical care and an explanation of how the person's medical care will be financed if the person is released on medical parole. The application must include a report of an examination and written diagnosis by a physician licensed under Title 37 to practice medicine. The physician's report must include: (a) a description of the medical attention required to treat the person's medical condition; (b) a description of the person's medical condition, any diagnosis, and any physical incapacity; and (c) a prognosis addressing the likelihood of the person's recovery from the medical condition or diagnosis and the extent of any potential recovery. The prognosis may include whether the person has a medical condition causing the likelihood of death within 6 months. (4) The application must be reviewed and accepted by the department before the board may consider granting a medical parole. (5) Upon receiving the application from the department, a hearing panel shall hold a hearing. Any interested person or the interested person's representative may submit written or oral statements, including written or oral statements from a victim. A victim's statement may be kept confidential. (6) The hearing panel shall require as a condition of medical parole that the person agree to placement in an environment approved by the department during the parole period, including but not limited to a hospital, nursing home, hospice facility, or prerelease center, to intensive supervision, to some other appropriate community corrections facility or program, or to a family home. The hearing panel may require as a condition of parole that the person agree to periodic examinations and diagnoses at the person's expense. Reports of each examination and diagnosis must be submitted to the board and department by the examining physician. If either the board or department determines that the person's medical condition has improved to the extent that the person no longer requires extensive medical attention or is likely to pose a detriment to the person, victim, or community, a hearing panel may revoke the parole and return the person to the custody of the department. (7) A grant or denial of medical parole does not affect the person's eligibility for nonmedical parole. (8) Sections 46-23-203, 46-23-205 through 46-23-207, and 46-23-215 through 46-23-218 apply to medical parole. History: En. Sec. 1, Ch. 248, L. 1991; amd. Sec. 1, Ch. 381, L. 1993; amd. Sec. 23, Ch. 125, L. 1995; amd. Sec. 3, Ch. 420, L. 1997; amd. Sec. 1, Ch. 250, L. 2007; amd. Sec. 7, Ch. 102, L. 2011; amd. Sec. 1, Ch. 43, L. 2013.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-211. through 46-23-214 reserved

46-23-211 through 46-23-214 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-215. Conditions of parole

46-23-215. Conditions of parole. (1) A prisoner while on parole remains in the legal custody of the department but is subject to the orders of the board. (2) (a) When a hearing panel issues an order for parole, the order must recite the conditions of parole. The hearing panel shall consider the parole guidelines governing conditions and the parole plan provided by the department before imposing conditions of parole to address the prisoner's criminogenic factors. If restitution was imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay restitution to the victim. The prisoner may not be paroled until the prisoner provides a biological sample for purposes of Title 44, chapter 6, part 1, if the prisoner has not already done so under 44-6-103 and if the prisoner was convicted of, or was found under 41-5-1502 to have committed, a sexual offense or violent offense. (b) The board may require the prisoner convicted of a sexual offense to refrain from direct or indirect contact with a victim of the crime or with an immediate family member of the victim. If a victim or an immediate family member requests that the prisoner not contact the victim or immediate family member, the board shall require the prisoner to refrain from contact with the victim or immediate family member. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf. (c) An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition. (3) Whenever a hearing panel grants a parole to a prisoner on the condition that the prisoner obtain employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while incarcerated, the hearing panel or the presiding officer of the board may grant the prisoner a furlough, not to exceed two consecutive 10-day periods, for purposes of fulfilling the condition. While on furlough, the prisoner is not on parole and is subject to official detention as defined in 45-7-306. The prisoner remains in the legal custody of the department and is subject to all other conditions ordered by the hearing panel or the presiding officer of the board. (4) For the purposes of this section, "sexual offense" and "violent offense" have the meanings provided in 46-23-502. History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(4); amd. Sec. 1, Ch. 1, Sp. L. 1982; amd. Sec. 3, Ch. 392, L. 1987; amd. Sec. 24, Ch. 125, L. 1995; amd. Sec. 10, Ch. 189, L. 1997; amd. Sec. 6, Ch. 147, L. 1999; amd. Sec. 8, Ch. 491, L. 1999; amd. Sec. 7, Ch. 559, L. 2003; amd. Sec. 8, Ch. 102, L. 2011; amd. Sec. 2, Ch. 113, L. 2015; amd. Sec. 9, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-216. Duration of parole

46-23-216. Duration of parole. (1) A prisoner on parole is considered released on parole until the expiration of the maximum term or terms for which the prisoner was sentenced. (2) The period served on parole must be considered service of the term of imprisonment, and subject to the provisions contained in 46-23-1023 through 46-23-1026 relating to a prisoner who is a fugitive from or has fled from justice, the total time served may not exceed the maximum term or sentence. When a prisoner on parole has performed the obligations of the release, the board shall make a final order or discharge and issue a certificate of discharge to the prisoner. History: (1) En. Sec. 13, Ch. 153, L. 1955; Sec. 94-9833, R.C.M. 1947; redes. 95-3215 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 87, Ch. 120, L. 1974; amd. Sec. 4, Ch. 312, L. 1975; amd. Sec. 61, Ch. 184, L. 1977; amd. Sec. 4, Ch. 340, L. 1977; Sec. 95-3215, R.C.M. 1947, 95-3215; (2) En. Sec. 20, Ch. 153, L. 1955; Sec. 94-9840, R.C.M. 1947; redes. 95-3222 by Sec. 29, Ch. 513, L. 1973; Sec. 95-3222, R.C.M. 1947; R.C.M. 1947, 95-3215, 95-3222; amd. Secs. 6, 7, Ch. 372, L. 1995; amd. Sec. 8, Ch. 559, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-217. Service of term for additional crime

46-23-217. Service of term for additional crime. A prisoner who commits a crime while imprisoned in a state prison or while released on parole or under the supervised release program and who is convicted and sentenced for the crime shall serve the sentence consecutively with the remainder of the original sentence. However, the prisoner remains eligible for parole consideration under 46-23-201 in regard to the original sentence. If paroled from the original sentence, the prisoner shall begin serving the subsequent sentence. History: En. Sec. 19, Ch. 153, L. 1955; Sec. 94-9839, R.C.M. 1947; redes. 95-3221 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3221; amd. Sec. 28, Ch. 116, L. 1979; amd. Sec. 3, Ch. 188, L. 1989; amd. Sec. 8, Ch. 372, L. 1995; amd. Sec. 9, Ch. 491, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 2. Granting of Parole 46-23-218. Authority of board to adopt rules -- purpose for training -- data collection

46-23-218. Authority of board to adopt rules -- purpose for training -- data collection. (1) The board may adopt any rules that it considers proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, videoconference hearings, telephone conference administrative reviews, progress reviews, clemency proceedings, the conditions to be imposed upon parolees, the training of board members regarding American Indian culture and problems, and other matters pertinent to service on the board. (2) The legislature finds that American Indians incarcerated in state prisons constitute a disproportionate percentage of the total inmate population when compared to the American Indian population percentage of the total state population. The training of board members regarding American Indian culture and problems is necessary in order for the board to deal appropriately with American Indian inmates appearing before the board. (3) In consultation with the department, the board shall adopt rules to establish: (a) parole guidelines to structure and guide parole release decisions and the imposition of release conditions. The guidelines must include, in decreasing order of importance, the prisoner's: (i) risk and needs levels, as determined by a validated risk and needs assessment; (ii) participation in risk-reducing programs and treatment; (iii) institutional behavior as reflected by disciplinary records; and (iv) offense severity. (b) a process by which a prisoner who has been denied parole and has more than 1 year before a scheduled hearing or review may request an earlier hearing or review; and (c) criteria for consideration of conditional discharges, which must include supervision compliance, residential stability, employment stability, engagement in treatment, and other factors indicative of adequate reentry stability. (4) The board and the department shall compile data to validate the parole guidelines after gathering recidivism results for the last 3 years and every 5 years thereafter. The board may adopt rules to govern the transition to use of parole guidelines. The data collection must start by April 2018. (5) The board shall annually assess and prioritize inservice training needs and arrange for training to strengthen knowledge and skills needed for case assessment, interviewing, and parole decisionmaking. Board members, parole analysts, and the hearings officers shall attend the training, as well as other board and department staff as needed. History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(5); amd. Sec. 3, Ch. 450, L. 1999; amd. Sec. 9, Ch. 559, L. 2003; amd. Sec. 9, Ch. 102, L. 2011; amd. Sec. 10, Ch. 392, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-301. Cases of executive clemency -- application for clemency -- definitions

46-23-301. Cases of executive clemency -- application for clemency -- definitions. (1) (a) "Clemency" means kindness, mercy, or leniency that may be exercised by the governor toward a convicted person. The governor may grant clemency in the form of: (i) the remission of fines or forfeitures; (ii) the commutation of a sentence to one that is less severe; (iii) respite; or (iv) pardon. (b) "Pardon" means a declaration of record that an individual is to be relieved of all legal consequences of a prior conviction. (2) A person convicted of a crime need not exhaust judicial or administrative remedies before filing an application for clemency, except that an application may not be filed with respect to a sentence of death while an automatic review proceeding is pending before the Montana supreme court under 46-18-307 through 46-18-310. The board shall consider cases of executive clemency only upon

application. All applications for executive clemency must be made to the board. An application for executive clemency in capital cases may be filed with the board no later than 10 days after the district court sets a date of execution. Applications may be filed only by the person convicted of the crime, by the person's attorney acting on the person's behalf and with the person's consent, or by a court-appointed next friend, guardian, or conservator acting on the person's behalf. (3) (a) After a hearing panel has considered an application for executive clemency and has by majority vote favored a hearing, the hearing panel shall cause an investigation to be made of and base any recommendation it makes on: (i) all the circumstances surrounding the crime for which the applicant was convicted; (ii) the applicant's criminal record; and (iii) the individual circumstances relating to social conditions of the applicant prior to commission of the crime, at the time the offense was committed, and at the time of the application for clemency. (b) If the hearing panel does not favor a hearing by majority vote, the hearing panel shall transmit the application to the governor. The governor shall review the application and determine whether a hearing is appropriate. If the governor determines that a hearing is appropriate, the governor shall transmit the application back to the hearing panel. The hearing panel shall cause an investigation to be made of and base any recommendation it makes on the factors set forth in subsection (3)(a). (4) A hearing panel may recommend that clemency be granted or denied. The hearing panel shall transmit the application and either a recommendation that clemency be granted or a recommendation that clemency be denied to the governor. The governor is not bound by any recommendation of the hearing panel, but the governor shall review the record of the hearing and the hearing panel's recommendation before granting or denying clemency. The governor has the final authority to grant or deny clemency. An appeal may not be taken from the governor's decision to grant or deny clemency. (5) (a) A hearing panel may not recommend clemency if the applicant: (i) is related or connected to the governor by consanguinity within the fourth degree or by affinity within the second degree as provided in 1-1-219; or (ii) works or has worked in the office of the governor since the governor took office. (b) The governor may not grant clemency to an applicant described in subsection (5)(a). History: En. Sec. 21, Ch. 153, L. 1955; Sec. 94-9841, R.C.M. 1947; amd. Sec. 2, Ch. 73, L. 1973; redes. 95-3223 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3223; amd. Sec. 1, Ch. 561, L. 1989; amd. Sec. 2, Ch. 92, L. 1997; amd. Sec. 10, Ch. 102, L. 2011; amd. Sec. 3, Ch. 96, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-302. Order for hearing on application for executive clemency

46-23-302. Order for hearing on application for executive clemency. After a hearing panel has considered an application for executive clemency and has by majority vote favored a hearing or the governor has determined that a hearing is appropriate, the hearing panel shall pass an order in substance as follows: "Whereas, the Board of Pardons and Parole has officially received an application for executive clemency concerning, a convict confined in the state prison (or concerning, who has been found guilty of an offense committed against the laws of the state), who was convicted of the crime of.... committed at, in the county of, State of Montana, on the day of, 20..., and sentenced for a term of years. Therefore, it is ordered that, the day of, 20..., is set for the consideration of the executive clemency matter and all persons having an interest in the matter who desire to be heard either for or against the granting of the pardon, commutation, restoration of citizenship, or remission or suspension of fine or forfeiture are notified to be present at o'clock of that day, at, Further, it is ordered that a copy of this order be printed and published in the.... (here insert name of some newspaper of general circulation in the county where the crime was committed), a daily (or weekly) newspaper printed and published at, in the county of, once each week for 2 weeks beginning, 20..., and ending" History: En. Sec. 22, Ch. 153, L. 1955; Sec. 94-9842, R.C.M. 1947; amd. Sec. 3, Ch. 73, L. 1973; redes. 95-3224 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3224; amd. Sec. 2, Ch. 561, L. 1989; amd. Sec. 228, Ch. 546, L. 1995; amd. Sec. 78, Ch. 51, L. 1999; amd. Sec. 11, Ch. 102, L. 2011; amd. Sec. 4, Ch. 96, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-303. Publication of order

46-23-303. Publication of order. The board must cause a copy of such order to be published in the newspaper therein designated at least once a week for 2 weeks prior to the hearing and, at the same time, cause to be deposited in the post office at the seat of government, postpaid, a copy of said order and notice addressed to the district judge, county attorney, and sheriff, respectively, of the county where the crime was committed and in like manner mail a copy of the order to the applicant. History: En. Sec. 23, Ch. 153, L. 1955; Sec. 94-9843, R.C.M. 1947; redes. 95-3225 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3225; amd. Sec. 3, Ch. 561, L. 1989.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-304. Proof of publication

46-23-304. Proof of publication. Prior to the time set for hearing, proof of the publication of notice must be made by the publisher or managing agent. History: En. Sec. 24, Ch. 153, L. 1955; Sec. 94-9844, R.C.M. 1947; redes. 95-3226 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3226.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-305. When publication not necessary

46-23-305. When publication not necessary. No publication need be made as provided in 46-23-302, 46-23-303, and 46-23-304 in

the following cases: (1) when there is imminent danger of the death of the person convicted or imprisoned; (2) when the term of imprisonment of the applicant is within 10 days of its expiration. History: En. Sec. 26, Ch. 153, L. 1955; Sec. 94-9846, R.C.M. 1947; amd. and redes. 95-3228 by Sec. 28, Ch. 513, L. 1973; R.C.M. 1947, 95-3228.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-306. Record of hearing

46-23-306. Record of hearing. At the hearing, the hearing panel must cause to be kept a record showing: (1) the names of all persons appearing before the hearing panel on behalf of the person seeking clemency from the governor; (2) the names of all persons appearing before the hearing panel in opposition to the granting of the same; (3) the testimony of all persons giving evidence before the hearing panel; (4) that the affidavit and return from the printer of the publication of the notice and order of hearing was on file prior to the hearing. History: En. Sec. 25, Ch. 153, L. 1955; Sec. 94-9845, R.C.M. 1947; redes. 95-3227 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3227; amd. Sec. 29, Ch. 116, L. 1979; amd. Sec. 12, Ch. 102, L. 2011.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-307. Recommendation of hearing panel

46-23-307. Recommendation of hearing panel. Within 30 days after the hearing of a case, the hearing panel shall make a recommendation in writing and a copy of the recommendation, together with all papers used in each case, must be immediately transmitted to the governor. History: En. Sec. 27, Ch. 153, L. 1955; Sec. 94-9847, R.C.M. 1947; redes. 95-3229 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3229; amd. Sec. 4, Ch. 561, L. 1989; amd. Sec. 13, Ch. 102, L. 2011; amd. Sec. 5, Ch. 96, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-308. through 46-23-314 reserved

46-23-308 through 46-23-314 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-315. Authority of governor to grant respite -- application

46-23-315. Authority of governor to grant respite -- application. The governor has the power to grant respites after conviction and judgment for any offenses committed against the criminal laws of the state for the time that the governor thinks proper. The governor may grant a respite upon application of a person authorized to apply for executive clemency and prior to any review or recommendation by the board of pardons and parole. A respite must be of temporary duration for a definite period of time. Any respite that is granted that stays the execution of a death warrant has the effect of postponing the execution of the warrant. In that case, if clemency is not granted, the death warrant is again in effect at the expiration of the period of respite and the execution must take place on the date of expiration of the respite. History: En. Sec. 28, Ch. 153, L. 1955; Sec. 94-9848, R.C.M. 1947; redes. 95-3230 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3230; amd. Sec. 5, Ch. 561, L. 1989; amd. Sec. 229, Ch. 546, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 3. Executive Clemency 46-23-316. Governor's report to legislature

46-23-316. Governor's report to legislature. The governor shall, as provided in 5-11-210, report to the legislature each case of remission of fine or forfeiture, respite, commutation, or pardon granted since the previous report, stating the name of the convict, the crime of which the convict was convicted, the sentence and its date, the date of remission, commutation, pardon, or respite, with the reason for granting the same, and the objection, if any, of any of the members of the board made to the action. History: En. Sec. 29, Ch. 153, L. 1955; Sec. 94-9849, R.C.M. 1947; redes. 95-3231 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3231; amd. Sec. 6, Ch. 561, L. 1989; amd. Sec. 37, Ch. 112, L. 1991; amd. Sec. 1767, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-501. Short title

46-23-501. Short title. Section 46-18-255 and this part may be cited as the "Sexual or Violent Offender Registration Act". History: En. Sec. 1, Ch. 293, L. 1989; amd. Sec. 4, Ch. 407, L. 1995; amd. Sec. 4, Ch. 375, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-502. Definitions

46-23-502. Definitions. As used in Title 45, chapter 5, part 3 and parts 5 through 7, 46-18-255, and this part, the following definitions apply: (1) "Department" means the department of corrections provided for in 2-15-2301. (2) "Foreign offenses" means a conviction for a sexual offense involving any of the conduct listed in this section that was obtained under the laws of Canada, the United Kingdom, Australia, or New Zealand, or under the laws of any foreign country when the United States department of state, in its country reports on human rights practices, has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction was obtained. (3) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to

the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons. (4) "Municipality" means an entity that has incorporated as a city or town. (5) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association. (6) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization. (7) "Registration agency" means: (a) if the offender resides in a municipality, the police department of that municipality; or (b) if the offender resides in a place other than a municipality, the sheriff's office of the county in which the offender resides. (8) (a) "Residence" means the location at which a person regularly resides, regardless of the number of days or nights spent at that location, that can be located by a street address, including a house, apartment building, motel, hotel, or recreational or other vehicle. (b) The term does not mean a homeless shelter. (9) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct psychosexual evaluations of sexual offenders and sexually violent predators. (10) (a) "Sexual offense" means any violation, attempt, solicitation, or conspiracy to commit a violation, or flight after the attempt or commission of the following: (i) 45-5-301, unlawful restraint, if the victim is less than 18 years of age and the offender is not a parent of the victim; (ii) 45-5-302, kidnapping, if the victim is less than 18 years of age and the offender is not a parent of the victim; (iii) 45-5-303, aggravated kidnapping, if the victim is less than 18 years of age and the offender is not a parent of the victim; (iv) 45-5-502(2)(c), (3), and (4), sexual assault; (v) 45-5-503, sexual intercourse without consent; (vi) 45-5-504(2)(c) and (3), indecent exposure; (vii) 45-5-507, incest, if the victim is less than 18 years of age and the offender is 3 or more years older than the victim, or if the victim is 12 years of age or younger and the offender is 18 years of age or older at the time of the offense; (viii) 45-5-508, aggravated sexual intercourse without consent; (ix) 45-5-601(2)(b) and (3), prostitution; (x) 45-5-622(2)(b)(ii), endangering the welfare of children; (xi) 45-5-625, sexual abuse of children; (xii) 45-5-627(1)(a), ritual abuse of a minor; (xiii) 45-5-705, patronizing a victim of sex trafficking; (xiv) 45-5-706, aggravated sex trafficking; (xv) 45-5-711, child sex trafficking; (xvi) 45-8-218, deviate sexual conduct; or (xvii) any violation of a law of another state, a tribal government, the federal government, or the military or a foreign entity that is reasonably equivalent to a violation listed in subsections (10)(a)(i) through (10)(a)(xvi) or for which the offender was required to register as a sexual offender after an adjudication or conviction. (b) The term does not include the exceptions provided for in 45-5-501, 45-5-502, and 45-5-503. (11) "Sexual or violent offender" means a person who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual or violent offense. (12) "Sexually violent predator" means a person who: (a) has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses; or (b) has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older. (13) "Transient" means an offender who has no residence. (14) "Violent offense" means: (a) any violation of or attempt, solicitation, or conspiracy to commit a violation of: (i) 45-5-102, deliberate homicide; (ii) 45-5-103, mitigated deliberate homicide; (iii) 45-5-202, aggravated assault; (iv) 45-5-206 (third or subsequent offense), partner or family member assault; (v) 45-5-210(1)(b), (1)(c), or (1)(d), assault on a peace officer or judicial officer; (vi) 45-5-212, assault on a minor; (vii) 45-5-213, assault with a weapon; (viii) 45-5-215, strangulation of a partner or family member; (ix) 45-5-302 (if the victim is not a minor), kidnapping; (x) 45-5-303 (if the victim is not a minor), aggravated kidnapping; (xi) 45-5-401, robbery; (xii) 45-6-103, arson; or (xiii) 45-9-132, operation of unlawful clandestine laboratory; or (b) any violation of a law of another state, a tribal government, the federal government, or the military or a foreign entity reasonably equivalent to a violation listed in subsection (14)(a). History: En. Sec. 2, Ch. 293, L. 1989; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 5, Ch. 407, L. 1995; amd. Sec. 231, Ch. 546, L. 1995; amd. Secs. 7, 12, Ch. 550, L. 1995; amd. Sec. 5, Ch. 375, L. 1997; amd. Sec. 1, Ch. 227, L. 1999; amd. Sec. 19, Ch. 432, L. 1999; amd. Sec. 4, Ch. 22, Sp. L. August 2002; amd. Sec. 2, Ch. 146, L. 2003; amd. Sec. 1, Ch. 313, L. 2005; amd. Sec. 19, Ch. 483, L. 2007; amd. Sec. 15, Ch. 374, L. 2013; amd. Sec. 3, Ch. 110, L. 2015; amd. Sec. 2, Ch. 144, L. 2015; amd. Sec. 1, Ch. 182, L. 2015; amd. Sec. 25, Ch. 285, L. 2015; amd. Sec. 3, Ch. 277, L. 2017; amd. Sec. 6, Ch. 279, L. 2017; amd. Sec. 14, Ch. 394, L. 2017; amd. Sec. 14, Ch. 308, L. 2019; amd. Sec. 7, Ch. 643, L. 2023, Sec. 8, Ch. 643, L. 2023, Sec. 9, Ch. 643, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-503. Release of sexual or violent offender from place of confinement -- duties of official in charge

46-23-503. Release of sexual or violent offender from place of confinement -- duties of official in charge. (1) A sexual or violent offender who is released from the custody of the department of corrections must be informed in writing not less than 10 days prior to release of the duty to register under this part by the official in charge of the place of confinement. (2) Prior to the offender's release from custody, the official shall obtain and give to the department of justice and to the sheriff of the county in which the offender intends to reside or, if the offender intends to reside in a municipality, to the chief of police of the municipality: (a) the address at which the offender intends to reside upon release from the department's custody; (b) the offender's fingerprints and photo, unless they are already in the possession of the department of justice, sheriff, or chief of police; and (c) a form signed by and read to or by the offender stating that the offender's duty to register under this part has been explained to the offender. History: En. Sec. 4, Ch. 293, L. 1989; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 6, Ch. 407, L. 1995; amd. Sec. 232, Ch. 546, L. 1995; amd. Sec. 6, Ch. 375, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5.

Registration of Sexual and Violent Offenders 46-23-504. Persons required to register -- procedure

46-23-504. Persons required to register -- procedure. (1) Except as provided in 41-5-1513 and 45-5-503(5), a sexual or violent offender: (a) shall register immediately upon conclusion of the sentencing hearing if the offender is not sentenced to confinement or is not sentenced to the department and placed in confinement by the department; (b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if sentenced to confinement or sentenced to the department and placed in confinement by the department; (c) shall register within 3 business days of entering a county of this state for the purpose of residing or setting up a temporary residence for 10 days or more or for an aggregate period exceeding 30 days in a calendar year; and (d) who is a transient shall register within 3 business days of entering a county of this state. (2) Registration under subsection (1) must be with the appropriate registration agency. If an offender registers with a police department, the department shall notify the sheriff's office of the county in which the municipality is located of the registration. The probation officer having supervision over an offender required to register under subsection (1)(a) shall verify the offender's registration status with the appropriate registration agency. (3) At the time of registering, the offender shall sign a statement in writing giving the information required by subsections (3)(a) through (3)(k) and any other information required by the department of justice. The registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the department of justice, photograph the offender, and obtain a DNA sample from the offender. Within 3 days, the registration agency shall send copies of the statement, fingerprints, and photographs to the department of justice. The registration agency shall send the DNA sample to the department of justice for analysis and entry of the DNA record into the DNA identification index. The registration agency shall require an offender given a level 2 or level 3 designation to appear before the registration agency for a new photograph every year. The information collected from the offender at the time of registration must include: (a) the name of the offender and any aliases used by the offender; (b) the offender's social security number; (c) the residence information required by subsection (4); (d) the name and address of any business or other place where the offender is or will be an employee; (e) the name and address of any school where the offender will be a student; (f) the offender's driver's license number; (g) the description, registration number or identifier, and license number of all motor vehicles owned or operated by the offender; (h) the following information related to the offender's internet activity: (i) all e-mail addresses used by the offender; (ii) all instant message addresses and identifiers; (iii) all other designations or monikers used for self-identification in internet communications or postings; and (iv) all designations used by the offender for the purpose of routing or self-identification in internet communications, postings, or social media accounts; (i) any passports held or used by the offender. The department or its designee shall make a photocopy of the passports. (j) all telephone numbers and any other designations used by the offender for the purposes of routing or self-identification in telephonic communications, including but not limited to: (i) all cellular telephone numbers; (ii) all landline telephone numbers; and (iii) all voice over internet protocol telephone numbers; and (k) all professional licenses, including the licensing number, licensing agency, and any other identifying information about a professional license issued to the offender that authorizes the offender to engage in an occupation or carry out a trade or business. (4) (a) If, at the time of registration, the offender regularly resides in more than one county or municipality, the offender shall register with the registration agency of each county or municipality in which the offender resides. If an offender resides in more than one location within the same county or municipality, the registration agency shall require the offender to provide all of the locations where the offender regularly resides and to designate one of them as the offender's primary residence. (b) Registration of more than one residence pursuant to this section is an exception from the single residence rule provided in 1-1-215. (5) A transient shall report monthly, in person, to the registration agency with which the transient registered pursuant to subsection (1)(d). The transient shall report on a day specified by the registration agency and during the normal business hours of that agency. On that day, the transient shall provide the registration agency with the information listed in subsections (3)(a) through (3)(k). The registration agency to which the transient reports may also require the transient to provide the locations where the transient stayed during the previous 30 days and may stay during the next 30 days. (6) (a) The department of justice shall mail a registration verification form: (i) each 90 days to an offender designated as a level 3 offender under 46-23-509; (ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and (iii) each year to a violent offender or an offender designated as a level 1 offender under 46-23-509. (b) If the offender is a transient, the department of justice shall mail the offender's registration verification form to the registration agency with which the offender last registered. (c) The form must require the offender's notarized signature. Within 10 days after receipt of the form, the offender shall complete the form and return it to the registration agency where the offender last registered or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county or municipality in which the offender is located. A sexual offender shall return the form to the appropriate registration agency in person, and at the time that the sexual offender returns the registration verification form, the registration agency shall take a photograph of the offender and collect a DNA sample if one has not already been collected. The registration agency shall send the DNA sample to the department of justice for analysis and entry into the DNA identification index. (7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a copy of the form and most recent photograph to the department of justice. (8) The offender is responsible, if able to pay, for costs associated with registration. The fees charged for registration may not exceed the actual costs of registration. The department of justice may adopt a rule establishing fees to cover registration costs incurred by the department of justice in maintaining registration and address verification records. The fees must be deposited in the general fund. (9) The clerk of the district court in the county in which a person is convicted of a sexual or violent offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment. History: En. Sec. 5, Ch. 293, L. 1989; amd. Sec. 7, Ch. 407, L. 1995; amd. Sec. 7, Ch. 375, L. 1997; amd. Sec. 5, Ch. 22, Sp. L. August 2002; amd. Sec. 2, Ch. 313, L. 2005; amd. Sec. 4, Ch. 254, L. 2007; amd. Sec. 20, Ch. 483, L. 2007; amd. Sec. 2, Ch. 101, L. 2013; amd. Sec. 4, Ch. 110, L. 2015; amd. Sec. 2, Ch. 643, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-505. Notice of change of name or residence or student, employment, or transient status -- duty to inform -- forwarding of information

46-23-505. Notice of change of name or residence or student, employment, or transient status -- duty to inform -- forwarding of information. (1) If an offender required to register under this part has a change of name or residence or a change in student, employment, or transient status, the offender shall within 3 business days of the change appear in person and give notification of the change to the registration agency with whom the offender last registered or, if the offender was initially registered under 46-23-504(1)(b), to the registration agency for the county or municipality from which the offender is moving. The registration agency shall require the offender to appear before the registration agency for a new photograph every year. (2) If an offender required to register under this part is a transient, the offender shall provide written notification to the registration agency with which the offender last registered or, if the offender initially registered pursuant to 46-23-504(1)(b), shall provide notice within 3 business days to the registration agency in the county or municipality in which the offender resides. (3) Within 3 business days after receipt of the information concerning the new name or residence or a change in the student, employment, or transient status, the registration agency shall forward the information to the department of justice, which shall forward a copy of the information and photograph to: (a) in the event of a change in residence, the registration agency for the county to which the offender moves and, if the offender lives in a municipality, the registration agency for that municipality to which the offender moves; (b) in the event of a change of name or of student, employment, or transient status, the registration agency of the appropriate county or municipality. (4) If an offender who is required to register under this part is physically absent from the offender's county of residence for more than 10 consecutive days, the offender shall register in the county where the offender is physically located on the 11th day even if the offender claims to maintain a residence, as defined in 46-23-502, in that county. The offender shall register again in the offender's county of residence when the offender returns to that county. (5) If an offender is required to register under subsection (4), the offender shall register in any subsequent county where the offender is present for more than 24 hours until the offender registers again in the offender's county of residence. (6) In the event an offender will be absent from this state for more than 7 days, the offender shall provide notice with the information required under this section in person to the registering agency no later than 3 days before their scheduled travel. The registering agency shall forward the information to the department of justice, which shall then notify the provided jurisdiction. History: En. Sec. 6, Ch. 293, L. 1989; amd. Sec. 8, Ch. 407, L. 1995; amd. Sec. 8, Ch. 375, L. 1997; amd. Sec. 3, Ch. 313, L. 2005; amd. Sec. 5, Ch. 254, L. 2007; amd. Sec. 21, Ch. 483, L. 2007; amd. Sec. 1, Ch. 283, L. 2013; amd. Sec. 3, Ch. 643, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-506. Duty of registration -- duration, frequency, reduction, and relief

46-23-506. Duty of registration -- duration, frequency, reduction, and relief. (1) A sexual offender required to register under this part shall register for the remainder of the sexual offender's life, except as provided in subsection (3) or during a period of time during which the sexual offender is in prison. (2) (a) A violent offender required to register under this part shall register for the 10 years following release from confinement or, if not confined following sentencing, for the 10 years following the conclusion of the sentencing hearing and after registering for 10 years, is automatically relieved of the duty to register unless convicted as provided in subsection (2)(b). (b) If convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep registration current or of a felony, the violent offender shall register for the remainder of the violent offender's life unless relieved of the duty to register as provided in subsection (2)(e). (c) When a violent offender is relieved of the duty to register under subsection (2)(a), the department of justice shall remove the violent offender from the registry. (d) Petitions for relief from registration under this part must be filed in the appropriate Montana district court. Orders or other documents granting relief from registration requirements that originated in other jurisdictions are not valid in Montana. (e) Except as provided in subsection (5), at any time after 10 years of registration for a violent offender registered as provided in subsection (2)(b), a violent offender may petition the sentencing court or the district court for the judicial district in which the violent offender resides for an order relieving the violent offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the violent offender was convicted if the victim's address is reasonably available. The court shall consider any written or oral statements of the victim. The court may grant the petition on finding that: (i) the violent offender has remained a law-abiding citizen; and (ii) continued registration is not necessary for public protection and that relief from registration is in the best interests of society. (3) Except as provided in subsection (7), at any time after 10 years of registration for a level 1 sexual offender and at any time after 25 years of registration for a level 2 sexual offender, an offender may petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the offender was convicted if the victim's address is reasonably available. The court shall consider any written or oral statements of the victim. The court may grant the petition on finding that: (a) the offender has maintained a clean record during their period of registration; and (b) continued registration is not necessary for public protection and that relief from registration is in the best interests of society. (4) A level 3 sexual offender may have their period of registration reduced to 25 years if the sexual offender was adjudicated delinquent of an offense as a juvenile that required level 3 sexual offender registration and the sexual offender has maintained a clean record for 25 consecutive years. (5) For the purposes of this section, the

sexual offender has a clean record if, during the period of time in which the sexual offender was required to register as a sexual offender: (a) the sexual offender was not convicted of any felony offense; (b) the sexual offender was not convicted of any sexual offense; (c) the sexual offender successfully completed, without revocation, any period of supervised release, probation, or parole; and (d) the sexual offender has successfully completed an appropriate sexual offender treatment program. (6) The offender may move that all or part of the proceedings in a hearing under subsections (2)(e) and (3) be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under subsections (2)(e) and (3) is closed to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the offender's right to privacy. (7) Subsection (3) does not apply to an offender who was convicted of: (a) a violation of 45-5-503 if: (i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or another; or (ii) at the time the offense occurred, the victim was under 12 years of age; (b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age and the offender was 3 or more years older than the victim; (c) a second or subsequent sexual or violent offense that requires registration; or (d) a sexual offense and was designated as a sexually violent predator under 46-23-509. History: En. Sec. 7, Ch. 293, L. 1989; amd. Sec. 9, Ch. 407, L. 1995; amd. Sec. 8, Ch. 550, L. 1995; amd. Sec. 9, Ch. 375, L. 1997; amd. Sec. 2, Ch. 227, L. 1999; amd. Sec. 6, Ch. 22, Sp. L. August 2002; amd. Sec. 4, Ch. 313, L. 2005; amd. Sec. 22, Ch. 483, L. 2007; amd. Sec. 1, Ch. 227, L. 2021; amd. Sec. 4, Ch. 643, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-507. Penalty

46-23-507. Penalty. (1) A sexual or violent offender who knowingly fails to register, verify registration, or keep registration current under this part may be sentenced to a term of imprisonment of not more than 5 years or may be fined not more than \$10,000, or both. (2) (a) Violent offenders who were convicted of failing to register, verify registration, or keep registration current under this part after having successfully registered for 10 years and whose conviction occurred before October 1, 2021, must have their conviction vacated. (b) Within 1 year from October 1, 2021, the department of justice shall provide notice to the appropriate district court for each conviction described in subsection (2)(a). (c) Upon receiving notification from the department of justice, the district court shall, on its own motion, vacate the offender's conviction for failing to register, verify registration, or keep registration current. (3) When the court vacates a conviction under this section, the court shall: (a) send a copy of the order vacating the conviction to the prosecutor and the department of justice; and (b) order the expungement of all records of arrest, investigation, and detention, and any court proceedings that may have been held by the court, the investigating law enforcement agency, or the department of justice related to the conviction. (4) The prosecutor and the department of justice shall inform the person whose conviction has been vacated under this section that the conviction is vacated. History: En. Sec. 8, Ch. 293, L. 1989; amd. Sec. 10, Ch. 407, L. 1995; amd. Sec. 9, Ch. 550, L. 1995; amd. Sec. 10, Ch. 375, L. 1997; amd. Sec. 2, Ch. 227, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-508. Dissemination of information

46-23-508. Dissemination of information. (1) Information maintained under this part is confidential criminal justice information, as defined in 44-5-103, except that: (a) the name and address of a registered sexual or violent offender are public criminal justice information, as defined in 44-5-103; and (b) the department of justice or the registration agency shall release any offender registration information that it possesses relevant to the public if the department of justice or the registration agency determines that a registered offender is a risk to the safety of the community and that disclosure of the registration information that it possesses may protect the public and, at a minimum: (i) if the offender is also a violent offender, the department of justice shall and the registration agency may disseminate to the victim and the public: (A) the offender's name; and (B) the offenses for which the offender is required to register under this part; (ii) if a sexual offender was given a level 1 designation under 46-23-509, the department of justice shall and the registration agency may disseminate to the victim and the public: (A) the offender's address; (B) the name, photograph, and physical description of the offender; (C) the offender's date of birth; (D) the offenses for which the offender is required to register under this part; (E) the offender's employer address; and (F) the offender's postsecondary school address. (iii) if a sexual offender was given a level 1 designation and committed an offense against a minor or was given a level 2 designation under 46-23-509, the department of justice shall and the registration agency may disseminate to the victim and the public: (A) the offender's address; (B) the type of victim targeted by the offense; (C) the name, photograph, and physical description of the offender; (D) the offender's date of birth; (E) the license plate number and a description of any motor vehicle owned or operated by the offender; (F) the offenses for which the offender is required to register under this part; (G) the offender's employer address; (H) the offender's postsecondary school address; and (I) any conditions imposed by the court upon the offender for the safety of the public; and (iv) if a sexual offender was given a level 3 designation under 46-23-509, the department of justice and the registration agency shall give the victim and the public notification that includes the information contained in subsection (1)(b)(iii). The notification must also include the date of the offender's release from confinement or, if not confined, the date the offender was sentenced, with a notation that the offender was not confined, and must include the community in which the offense occurred. (c) prior to release of information under subsection (1)(b), a registration agency may, in its sole discretion, request an in camera review by a district court of the determination by the registration agency under subsection (1)(b). The court shall review a request under this

subsection (1)(c) and shall, as soon as possible, render its opinion so that release of the information is not delayed beyond release of the offender from confinement. (2) The identity of a victim of an offense for which registration is required under this part may not be released by a registration agency without the permission of the victim. (3) Dissemination to the public of information allowed or required by this section may be done by newspaper, paper flyers, the internet, or any other media determined by the disseminating entity. In determining the method of dissemination, the disseminating entity should consider the level of risk posed by the offender to the public. (4) The department of justice shall develop a model community notification policy to assist registration agencies in implementing the dissemination provisions of this section. History: En. Sec. 11, Ch. 407, L. 1995; En. Sec. 10, Ch. 550, L. 1995; amd. Sec. 11, Ch. 375, L. 1997; amd. Sec. 1, Ch. 219, L. 1999; amd. Sec. 2, Ch. 222, L. 2001; amd. Sec. 23, Ch. 483, L. 2007; amd. Sec. 82, Ch. 2, L. 2009; amd. Sec. 5, Ch. 643, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-509. Psychosexual evaluations and sexual offender designations

46-23-509. Psychosexual evaluations and sexual offender designations. (1) Prior to sentencing of a person convicted of a sexual offense, a sexual offender evaluator who has a license endorsement as provided for in 37-1-139 shall provide the court with a psychosexual evaluation report recommending one of the following levels of designation for the offender: (a) level 1, the risk of a repeat sexual offense is low; (b) level 2, the risk of a repeat sexual offense is moderate; (c) level 3, the risk of a repeat sexual offense is high, there is a threat to public safety, and the sexual offender evaluator believes that the offender is a sexually violent predator. (2) Upon sentencing the offender, the court shall: (a) review the psychosexual evaluation report, any statement by a victim, and any statement by the offender; (b) designate the offender as level 1, 2, or 3; and (c) designate a level 3 offender as a sexually violent predator. (3) An offender designated as a level 2 offender or given a level designation by another state, the federal government, or the department under subsection (5) that is determined by the court to be similar to level 2 may petition the sentencing court or the district court for the judicial district in which the offender resides to change the offender's designation if the offender has enrolled in and successfully completed the treatment phase of either the prison's sexual offender treatment program or of an equivalent program approved by the department. After considering the petition, the court may change the offender's risk level designation if the court finds by clear and convincing evidence that the offender's risk of committing a repeat sexual offense has changed since the time sentence was imposed. The court shall impose one of the three risk levels specified in this section. (4) If, at the time of sentencing, the sentencing judge did not apply a level designation to a sexual offender who is required to register under this part and who was sentenced prior to October 1, 1997, the department shall designate the offender as level 1, 2, or 3 when the offender is released from confinement. (5) If an offense is covered by 46-23-502(10)(a)(xvii), the offender registers under 46-23-504(1)(c), and the offender was given a risk level designation after conviction by another state or the federal government, the department of justice may give the offender the risk level designation assigned by the other state or the federal government. All offenders convicted in another state or by the federal government who are not currently under the supervision of the department or the youth court and were not given a risk level designation after conviction shall provide to the department of justice all prior risk assessments and psychosexual evaluations done to evaluate the offender's risk to reoffend. Any offender without a risk assessment or psychosexual evaluation shall, at the offender's expense, undergo a psychosexual evaluation with a sexual offender evaluator who has a license endorsement as provided for in 37-1-139. The results of the psychosexual evaluation may be requested by the attorney general or a county attorney for purposes of petitioning a district court to assign a risk level designation. (6) The lack of a fixed residence is a factor that may be considered by the sentencing court or by the department in determining the risk level to be assigned to an offender pursuant to this section. (7) Upon obtaining information that indicates that a sexual offender who is required to register under this part does not have a level 1, 2, or 3 designation, the offender, the attorney general, the county attorney that prosecuted the offender and obtained a conviction for a sexual offense, or the county attorney for the county in which the offender resides may, at any time, petition the district court that sentenced the offender for a sexual offense or the district court for the judicial district in which the offender resides to designate the offender as level 1, 2, or 3. Upon the filing of the petition, the court may order a psychosexual evaluation report at the petitioner's expense, or order that the results of all prior psychosexual evaluations be provided to all parties. The court shall provide the offender with an opportunity for a hearing prior to designating the offender. The petitioner shall provide the offender, the attorney general, and the county attorney that prosecuted the offender with notice of the petition and notice of the hearing. As provided in 46-23-506(2)(d), petitions for relief from registration under this part must be filed in the appropriate Montana district court. Orders or other documents granting relief from registration requirements that originated in other jurisdictions are not valid in Montana. History: En. Sec. 12, Ch. 375, L. 1997; amd. Sec. 2, Ch. 358, L. 1999; amd. Sec. 7, Ch. 22, Sp. L. August 2002; amd. Sec. 5, Ch. 313, L. 2005; amd. Sec. 24, Ch. 483, L. 2007; amd. Sec. 1, Ch. 182, L. 2013; amd. Sec. 5, Ch. 110, L. 2015; amd. Sec. 16, Ch. 275, L. 2017; amd. Sec. 3, Ch. 481, L. 2021; amd. Sec. 6, Ch. 643, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5. Registration of Sexual and Violent Offenders 46-23-510. Expungement of records on reversal of conviction

46-23-510. Expungement of records on reversal of conviction. Upon final reversal of a conviction of a sexual or violent offense, the sentencing court shall order the expungement of any records kept by a court, law enforcement agency, or other state or local government agency under this part. History: En. Sec. 13, Ch. 375, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 23. Probation, Parole, and Clemency Part 5.

Registration of Sexual and Violent Offenders**46-23-511. Immunity from suit**

46-23-511. Immunity from suit. A state or local governmental entity, a private entity, or an officer or employee of an entity is not liable in negligence, except gross negligence or willful or wanton misconduct, for damages arising from a good faith discretionary release or dissemination of or good faith failure to release or disseminate information under this part. History: En. Sec. 14, Ch. 375, L. 1997.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 23. Probation, Parole, and Clemency****Part 5. Registration of Sexual and Violent Offenders****46-23-512. Plea agreement agreeing to compliance with this part**

46-23-512. Plea agreement agreeing to compliance with this part. A defendant convicted of an offense that would otherwise not be subject to registration under this part may agree to comply with the registration requirements of this part as part of a plea agreement, and a court accepting the plea agreement may order the defendant to comply with this part. History: En. Sec. 1, Ch. 358, L. 1999.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 23. Probation, Parole, and Clemency****Part 5. Registration of Sexual and Violent Offenders****46-23-513. through 46-23-519 reserved**

46-23-513 through 46-23-519 reserved.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 23. Probation, Parole, and Clemency****Part 5. Registration of Sexual and Violent Offenders****46-23-520. Sexual or violent offender community education curriculum**

46-23-520. Sexual or violent offender community education curriculum. (1) The department of justice shall develop a statewide community education curriculum regarding release of sexual or violent offenders into a community. (2) The curriculum developed under subsection (1) must contain information: (a) for communities and neighborhoods regarding the provisions of this part as it relates to sexual or violent offenders, including the rights of residents of a community into which a sexual or violent offender is released and the duties and roles under this part of the department, law enforcement agencies, and the offender; (b) for families and children regarding personal safety, including potential warning signs that may help to avoid victimization; and (c) for communities, neighborhoods, families, and children regarding the restrictions imposed by 45-5-513. (3) The curriculum developed under this section must be made available to law enforcement agencies, school districts, local governments, and other entities determined by the department of justice to be in a position to educate the public on the subject of the release of a sexual or violent offender into a community. The curriculum may be disseminated by any appropriate means, written or electronic, including by the internet. History: En. Sec. 1, Ch. 222, L. 2001; amd. Sec. 3, Ch. 412, L. 2015.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 24. Treatment of Victims and Witnesses****Part 1. General Provisions****46-24-101. Purpose**

46-24-101. Purpose. The legislature declares that the purposes of this chapter are to: (1) protect the role of crime victims and witnesses in the criminal justice process; (2) assure that victims and witnesses of crime receive fair and proper treatment from law enforcement agencies and prosecutors; and (3) provide a standard of conduct governing the treatment of victims and witnesses in criminal cases. History: En. Sec. 1, Ch. 554, L. 1985.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 24. Treatment of Victims and Witnesses****Part 1. General Provisions****46-24-102. Training in victim assistance**

46-24-102. Training in victim assistance. The Montana law enforcement academy shall offer education and training in victim assistance to law enforcement officers and prosecuting attorneys and shall provide such education and training in its regular curriculum, so that victims may be properly assisted. History: En. Sec. 9, Ch. 554, L. 1985.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 24. Treatment of Victims and Witnesses****Part 1. General Provisions****46-24-103. Duty of attorney general**

46-24-103. Duty of attorney general. The attorney general shall ensure that victims and witnesses of crime receive fair and proper treatment in the criminal justice system. The attorney general shall prepare a written notice of the rights and services available to victims of crime under this chapter. The notice must be distributed to local law enforcement agencies in the state. In addition, the attorney general shall ensure that victims and witnesses are provided important services and assistance as required under this chapter. History: En. Sec. 10, Ch. 554, L. 1985; amd. Sec. 29, Ch. 125, L. 1995.

2024 Montana Code Annotated**Title 46. Criminal Procedure****Chapter 24. Treatment of Victims and Witnesses****Part 1. General Provisions****46-24-104. Consultation with victim of certain offenses**

46-24-104. Consultation with victim of certain offenses. As soon as possible prior to disposition of the case, the prosecuting attorney in a criminal case shall consult with the victim of a felony offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim or, in the case of a minor child victim or homicide victim, with the family of the victim in order to obtain the views of the victim or the victim's family regarding the disposition of the case, including: (1) dismissal of the case; (2) release of the accused pending judicial proceedings; (3) plea negotiations; and (4) pretrial diversion of the case from the judicial

process. History: En. Sec. 6, Ch. 554, L. 1985; amd. Sec. 30, Ch. 125, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 1. General Provisions 46-24-105. No cause of action for damages

46-24-105. No cause of action for damages. Nothing in this chapter may be construed to create a cause of action for damages against the state or one of its political subdivisions. History: En. Sec. 11, Ch. 554, L. 1985.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 1. General Provisions 46-24-106. Crime victims -- family members -- right to attend proceedings -- exceptions -- right to receive documents -- rights during interview

46-24-106. Crime victims -- family members -- right to attend proceedings -- exceptions -- right to receive documents -- rights during interview. (1) Except as provided in subsection (2), a victim of a criminal offense has the right to be present during any trial or hearing conducted by a court that pertains to the offense, including a court proceeding conducted under Title 41, chapter 5. A victim of a criminal offense may not be excluded from any trial or hearing based solely on the fact that the victim has been subpoenaed or required to testify as a witness in the trial or hearing. (2) A judge may exclude a victim of a criminal offense from: (a) a trial or hearing upon the finding of specific facts supporting exclusion or for disruptive behavior; or (b) a portion of a proceeding under Title 41, chapter 5, that deals with sensitive personal matters of a youth or a youth's family and that does not directly relate to the act or alleged act committed against the victim. (3) If a victim is excluded from a trial or hearing upon the finding of specific facts supporting exclusion, the victim must be allowed to address the court on the issue of exclusion prior to the findings. (4) A family member of a victim may not be excluded from a trial or hearing based solely on the fact that the family member is subpoenaed or required to testify as a witness in the trial or hearing unless there is a showing that the family member can give relevant testimony as to the guilt or innocence of the defendant or that the defendant's right to a fair trial would be jeopardized if the family member is not excluded. (5) As used in this section, "victim" means: (a) a person who suffers loss of property, bodily injury, or reasonable apprehension of bodily injury as a result of: (i) the commission of an offense; (ii) the good faith effort to prevent the commission of an offense; or (iii) the good faith effort to apprehend a person reasonably suspected of committing an offense; or (b) a member of the immediate family of a homicide victim. (6) (a) Except as provided in subsection (6)(c), a victim of a criminal offense has the right to receive, upon request and at no cost to the victim, one copy of all public documents filed in the court file. (b) If the victim is under 18 years of age, copies provided under subsection (6)(a) must be provided to the victim's parent or guardian instead of to the minor victim. (c) Subsection (6)(a) does not apply to: (i) trial transcripts; (ii) trial exhibits; (iii) court proceedings conducted under Title 41, chapter 5; or (iv) documents the prosecutor determines would adversely affect the prosecution if released. (7) A victim of a criminal offense has the right, upon request, to have a victim advocate present when the victim is interviewed about the offense. History: En. Sec. 1, Ch. 104, L. 2001; amd. Sec. 1, Ch. 33, L. 2005; amd. Sec. 1, Ch. 424, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-201. Services to victims of crime

46-24-201. Services to victims of crime. (1) Law enforcement personnel shall ensure that a victim of a crime receives emergency social and medical services as soon as possible and that the victim is given written notice, in the form supplied by the attorney general, of the following: (a) the availability of crime victim compensation; (b) access by the victim and the defendant to information about the case, including the right to receive documents under 46-24-106; (c) the role of the victim in the criminal justice process, including what the victim can expect from the system, as well as what the system expects from the victim, and including the right to be accompanied during interviews as provided in 46-24-106; and (d) stages in the criminal justice process of significance to a crime victim and the manner in which information about the stages may be obtained. (2) In addition to the information supplied under subsection (1), law enforcement personnel shall provide the victim with written information on community-based victim treatment programs, including medical, housing, counseling, and emergency services available in the community. (3) As soon as possible, law enforcement personnel shall give to the victim the following information: (a) the name, office address, and telephone number of a law enforcement officer assigned to investigate the case; and (b) the prosecuting attorney's name, office address, and telephone number. History: En. Sec. 2, Ch. 554, L. 1985; amd. Sec. 31, Ch. 125, L. 1995; amd. Sec. 2, Ch. 424, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-202. Notification of available protective services

46-24-202. Notification of available protective services. Law enforcement officers and prosecuting attorneys shall provide a victim or witness information on the availability of services to protect the victim or witness from intimidation, including the process for obtaining a protective order from the court. History: En. Sec. 3, Ch. 554, L. 1985; amd. Sec. 32, Ch. 125, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-203. Prompt notification to victims and witnesses of certain offenses

46-24-203. Prompt notification to victims and witnesses of certain offenses.(1) A person described in subsection (2) who provides the appropriate official with a current address and telephone number must receive prompt advance notification, if possible, of proceedings relating to the person's case, including: (a) the arrest of an accused; (b) the release of the accused pending judicial proceedings; (c) the crime with which the accused has been charged, including an explanation of the elements of the offense when necessary to an understanding of the nature of the crime; (d) proceedings in the prosecution of the accused, including entry of a plea of guilty or nolo contendere and the setting of a trial date; (e) if the accused is convicted or pleads guilty or nolo contendere: (i) the function of a presentence report; (ii) the name, office address, and telephone number of the person preparing the report; and (iii) the convicted person's right of access to the report, as well as the victim's right under 46-18-115 to present a statement in writing or orally at the sentencing proceeding and the convicted person's right to be present at the sentencing proceeding and to have access to the victim's statement; (f) the date, time, and place of any sentencing hearing, the sentence imposed, and the term of imprisonment, if imposed; (g) the right under 46-24-212 of a victim of a felony offense to receive information from the department of corrections concerning the convicted person's incarceration; and (h) the right under 46-23-215, 46-23-509, or 46-23-1011 of a victim of a sexual offense, as defined in 46-23-502, to request a sentencing order, condition of parole, or condition of probation to require the convicted person to refrain from direct or indirect contact with the victim. (2) A person entitled to notification under subsection (1) must be a victim or witness of a felony offense or a misdemeanor offense involving actual, threatened, or potential bodily injury to the victim, a relative of a victim or witness who is a minor, or a relative of a homicide victim. History: En. Sec. 5, Ch. 554, L. 1985; amd. Sec. 33, Ch. 125, L. 1995; amd. Sec. 22, Ch. 395, L. 1999; amd. Sec. 4, Ch. 113, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-204. Scheduling changes

46-24-204. Scheduling changes.(1) As soon as practicable, the prosecuting attorney shall notify a victim or witness of any scheduling changes that may affect the appearance of the victim or witness at a criminal justice proceeding that the victim or witness is scheduled to attend. (2) For the purpose of providing notification, the prosecuting attorney shall have available a system for promptly alerting a victim or witness that a scheduling change has been made. History: En. Sec. 4, Ch. 554, L. 1985; amd. Sec. 1769, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-205. Notification to employer or creditor -- limitations on employer

46-24-205. Notification to employer or creditor -- limitations on employer.(1) The law enforcement agency or prosecuting attorney in a criminal case shall assist a victim or witness who requests assistance in informing an employer that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of the victim or witness from the place of employment. (2) A law enforcement agency or prosecuting attorney shall assist a victim or witness who, as a direct result of a crime or because of cooperation with the law enforcement agency or prosecuting attorney, is subjected to serious financial strain. The agency or prosecuting attorney shall assist the victim or witness by explaining to creditors the reason for the serious financial strain. (3) An employer may not discharge or discipline a victim or a member of the victim's family for participation at the prosecuting attorney's request in preparation for or attendance at a criminal justice proceeding. (4) As used in this section, "member of the victim's family" means the victim's spouse, child by birth or adoption, stepchild, parent, stepparent, or sibling, but does not include a person who is accountable for the crime or accountable for a crime arising from the same transaction. History: En. Sec. 8, Ch. 554, L. 1985; amd. Sec. 34, Ch. 125, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-206. Property return -- right to be heard on disposition of evidence

46-24-206. Property return -- right to be heard on disposition of evidence.(1) A law enforcement agency or prosecuting attorney shall promptly return any of the victim's property held for evidentiary purposes, unless there is a compelling law enforcement reason for retaining the property. (2) Before the destruction, disposal, or use of evidence that is not the victim's property, the court shall, as provided in 46-5-308, give the victim an opportunity to be heard as to the appropriate disposition of the evidence. History: En. Sec. 7, Ch. 554, L. 1985; amd. Sec. 6, Ch. 186, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-207. Renumbered 41-5-1416

46-24-207. Renumbered 41-5-1416. Sec. 77, Ch. 550, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-208. through 46-24-210 reserved

46-24-208 through 46-24-210 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-211. Information concerning appeal or postconviction remedies

46-24-211. Information concerning appeal or postconviction remedies.If the defendant appeals or pursues a postconviction remedy or the district court grants a hearing under Title 41, chapter 5, part 25, the attorney general or the county attorney if the case has not been referred to the attorney general shall promptly inform the victim of the notice of appeal, hearing under Title 41, chapter 5, part 25, or postconviction petition, of the date, time, and place of any hearing, and of the decision. History: En. Sec. 35, Ch. 125, L. 1995; amd. Sec. 14, Ch. 532, L. 1999; amd. Sec. 94, Ch. 114, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-212. Information concerning confinement

46-24-212. Information concerning confinement.On request of a victim of a felony offense, the department of corrections or the board of pardons and parole, as applicable, shall: (1) promptly inform the victim of the following information concerning a prisoner committing the offense: (a) the custody level; (b) the projected discharge or parole eligibility date; (c) the actual date of the prisoner's discharge from confinement or parole, if reasonably ascertainable; (d) the time and place of a parole hearing concerning the prisoner, the victim's right to submit a statement to the board of pardons and parole or the hearing panel conducting a parole hearing under 46-23-202, and the victim's right under 46-23-215, 46-23-509, or 46-23-1011 to request a condition of parole or probation to require the prisoner to refrain from direct or indirect contact with the victim; and (e) the community in which the prisoner will reside after parole; (2) provide reasonable advance notice to the victim before release of the defendant on furlough or to a work-release program, halfway house, or other community-based program or correctional facility; and (3) promptly inform the victim of the occurrence of any of the following events concerning the prisoner: (a) an escape from a correctional or mental health facility or community program; (b) a recapture; (c) a decision of the board of pardons and parole; (d) a decision of the governor to commute the sentence or to grant executive clemency; (e) a release from confinement and any conditions attached to the release; and (f) the prisoner's death. History: En. Sec. 36, Ch. 125, L. 1995; amd. Sec. 203, Ch. 42, L. 1997; amd. Sec. 12, Ch. 189, L. 1997; amd. Sec. 11, Ch. 559, L. 2003; amd. Sec. 5, Ch. 113, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-213. General requirements for information

46-24-213. General requirements for information.(1) Unless specifically stated otherwise, the requirements of 44-2-601, 46-24-104, 46-24-201 through 46-24-203, 46-24-211, and 46-24-212 to provide information to the victim may be satisfied by written, electronic, or oral communication with the victim or the victim's designee. (2) The person responsible for providing information required by 44-2-601, 46-24-104, 46-24-201 through 46-24-203, 46-24-211, and 46-24-212 shall promptly inform the victim of significant changes in the information. (3) The obligation to furnish information to a victim under 44-2-601, 46-24-104, 46-24-201 through 46-24-203, 46-24-211, and 46-24-212 is conditioned upon the victim informing the appropriate agency in writing or by electronic means of the name, mailing address, electronic address, if applicable, and telephone number of the person to whom the information should be provided and of any change of name, mailing or electronic address, or telephone number. History: En. Sec. 37, Ch. 125, L. 1995; amd. Sec. 1, Ch. 37, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-214. through 46-24-217 reserved

46-24-214 through 46-24-217 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-218. Identity theft report -- process -- investigation

46-24-218. Identity theft report -- process -- investigation.(1) A law enforcement agency that receives a report of identity theft, as described in 45-6-332, from a victim of identity theft shall request two forms of identification sufficient to determine the identity of the victim. The forms of identification may include but are not limited to: (a) a driver's license or other current, valid photo identification card, including but not limited to a school district or postsecondary education photo identification or a tribal photo identification that shows the individual's name; (b) a birth certificate; or (c) a current utility bill, bank statement, paycheck, government check, or other government document that shows the individual's name and address. (2) The law enforcement agency shall: (a) notwithstanding subsection (1), immediately begin to investigate the report of identity theft, based upon whatever proof of identity the victim is able to provide, if any, at the time of making the report and proceed with the investigation as far as the agency is able; (b) within 72 hours of receiving an identity theft victim's complaint, provide to the victim one copy of the police report, law enforcement investigative report, or filed complaint; and (c) as provided in 46-24-220, send another copy along with the victim's completed application for an identity theft passport to the attorney general. (3) Within 72 hours after making the report of identity theft, the victim shall provide the forms of identification requested pursuant to subsection (1). If the victim is unable to provide that identification within that time, the victim shall explain to the law enforcement agency receiving the report why the victim is unable to provide those forms of identification. (4) The law enforcement agency shall take a complaint as provided under subsection (1) even if jurisdiction may lie elsewhere for investigation and prosecution of a crime of identity theft. The law enforcement agency that takes the complaint may refer the complaint to a law enforcement agency that has apparent jurisdiction. (5) (a) The law enforcement agency with which the original police report, investigative report, or complaint is filed shall cooperate fully with other law

enforcement agencies of the same or another jurisdiction and investigate the identity theft within its resources. (b) A complaint filed under this section is not required to be counted as an open case for purposes of compiling open case statistics. History: En. Sec. 1, Ch. 195, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-219. Application to expunge record -- identity theft passport required -- notice -- fee waiver -- rules

46-24-219. Application to expunge record -- identity theft passport required -- notice -- fee waiver -- rules. (1) A victim of identity theft, as described in 45-6-332, may apply to a district court to expunge from the victim's record any records or entries relating to a charge or conviction in which another person used personal identifying information of the victim to commit an offense or violation, including records or entries relating to a charge or conviction that was dismissed or set aside. (2) A victim who applies to have a record expunged shall provide to the court an identity theft passport as provided under 46-24-220 and other documents or information necessary to establish that the charge or conviction referred to in subsection (1) was the result of a person using the personal identifying information of the victim to commit the offense or violation. (3) After granting the expungement, the court shall forward a copy of the expungement order to the department of justice. Upon receipt of the court order, the department shall expunge the pertinent records. (4) Notwithstanding any other provision of law, a victim seeking expungement under this section may not be charged a fee by the court. (5) The department of justice may adopt rules to implement procedures regarding law enforcement agency procedures for handling the expunged records. History: En. Sec. 4, Ch. 195, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 24. Treatment of Victims and Witnesses Part 2. Services to Victim, Witness 46-24-220. Identity theft passport -- application -- issuance -- uses -- penalty for false report

46-24-220. Identity theft passport -- application -- issuance -- uses -- penalty for false report. (1) (a) The attorney general, in cooperation with any law enforcement agency, may issue an identity theft passport to a person who is a victim of identity theft in this state or to a resident of this state who has filed a police report in this state or another state citing that the person is a victim of identity theft as described in 45-6-332. (b) A victim who has filed a report of identity theft with a law enforcement agency may apply for an identity theft passport through any law enforcement agency. The agency shall send a copy of the police report and the application to the attorney general. (c) For a resident who became an identity theft victim in another state, the victim may apply directly to the department of justice and shall provide a copy of the police report or other substantial evidence of having filed a complaint. (d) The attorney general shall process the application and supporting report and may issue the victim an identity theft passport in the form of a card or certificate. (2) (a) A victim of identity theft may present the victim's identity theft passport issued under subsection (1) to any of the following: (i) a law enforcement agency to help prevent the victim's arrest or detention for an offense committed by someone other than the victim who is using the victim's identity; (ii) any of the victim's creditors to aid in the creditors' investigation and establishment of whether fraudulent charges were made against accounts in the victim's name or whether accounts were opened using the victim's identity; or (iii) a consumer reporting agency, as defined in 31-3-102, which shall accept the passport as the direct conveyance of a dispute under 31-3-124 and shall include notice of the dispute in all future reports that contain disputed information caused by identity theft. (b) Acceptance of the identity theft passport presented by the victim to a law enforcement agency or creditor pursuant to subsection (2)(a) is at the discretion of the law enforcement agency or creditor. A law enforcement agency or creditor may consider the surrounding circumstances and available information regarding the offense of identity theft pertaining to the victim. (c) An identity theft passport is equivalent to a police report or investigative report when a police report or investigative report is required as proof that the holder is a victim of identity theft. (3) An application made with the attorney general pursuant to subsection (1), including any supporting documentation, is confidential criminal justice information, as defined in 44-5-103, and must be disseminated accordingly. (4) The attorney general shall adopt rules to implement this section. The rules must include a procedure by which the attorney general is assured that an identity theft passport applicant has an identity theft claim that is legitimate and adequately substantiated. (5) A person who knowingly gives a false report to obtain an identity theft passport is guilty of a felony and upon conviction shall be punished as provided by law and by revocation of the passport. History: En. Sec. 1, Ch. 55, L. 2005; amd. Sec. 2, Ch. 195, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-101. Renumbered 46-3-111

46-3-101. Renumbered 46-3-111. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-102. Renumbered 46-3-112

46-3-102. Renumbered 46-3-112. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-104. Renumbered 46-3-113

46-3-104. Renumbered 46-3-113. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-105.

Renumbered 46-3-114

46-3-105. Renumbered 46-3-114. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-106. Renumbered 46-3-115

46-3-106. Renumbered 46-3-115. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-107. through 46-3-109 reserved

46-3-107 through 46-3-109 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-110. Filing the charge

46-3-110. Filing the charge. (1) In all criminal prosecutions, the charge must be filed in the county where the offense was committed unless otherwise provided by law. (2) A charge for violation of 45-7-306 after imposition of a state prison sentence or after commitment to the department of corrections may, at the discretion of the county attorney for the county in which the person was arrested and without objection from the person charged, be filed in any county in the state. History: En. Sec. 3, Ch. 800, L. 1991; amd. Sec. 1, Ch. 177, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-111. Place of trial

46-3-111. Place of trial. (1) The place of trial must be in the county where the charge is filed unless otherwise provided by law. (2) All objections that a charge is filed in the improper county are waived by a defendant unless made before the first witness is sworn at the time of trial. If an objection is made, a hearing must be held and the proper county in which to file the charge must be established before further proceedings may take place. History: En. 95-401 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-401; amd. Sec. 4, Ch. 800, L. 1991; Sec. 46-3-101, MCA 1989; redes. 46-3-111 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-112. Requisite act in multiple counties

46-3-112. Requisite act in multiple counties. (1) Except as provided in 46-3-110(2), if two or more acts are requisite to the commission of an offense or if two or more acts are committed in furtherance of a common scheme, the charge may be filed in any county in which any of the acts or offenses occurred. (2) Except as provided in 46-3-110(2), if an act requisite to the commission of an offense occurs or continues in more than one county, the charge may be filed in any county in which the act occurred or continued. (3) If an element of an offense under 45-5-220, 45-5-625, 45-8-212, or 45-8-213 involves an electronic communication, the charge may be filed in the county in or from which the electronic communication was sent or in the county in which the electronic communication was received or to which it was sent. History: En. 95-402 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-402; amd. Sec. 1, Ch. 468, L. 1981; amd. Sec. 5, Ch. 800, L. 1991; Sec. 46-3-102, MCA 1989; redes. 46-3-112 by Code Commissioner, 1991; amd. Sec. 2, Ch. 177, L. 1995; amd. Sec. 5, Ch. 344, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-113. Assisting in commission of or committing an offense

46-3-113. Assisting in commission of or committing an offense. Except as provided in 46-3-110(2), if a person in one county commits an offense or aids, abets, or procures the commission of an offense in another county, the charge may be filed in either county. History: En. 95-404 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-404; amd. Sec. 6, Ch. 800, L. 1991; Sec. 46-3-104, MCA 1989; redes. 46-3-113 by Code Commissioner, 1991; amd. Sec. 3, Ch. 177, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-114. County of offense unknown

46-3-114. County of offense unknown. (1) Except as provided in 46-3-110(2), if the county in which the offense was committed cannot be readily determined, the offender may be charged in any county in which it appears that an element of the offense occurred. (2) Except as provided in 46-3-110(2), if an offense is committed in or against a public or private conveyance and it is doubtful in which county the offense occurred, the charge may be filed in any county in or through which the conveyance has traveled. History: En. 95-405 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-405; amd. Sec. 7, Ch. 800, L. 1991; Sec. 46-3-105, MCA 1989; redes. 46-3-114 by Code Commissioner, 1991; amd. Sec. 4, Ch. 177, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 3. Venue Part 1. General Provisions 46-3-115. Offense consummated within the state

46-3-115. Offense consummated within the state. Except as provided in 46-3-110(2), if an offense is committed partly within this

state, the offense may be charged in any county where an act requisite to the commission of the offense is committed or continued. History: En. 95-407 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-407; amd. Sec. 8, Ch. 800, L. 1991; Sec. 46-3-106, MCA 1989; redes. 46-3-115 by Code Commissioner, 1991; amd. Sec. 5, Ch. 177, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 1. General Provisions 46-30-101. Definitions

46-30-101. Definitions. As used in this chapter, the term: (1) "executive authority" includes the governor and any person performing the functions of governor in a state other than this state or the presiding officer of a recognized Indian tribe within the state of Montana; (2) "governor" includes any person performing the functions of governor by authority of the law of this state; (3) "state", referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America or an Indian reservation within the state of Montana. History: En. 95-3101 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3101; amd. Sec. 1, Ch. 379, L. 1991; amd. Sec. 1770, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 1. General Provisions 46-30-102. Nonwaiver by this state

46-30-102. Nonwaiver by this state. Nothing contained in this chapter may be considered a waiver by this state of its right, power, or privilege to try the demanded person for a crime committed within this state or of its right, power, or privilege to regain custody of the person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for a crime committed within this state; nor may any proceedings had under this chapter which result in or fail to result in extradition be considered in any way a waiver by this state of any of its rights, privileges, or jurisdiction. History: En. 95-3129 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 58, Ch. 184, L. 1977; R.C.M. 1947, 95-3129.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-201. Fugitives from justice -- duty of governor

46-30-201. Fugitives from justice -- duty of governor. Subject to the provisions of this chapter, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime who has fled from justice and is found in this state. History: En. 95-3102 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3102.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-202. Prosecution pending in this state at time of requisition

46-30-202. Prosecution pending in this state at time of requisition. If a criminal prosecution has been instituted against a person under the laws of this state and is still pending, the governor may surrender the person on demand of the executive authority of another state or hold the person until the person has been tried and discharged or convicted and punished in this state. History: En. 95-3119 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3119; amd. Sec. 1771, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-203. Extradition of persons who left demanding state involuntarily

46-30-203. Extradition of persons who left demanding state involuntarily. The governor of this state may also surrender on demand of the governor of any other state any person in this state who is charged in the manner provided in 46-30-401 with having violated the laws of the state whose governor is making the demand, even though such person left the demanding state involuntarily. History: En. 95-3105 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3105(part).

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-204. Extradition of persons not present in demanding state when crime committed

46-30-204. Extradition of persons not present in demanding state when crime committed. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in 46-30-211 with committing an act in this state or in a third state intentionally resulting in a crime in the state whose executive authority is making the demand. The provisions of this chapter not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom. History: En. 95-3106 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3106.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-205. through 46-30-210 reserved

46-30-205 through 46-30-210 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-211. Demand -- form

46-30-211. Demand -- form. (1) A demand for the extradition of a person charged with a crime in another state may not be recognized by the governor unless it is in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime and that after the crime the person fled from the state, except in cases arising under 46-30-204, and accompanied by: (a) a copy of an indictment found or information supported by an affidavit in the state having jurisdiction of the crime; (b) a copy of an affidavit made before a magistrate in that state, together with a copy of any warrant that was issued; or (c) a copy of a judgment of conviction or of a sentence imposed in execution of the judgment or sentence, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of the person's bail, probation, or parole. (2) The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state. The copy of the indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand. History: En. 95-3103 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3103; amd. Sec. 1772, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-212. Investigation by governor

46-30-212. Investigation by governor. When a demand is made upon the governor of this state by the executive authority of another state for the surrender of a person charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand and to report to the governor the situation and circumstances of the person demanded and whether the person ought to be surrendered. History: En. 95-3104 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3104; amd. Sec. 1773, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-213. Issuance of arrest warrant by governor

46-30-213. Issuance of arrest warrant by governor. If the governor decides that the demand should be complied with, the governor shall sign a warrant of arrest, which must be sealed with the state seal and be directed to any peace officer or other person whom the governor may think fit to entrust with the execution of the warrant. The warrant must substantially recite the facts necessary to the validity of its issuance. History: En. 95-3107 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3107; amd. Sec. 1774, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-214. Recall of warrant or alias warrant

46-30-214. Recall of warrant or alias warrant. The governor may recall the governor's warrant of arrest or may issue another warrant whenever the governor considers it proper. History: En. 95-3121 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3121; amd. Sec. 1775, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-215. Execution of warrant

46-30-215. Execution of warrant. The warrant must authorize the peace officer or other person to whom it is directed to arrest the accused at any time and any place where the accused may be found within the state, to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this chapter, to the duly authorized agent of the demanding state. History: En. 95-3108 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3108; amd. Sec. 1776, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-216. Authority of arresting officer

46-30-216. Authority of arresting officer. Every such peace officer or other person empowered to make the arrest shall have the same authority to command assistance in arresting the accused as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance. History: En. 95-3109 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3109.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-217. Rights of accused persons -- habeas corpus

46-30-217. Rights of accused persons -- habeas corpus. (1) A person arrested upon a warrant pursuant to this chapter may not be delivered over to the agent whom the executive authority demanding the person has appointed to receive the person unless the person is first taken without delay before a judge of a court of record in this state, who shall inform the person of the demand made for the person's surrender and of the crime with which the person is charged and that the person has the right to demand and procure legal counsel. (2) If the prisoner or the prisoner's counsel states that the prisoner or the prisoner and counsel desire to test the legality of the prisoner's arrest, the judge of the court of record shall fix a reasonable time to be allowed the prisoner within which to apply

for a writ of habeas corpus. When the writ is applied for, notice of the writ and of the time and place of hearing on the writ must be given to the prosecuting officer of the county in which the arrest was made and in which the accused is in custody and to the agent of the demanding state. History: En. 95-3110 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 52, Ch. 184, L. 1977; R.C.M. 1947, 95-3110; amd. Sec. 1777, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-218. Penalty for violating accused's rights

46-30-218. Penalty for violating accused's rights. An officer who delivers to the agent for extradition of the demanding state a person in custody under the governor's warrant in willful disobedience of 46-30-217 shall be guilty of a misdemeanor and on conviction shall be fined not more than \$1,000 or be imprisoned not more than 6 months, or both. History: En. 95-3111 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3111; amd. Sec. 1778, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-219. through 46-30-224 reserved

46-30-219 through 46-30-224 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-225. Guilt or innocence of accused, when inquired into

46-30-225. Guilt or innocence of accused, when inquired into. The guilt or innocence of the accused as to the crime of which the accused is charged may not be inquired into by the governor or in any proceeding after the demand for extradition provided for in 46-30-211 has been presented to the governor except as it may be involved in identifying the person held as the person charged with the crime. History: En. 95-3120 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 55, Ch. 184, L. 1977; R.C.M. 1947, 95-3120; amd. Sec. 1779, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-226. Confinement of accused in jail on route

46-30-226. Confinement of accused in jail on route. (1) The officer or persons executing the governor's warrant of arrest or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which the prisoner may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or person having charge of the prisoner is ready to proceed on the route. However, the officer or person is chargeable with the expense of keeping the prisoner. (2) The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state or to whom a prisoner may have been delivered after waiving extradition in the other state and who is passing through this state with a prisoner for the purpose of immediately returning the prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which the officer or agent may pass. The keeper of the jail shall receive and safely keep the prisoner until the officer or agent having charge of the prisoner is ready to proceed on the route. However, the officer or agent is chargeable with the expense of keeping the prisoner. However, the officer or agent shall produce and show to the keeper of the jail satisfactory written evidence of the fact that the officer or agent is actually transporting the prisoner to the demanding state after a requisition by the executive authority of the demanding state. The prisoner is not entitled to demand a new requisition while in this state. History: En. 95-3112 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3112; amd. Sec. 1780, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-227. Arrest of accused before making of requisition

46-30-227. Arrest of accused before making of requisition. (1) A judge or magistrate of this state shall issue a warrant directed to any peace officer commanding the officer to apprehend the person named in the warrant wherever the person may be found in this state and to bring the person before the issuer or any other judge, magistrate, or court that may be available in or convenient of access to the place where the arrest is made to answer the charge or complaint and affidavit whenever: (a) a person within this state is charged on the oath of a credible person before the judge or magistrate with the commission of a crime in another state and, except in cases arising under 46-30-204, with having fled from justice or with having been convicted of a crime in that state and having escaped from confinement or having broken the terms of the person's bail, probation, or parole; or (b) a complaint is made before the judge or magistrate setting forth on the affidavit of a credible person in another state that a crime has been committed in the other state and that the accused is believed to be in this state and has been charged in the other state with: (i) the commission of the crime and, except in cases arising under 46-30-204, having fled from justice; or (ii) having been convicted of a crime in that state and having escaped from bail, probation, or parole. (2) A certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued must be attached to the warrant. History: En. 95-3113 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 53, Ch. 184, L. 1977; R.C.M. 1947, 95-3113; amd. Sec. 1781, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-228. Written waiver of extradition proceedings

46-30-228. Written waiver of extradition proceedings.(1) Any person of this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of the person's bail, probation, or parole may waive the issuance and service of the warrant provided for in 46-30-213 and 46-30-215 and all other procedures incidental to extradition proceedings by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that the person consents to return to the demanding state. Before a waiver is executed or subscribed by the person, it is the duty of the judge to inform the person of the person's rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in 46-30-217. (2) If and when consent has been duly executed, it must, without delay, be forwarded to the office of the governor of this state and filed in the governor's office. The judge shall direct the officer having the person in custody to deliver, without delay, the person to the duly accredited agent or agents of the demanding state and shall deliver or cause to be delivered to the agent or agents a copy of the consent. (3) This section does not limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor may this waiver procedure be considered to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state. History: En. 95-3128 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3128; amd. Sec. 1782, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 2. Extradition to Another State From This State 46-30-229. Prior waiver of extradition

46-30-229. Prior waiver of extradition.(1) A person who is alleged to have violated the terms of the person's bail, probation, parole, or any other conditional release from another state and who is held in this state may be released to the duly authorized agent of that other state without the warrant provided for in 46-30-213 if the following has occurred: (a) a district court in this state has held a hearing at which the state has presented: (i) a certified copy of an agreement to waive extradition, signed by the person or an order from the other state releasing the person on the condition that the person waive extradition; (ii) a certified copy of the warrant or order from the other state directing the return of the person for violating the terms of the person's release; and (iii) evidence that the person is the same person named in the warrant or order; and (b) the district court has found that there is probable cause to believe that the person is the same person charged in the warrant or order. Whenever a district court makes this finding, it shall, except as provided in subsection (2), order that the person be remanded to custody and delivered to agents of the other state. The court shall also advise the person of the right to contest the order by filing a writ of habeas corpus. (2) If the person wishes to test the validity of the order issued pursuant to subsection (1)(b), the court shall fix a reasonable time for the person to apply for a writ of habeas corpus before the person may be released to agents from the other state. History: En. Sec. 1, Ch. 392, L. 1987; amd. Sec. 1783, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 3. Procedure for Arresting Accused Without Warrant 46-30-301. Arrest of accused without warrant

46-30-301. Arrest of accused without warrant.The arrest of a person may also be lawfully made by any peace officer or a private person without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term of 1 year or more. When arrested under this section, the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as provided in 46-30-227. After the complaint is made, the accused's answer must be heard as if the accused had been arrested on a warrant. History: En. 95-3114 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3114; amd. Sec. 17, Ch. 79, L. 1983; amd. Sec. 2, Ch. 379, L. 1991; amd. Sec. 1784, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 3. Procedure for Arresting Accused Without Warrant 46-30-302. Commitment to await requisition

46-30-302. Commitment to await requisition.If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under 46-30-204, that the person has fled from justice, the judge or magistrate shall by a warrant reciting the accusation commit the person to the county jail for a time not exceeding 30 days and specified in the warrant that will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense unless the accused posts bail as provided in 46-30-303 or until the accused is legally discharged. History: En. 95-3115 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3115; amd. Sec. 1785, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 3. Procedure for Arresting Accused Without Warrant 46-30-303. Bail while awaiting requisition

46-30-303. Bail while awaiting requisition.Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond or undertaking with sufficient sureties and in a sum that the judge or magistrate considers proper, conditioned for the prisoner's appearance before the judge or magistrate at a time specified in the bond or undertaking and for the prisoner's surrender to be arrested upon the warrant of the governor of this state. History: En. 95-3116 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3116; amd. Sec. 1786, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 3. Procedure for Arresting Accused Without Warrant 46-30-304. Extension of time of commitment or bail

46-30-304. Extension of time of commitment or bail. If the accused is not arrested under the warrant of the governor by the expiration of the time specified in the warrant, bond, or undertaking, a judge or magistrate may discharge the accused or may recommit the accused for a further period of 60 days or a supreme court justice or district court judge may again take bail for the accused's appearance and surrender, as provided in 46-30-303, for a period not to exceed 60 days after the date of the new bond or undertaking. History: En. 95-3117 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 54, Ch. 184, L. 1977; R.C.M. 1947, 95-3117; amd. Sec. 1787, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 3. Procedure for Arresting Accused Without Warrant 46-30-305. Forfeiture of bail

46-30-305. Forfeiture of bail. If the prisoner is admitted to bail and fails to appear and surrender according to the conditions of the prisoner's bond, the judge or magistrate by proper order shall declare the bond forfeited and order the prisoner's immediate arrest without warrant if the prisoner is within this state. Recovery may be had on the bond in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state. History: En. 95-3118 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3118; amd. Sec. 1788, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-401. Application for issuance of requisition

46-30-401. Application for issuance of requisition. (1) When the return to this state of a person charged with a crime in this state is required, the prosecuting attorney shall present to the governor a written application for a requisition for the return of the person charged. The application must state the name of the person charged, the crime charged against the person, the approximate time, place, and circumstances of its commission, and the state in which the person is believed to be, including the location of the accused in that state at the time the application is made. The application must certify that in the opinion of the prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not being instituted to enforce a private claim. (2) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of bail, probation, or parole, the prosecuting attorney of the county in which the offense was committed, the board of pardons and parole, or the warden of the institution or sheriff of the county from which the escape was made shall present to the governor a written application for a requisition for the return of the person. The application must state the name of the person, the crime of which the person was convicted, the circumstances of the person's escape from confinement or of the breach of the terms of bail, probation, or parole, and the state in which the person is believed to be, including the location of the person in that state at the time the application is made. (3) The application must be verified by affidavit, executed in duplicate, and accompanied by two certified copies of the: (a) indictment returned; (b) information and affidavit filed; (c) complaint made to the judge or magistrate stating the offense with which the accused is charged; (d) judgment of conviction; or (e) sentence. (4) The prosecuting officer, board of pardons and parole, warden, or sheriff may also attach further affidavits and other documents in duplicate that are considered proper to be submitted with the application. (5) One copy of the application, with the action of the governor indicated by endorsement on the application, and one of the certified copies of the indictment, complaint, information and affidavits, judgment of conviction, or sentence must be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers must be forwarded with the governor's requisition. History: En. 95-3123 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 56, Ch. 184, L. 1977; R.C.M. 1947, 95-3123; amd. Sec. 172, Ch. 575, L. 1981; amd. Sec. 204, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-402. Requisition by governor

46-30-402. Requisition by governor. Whenever the governor of this state demands a person charged with crime or with escaping from confinement or breaking the terms of the person's bail, probation, or parole in this state from the chief executive of any other state or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive a demand under the laws of the United States, the governor shall issue a warrant under the seal of this state to some agent commanding the agent to receive the person charged if delivered to the agent and convey the person to the proper officer of the county in this state in which the offense was committed. History: En. 95-3122 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3122; amd. Sec. 1789, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-403. Extradition of persons held in another state

46-30-403. Extradition of persons held in another state. When it is desired to have returned to this state a person charged in this state with a crime and the person is imprisoned or is held under criminal proceedings then pending against the person in another state, the governor of this state may agree with the executive authority of the other state for the extradition of the person before the conclusion of the proceedings or the person's term of sentence in the other state, upon condition that the person be returned to the other state at

the expense of this state as soon as the prosecution in this state is terminated. History: En. 95-3105 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3105(part); amd. Sec. 1790, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-404. Immunity from service of civil process

46-30-404. Immunity from service of civil process. A person brought into this state on or after waiver of extradition based on a criminal charge is not subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding that the person is being or has been returned to answer until the person has been convicted in the criminal proceedings or, if acquitted, until the person has had reasonable opportunity to return to the state from which the person was extradited. History: En. 95-3127 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3127; amd. Sec. 1791, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-405. No immunity from other criminal prosecutions

46-30-405. No immunity from other criminal prosecutions. After a person has been brought back to this state by extradition proceedings, the person may be tried in this state for other crimes that the person may be charged with having committed here as well as that specified in the requisition for the person's extradition. History: En. 95-3130 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3130; amd. Sec. 1792, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-406. through 46-30-410 reserved

46-30-406 through 46-30-410 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-411. Expenses of bringing fugitives back to this state

46-30-411. Expenses of bringing fugitives back to this state. (1) When the governor of this state, in the exercise of the authority conferred by Article IV, section 2, of the constitution of the United States or by the laws of this state, demands from the executive authority of any state of the United States or of any foreign government the surrender to the authorities of this state of a fugitive from justice who has been found and arrested in that state or foreign government, the accounts of the person employed by the governor to bring back the fugitive must be audited by the governor and paid out of the state treasury. (2) An agent of this state authorized to return a fugitive from justice to this state may use commercial transportation, aircraft, or motor vehicle to return the fugitive. If the fugitive is returned to this state by an officer or employee of the state or of a political subdivision of the state, the agent must be paid travel expenses, as provided for in 2-18-501 through 2-18-503, incurred in returning the fugitive to this state. If the governor's authorized agent contracts for the performance of the transportation with a person or entity who is not an officer or employee of the state or of a political subdivision of the state, the expenses must be paid in accordance with the rate established by the contracting parties, as approved by the office of the governor. History: (1) En. 95-3124 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 18, Ch. 343, L. 1977; Sec. 95-3124, R.C.M. 1947; (2) En. Sec. 1, Ch. 331, L. 1975; amd. Sec. 31, Ch. 453, L. 1977; Sec. 95-3124.1, R.C.M. 1947; R.C.M. 1947, 95-3124, 95-3124.1; amd. Sec. 3, Ch. 446, L. 1979; amd. Sec. 2, Ch. 371, L. 2001; amd. Sec. 1, Ch. 39, L. 2011.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-412. Restrictions on compensation for assisting return of fugitive

46-30-412. Restrictions on compensation for assisting return of fugitive. No compensation, fee, or reward of any kind may be paid to or received by a public officer of this state or other person for a service rendered in procuring from the governor the demand mentioned in 46-30-411(1), for the surrender of the fugitive, or for conveying the fugitive to this state or detaining the fugitive in this state except as provided in 46-30-411. History: En. 95-3125 by Sec. 14, Ch. 513, L. 1973; amd. Sec. 57, Ch. 184, L. 1977; R.C.M. 1947, 95-3125; amd. Sec. 1793, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 30. Uniform Criminal Extradition Act Part 4. Extradition to This State From Another State 46-30-413. Penalty for illegal compensation

46-30-413. Penalty for illegal compensation. Every person who violates any of the provisions of 46-30-412 is guilty of a misdemeanor. History: En. 95-3126 by Sec. 14, Ch. 513, L. 1973; R.C.M. 1947, 95-3126.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 31. Interstate Agreement on Detainers Part 1. Contents of Agreement 46-31-101. Agreement on detainers -- enactment and text

46-31-101. Agreement on detainers -- enactment and text. The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows: The contracting states solemnly agree that: Article I The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations, or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions produce

uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainees based on untried indictments, informations, or complaints. The party states also find that proceedings with reference to such charges and detainees, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures. Article II As used in this agreement: (1) "state" shall mean a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico; (2) "sending state" shall mean a state in which a prisoner is incarcerated at the time that the prisoner initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof; (3) "receiving state" shall mean the state in which trial is to be had on an indictment, information, or complaint pursuant to Article III or Article IV hereof. Article III (1) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information, or complaint on the basis of which a detainee has been lodged against the prisoner, the prisoner shall be brought to trial within 180 days after the prisoner shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of imprisonment and the prisoner's request for a final disposition to be made of the indictment, information, or complaint; provided that for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. (2) The written notice and request for final disposition referred to in subsection (1) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections, or other official having custody of the prisoner, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested. (3) The warden, commissioner of corrections, or other official having custody of the prisoner shall promptly inform the prisoner of the source and contents of any detainee lodged against the prisoner and shall also inform the prisoner of the right to make a request for final disposition of the indictment, information, or complaint on which the detainee is based. (4) Any request for final disposition made by a prisoner pursuant to subsection (1) hereof shall operate as a request for final disposition of all untried indictments, informations, or complaints on the basis of which detainees have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections, or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this subsection shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information, or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information, or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice. (5) Any request for final disposition made by a prisoner pursuant to subsection (1) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of subsection (4) hereof and a waiver of extradition to the receiving state to serve any sentence there imposed upon the prisoner after completion of the prisoner's term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of the prisoner's body in any court where the prisoner's presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law. (6) Escape from custody by the prisoner subsequent to the prisoner's execution of the request for final disposition referred to in subsection (1) hereof shall void the request. Article IV (1) The appropriate officer of the jurisdiction in which an untried indictment, information, or complaint is pending shall be entitled to have a prisoner against whom the officer has lodged a detainee and who is serving a term of imprisonment in any party state made available in accordance with Article V(1) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information, or complaint shall have duly approved, recorded, and transmitted the request; and provided further that there shall be a period of 30 days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability either upon the governor's own motion or upon motion of the prisoner. (2) Upon receipt of the officer's written request as provided in subsection (1) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainees against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor. (3) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. (4) Nothing contained in this article shall be construed to deprive any

prisoner of any right which the prisoner may have to contest the legality of the prisoner's delivery as provided in subsection (1), but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery. (5) If trial is not had on any indictment, information, or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V(5) hereof, such indictment, information, or complaint shall not be of any further force or effect and the court shall enter an order dismissing the same with prejudice. Article V (1) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information, or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian. (2) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand: (a) proper identification and evidence of the officer's or representative's authority to act for the state into whose temporary custody the prisoner is to be given; (b) a duly certified copy of the indictment, information, or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made. (3) If the appropriate authority shall refuse or fail to accept temporary custody of said person or in the event that an action on the indictment, information, or complaint on the basis of which the detainer has been lodged is not brought to trial within the periods provided by this chapter, the appropriate court of the jurisdiction where the indictment, information, or complaint has been pending shall enter an order dismissing the same with prejudice and any detainer based thereon shall cease to be of any force or effect. (4) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations, or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for the prisoner's attendance at court and while being transported to or from any place at which the prisoner's presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution. (5) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state. (6) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run, but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow. (7) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law. (8) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations, or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping, and returning the prisoner. The provisions of this subsection shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies, and officers of and in the government of a party state or between a party state and its subdivisions as to the payment of costs or responsibilities therefor. Article VI (1) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter. (2) No provision of this agreement and no remedy made available by this agreement shall apply to any person who is adjudged to be mentally ill. Article VII Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement and who shall provide within and without the state information necessary to the effective operation of this agreement. Article VIII This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof. Article IX This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable, and if any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstances is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. History: En. Sec. 1, Ch. 215, L. 1963; Sec. 94-1101-1, R.C.M. 1947; redes. 95-3131 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3131; amd. Sec. 1, Ch. 346, L. 1985; amd. Sec. 1794, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 31. Interstate Agreement on Detainers Part 1. Contents of Agreement 46-31-102. Jurisdiction of district courts

46-31-102. Jurisdiction of district courts. The phrase "appropriate court", as used in the agreement on detainers, shall with reference

to the courts of this state mean district courts. History: En. Sec. 2, Ch. 215, L. 1963; Sec. 94-1101-2, R.C.M. 1947; redes. 95-3132 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3132.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 31. Interstate Agreement on Detainers Part 2. Enforcement of Agreement 46-31-201. Public agencies to cooperate in enforcement

46-31-201. Public agencies to cooperate in enforcement. All courts, departments, agencies, officers, and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose. History: En. Sec. 3, Ch. 215, L. 1963; Sec. 94-1101-3, R.C.M. 1947; redes. 95-3133 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3133.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 31. Interstate Agreement on Detainers Part 2. Enforcement of Agreement 46-31-202. Warden to give over inmate

46-31-202. Warden to give over inmate. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any inmate thereof whenever so required by the operation of the agreement on detainers. History: En. Sec. 5, Ch. 215, L. 1963; Sec. 94-1101-5, R.C.M. 1947; redes. 95-3135 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3135.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 31. Interstate Agreement on Detainers Part 2. Enforcement of Agreement 46-31-203. Coordinator of agreement

46-31-203. Coordinator of agreement. The governor shall appoint an officer of this state as coordinator of this agreement who, acting jointly with like officers of party states, shall promulgate rules to carry out more effectively the terms and provisions of this chapter and who shall provide within and without the state information necessary to the effective operation of this agreement. History: En. Sec. 6, Ch. 215, L. 1963; Sec. 94-1101-6, R.C.M. 1947; redes. 95-3136 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3136.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 31. Interstate Agreement on Detainers Part 2. Enforcement of Agreement 46-31-204. Penalty for escape from custody on detainee

46-31-204. Penalty for escape from custody on detainee. Every prisoner confined in state prison for a term less than for life who has been lawfully delivered into the temporary custody of appropriate officers of a party state for trial on a charge or detainer based on an untried indictment, information, or complaint and who escapes is punishable by a fine in an amount not to exceed \$50,000 or by imprisonment in the state prison for a term of not less than 1 year or more than 10 years, or both. The second term of imprisonment must commence from the time the prisoner would otherwise have been discharged from prison. History: En. Sec. 4, Ch. 215, L. 1963; Sec. 94-1101-4, R.C.M. 1947; redes. 95-3134 by Sec. 29, Ch. 513, L. 1973; R.C.M. 1947, 95-3134; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 1795, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-101. Terminated

46-32-101. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 1, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-102. Terminated

46-32-102. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 2, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-103. Terminated

46-32-103. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 3, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-104. Terminated

46-32-104. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 4, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-105. Terminated

46-32-105. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 5, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-106. Terminated

46-32-106. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 6, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-107. Terminated

46-32-107. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 7, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 32. Wrongful Conviction (terminated) Part 1. Proceedings for Compensation (Terminated) 46-32-108. Terminated

46-32-108. Terminated. Sec. 15, Ch. 574, L. 2021. History: En. Sec. 8, Ch. 574, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-101. Jurisdiction -- death and cause of death in different counties

46-4-101. Jurisdiction -- death and cause of death in different counties. (1) The coroner of the county where a dead human body is found has jurisdiction if: (a) the place of death is unknown; (b) the dead human body was shipped into the county without proper permits; or (c) the death occurred while the deceased was in transit in the state. (2) When death occurs as a direct result of acts or events that occurred in another county, the coroner of the county where the acts or events causing death occurred has jurisdiction. If a coroner that has jurisdiction of a death fails to act, the state medical examiner has jurisdiction. (3) A county coroner has primary jurisdiction in the county in which the coroner is appointed or elected to serve. However, a qualified coroner may serve in another county upon the request of the coroner or county attorney of that county. A coroner may travel to another county to inquire into a death pursuant to 46-4-122. History: En. 95-812 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-812; amd. Sec. 13, Ch. 660, L. 1991; amd. Sec. 1729, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-103. Postmortem examination -- when conducted, scope

46-4-103. Postmortem examination -- when conducted, scope. (1) If in the opinion of the coroner a postmortem examination is advisable, the coroner shall order one performed on any dead human body for which the death requires an inquiry and shall retain a medical examiner or associate medical examiner to perform it. Performance of postmortem examinations is within the discretion of the coroner except that the county attorney or attorney general may require one. Consent of the family or next of kin of the deceased is not required for a postmortem examination that is ordered by the coroner, county attorney, or attorney general. In ordering a postmortem examination, the coroner, county attorney, or attorney general shall order the body to be exhumed if it has been interred. (2) The right to conduct a postmortem examination includes the right to retain specimens the medical examiner performing the postmortem examination considers necessary. (3) The department of justice shall pay any expenses incurred whenever a postmortem examination or investigation is initiated at the request of the state medical examiner or attorney general. The county shall pay any expenses incurred whenever a postmortem examination, investigation, or inquiry is initiated at the request of the county attorney or county coroner. (4) If a county does not provide a morgue or other facility for postmortem examination, the county coroner may order the use of a funeral home or an appropriate hospital facility for the examination. (5) Postmortem examinations performed under this section on a decedent whose death is under investigation and who has made an anatomical gift or on whose behalf an anatomical gift has been made must be performed in accordance with 72-17-217 and 72-17-218. (6) (a) A postmortem examination must be performed by the state medical examiner or a deputy state medical examiner whenever the death occurred: (i) while the decedent was incarcerated in a prison or confined to a correctional or detention facility owned or operated by the state or a political subdivision of the state; or (ii) while the decedent was being pursued, apprehended, or taken into custody by, or while in the custody of, any law enforcement agency or peace officer. (b) If a death under subsection (6)(a) occurred while the decedent was under medical care, a state or deputy state medical examiner must be consulted and the need for further examination determined on a case-by-case basis. (7) The department of justice shall pay any expenses related to postmortem examinations performed under subsection (6). History: En. 95-802 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 104, Ch. 349, L. 1974; amd. Sec. 25, Ch. 530, L. 1977; R.C.M. 1947, 95-802; amd. Sec. 14, Ch. 660, L. 1991; amd. Sec. 1, Ch. 345, L. 2007; amd. Sec. 4, Ch. 194, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-104. Liability of mortuary or physician

46-4-104. Liability of mortuary or physician. A mortuary owner or person employed in a mortuary is not liable for the acts of the coroner performed in the removal of a body to a mortuary or during the course of an autopsy on that body. No criminal or civil action may arise against a licensed physician for performing an autopsy authorized by this chapter or for performing an autopsy on request of a federal officer investigating a death within a federal jurisdiction. History: En. 95-813 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-813; amd. Sec. 2, Ch. 492, L. 1985; amd. Sec. 12, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-105. Medical examiner state special revenue account

46-4-105. Medical examiner state special revenue account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the medical examiner account. (2) Fees for services rendered pursuant to 46-4-103 or other fees acquired by the medical examiner system must be deposited in the account. (3) Funds in the account may be used only for the operation and

administration of state forensic laboratories. History: En. Sec. 2, Ch. 384, L. 2017; amd. Sec. 1, Ch. 40, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-106. through 46-4-109 reserved

46-4-106 through 46-4-109 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-110. Powers of coroner

46-4-110. Powers of coroner. In the performance of duties under this chapter, the coroner may: (1) pronounce the fact of death of any human being under circumstances in which the coroner has a duty to inquire pursuant to 46-4-122; (2) certify and amend death certificates as considered necessary in circumstances under which the coroner has a duty to inquire pursuant to 46-4-122; (3) issue subpoenas pursuant to 46-4-112; (4) order postmortem examinations as provided in 46-4-103; (5) conduct examinations and tests as considered necessary to determine the cause, manner, and circumstances of death and identification of a dead human body as provided in 46-4-101 and 46-4-113; (6) order a dead human body to be disinterred or removed from its place of disposition, with or without the consent of the next of kin, under circumstances in which the coroner has a duty to inquire pursuant to 46-4-122; (7) conduct inquests pursuant to 46-4-201; and (8) order cessation of any activity by any person or agency, other than the law enforcement agency having jurisdiction, that may obstruct or hinder the orderly conduct of an inquiry or the collection of information or evidence needed for an inquiry. History: En. Sec. 2, Ch. 660, L. 1991; amd. Sec. 1730, Ch. 56, L. 2009; amd. Sec. 5, Ch. 194, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-111. Coroner's authority to seize and preserve evidence

46-4-111. Coroner's authority to seize and preserve evidence. (1) A county coroner may enter any room, dwelling, building, or other place in which the coroner has probable cause to believe that a dead human body or evidence of the circumstances of a death that requires investigation may be found. If refused entry, a coroner who is investigating a death pursuant to the coroner's authority may apply to a judge authorized to issue search warrants for a warrant to enter the premises and to search for and seize evidence of the cause of a death, including a dead human body. (2) The application for a search warrant must: (a) state facts sufficient to show probable cause that a human body or evidence of the circumstances of death is present in the place to be searched; (b) particularly describe the place to be searched; and (c) particularly describe the things to be seized. (3) To preserve evidence of the cause of death, a coroner may: (a) place under the coroner's custody and control any dwelling, building, item, vehicle, aircraft, railroad engine or train, vessel, enclosure, or open area for a period of not more than 10 days; and (b) forbid entrance by an unauthorized person into any area specified in subsection (3)(a). (4) A person may not enter an area that is restricted pursuant to subsection (3) without the permission of the coroner or the law enforcement agency having jurisdiction if there is also a criminal investigation in progress. History: En. Sec. 1, Ch. 660, L. 1991; amd. Sec. 1731, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-112. Subpoenaing of witnesses and documents

46-4-112. Subpoenaing of witnesses and documents. (1) In an inquiry or inquest, a coroner may: (a) issue subpoenas for witnesses as provided in 46-4-203; and (b) issue subpoenas commanding the production of books, records, papers, documents, and other objects as may be necessary and proper to the inquiry or inquest. (2) Any material subpoenaed pursuant to subsection (1)(b) is confidential criminal justice information, as defined in 44-5-103, and public access to the information may be obtained only in accordance with 44-5-303. However, any material produced at an inquest is public information. (3) Disobedience of a subpoena issued under 46-4-203 or this section is punishable in the same manner as disobedience of a subpoena issued by a justice of the peace as provided in Title 3, chapter 10, part 4. History: En. Sec. 7, Ch. 660, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-113. Examinations and tests

46-4-113. Examinations and tests. The coroner may direct a properly qualified expert to conduct any test or examination that the coroner reasonably believes is necessary to determine the cause, manner, and circumstances of a death or to identify a dead human body. The coroner may also require examination by the next of kin or any other person when necessary to identify a dead human body. History: En. Sec. 8, Ch. 660, L. 1991; amd. Sec. 1732, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-114. Reporting fetal deaths

46-4-114. Reporting fetal deaths. A licensed nurse, a midwife, a physician assistant, an emergency care provider, a birthing assistant, or any other person who assists in the delivery that occurs outside a licensed medical facility of a fetus that is believed or declared to be dead shall report the death by the earliest means available to the coroner of the county in which the death occurred. History: En. Sec. 6, Ch. 660, L. 1991; amd. Sec. 22, Ch. 519, L. 2005; amd. Sec. 13, Ch. 220, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-115. through 46-4-119 reserved

46-4-115 through 46-4-119 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-120. Notification of finding human remains

46-4-120. Notification of finding human remains. A person who finds a dead human body or fetus or remains that appear to be human shall immediately report this fact to the county coroner by telephone or by the fastest available means of communication. History: En. Sec. 1, Ch. 287, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-121. Inquiry defined

46-4-121. Inquiry defined. For the purposes of this part, an inquiry by a county coroner is an informal examination of a death and its attendant circumstances to determine whether: (1) an inquest, which is a formal inquiry, should be held; (2) the reporting physician should certify the death; (3) any further action or examination should be made concerning a death; or (4) there is anything unusual or remarkable about a death that may warrant further action by the county attorney or the law enforcement agency that has jurisdiction. History: En. Sec. 3, Ch. 660, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-122. Human deaths requiring inquiry by coroner -- rulemaking

46-4-122. Human deaths requiring inquiry by coroner -- rulemaking. (1) The coroner shall inquire into and determine the cause and manner of death and all circumstances surrounding a human death: (a) that was caused or is suspected to have been caused: (i) in any degree by an injury, either recent or remote in origin; (ii) by the deceased or any other person that was the result of an act or omission, including but not limited to: (A) a criminal or suspected criminal act; (B) a medically suspicious death, unusual death, or death of unknown circumstances, including any fetal death; or (C) an accidental death; or (iii) by an agent, disease, or medical condition that poses a threat to public health; (b) whenever the death occurred: (i) while the deceased was incarcerated in a prison or confined to a correctional or detention facility owned and operated by the state or a political subdivision of the state; (ii) while the deceased was being pursued, apprehended, or taken into custody by, or while in the custody of, any law enforcement agency or a peace officer; (iii) during or as a result of the deceased's employment; (iv) less than 24 hours after the deceased was admitted to a medical facility or if the deceased was dead upon arrival at a medical facility; or (v) in a manner that was unattended or unwitnessed and the deceased was not attended by a physician at any time in the 30-day period prior to death; (c) if the dead human body is to be cremated or shipped into the state and lacks proper medical certification or burial or transmit permits; or (d) that occurred under suspicious circumstances. (2) In the case of a fetal death inquiry, the department of justice shall adopt rules governing the respectful transportation to and delivery of the fetus to the location where the autopsy will be performed. The rules must require that a fetus be transported in a crush-proof container that is labeled with the words "fragile--human remains inside". History: En. Sec. 4, Ch. 660, L. 1991; amd. Sec. 2, Ch. 287, L. 1993; amd. Sec. 6, Ch. 194, L. 2017; amd. Sec. 5, Ch. 123, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 1. Investigation of Death -- Autopsy 46-4-123. Inquiry report

46-4-123. Inquiry report. (1) The coroner shall make a full report of the facts discovered in all human deaths requiring an inquiry under the provisions of 46-4-122. (2) The inquiry report must be: (a) made using the Montana coroner death management system, if implemented and operational by the local agency; (b) initiated within 24 hours after the death investigation; and (c) completed as promptly as reasonable and commensurate with the availability of investigation information, excluding confidential criminal justice information and any other investigative material not necessary to determine cause or manner of death until the case is closed or charges are filed. (3) For a death ruled to be a suicide, the report must include the results of any toxicology testing done as a part of the inquiry. The coroner of a county that has not implemented the Montana coroner death management system shall report the information required under this subsection to the department of public health and human services in the manner prescribed by the department. (4) The coroner and the medical examiner must each have access to the system. The coroner shall make a copy of the system inquiry report available to the county attorney. History: En. Sec. 5, Ch. 660, L. 1991; amd. Sec. 1, Ch. 268, L. 2007; amd. Sec. 6, Ch. 123, L. 2021; amd. Sec. 2, Ch. 405, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 2. Inquests 46-4-201. Inquest -- definition -- when held -- how conducted

46-4-201. Inquest -- definition -- when held -- how conducted. (1) An inquest is a formal inquiry into the causes of and circumstances surrounding the death of a person and is conducted by the coroner before a coroner's jury. (2) The coroner may hold an inquest only if requested to do so by the county attorney of the county in which death occurred or by the county attorney of the county in which the acts or events causing death occurred. However, the county attorney shall order the coroner to hold an inquest if the death of a person occurs: (a) in a prison, jail, or other correctional facility and is not caused by the terminal condition, as defined

in 50-9-102, of, or the execution of a death penalty upon, the person while the person is incarcerated in the prison, jail, or other correctional facility because of conviction of a criminal offense. This subsection (2)(a) applies to a death caused by a terminal condition only if the person was under medical care at the time of death. (b) while a person is being taken into custody or is in the custody of a peace officer or if the death is caused by a peace officer, except when criminal charges have been or will be filed. (3) If an inquest is held, the proceedings are public. The coroner shall conduct the inquest with the aid and assistance of the county attorney. The coroner shall, and the county attorney may, examine each witness, after which the witness may be examined by the jurors. The inquest must be held in accordance with this part. (4) (a) A coroner who also serves as a peace officer may not conduct an inquest into the death of a person who: (i) died in a jail operated by or under the jurisdiction of the peace officer; (ii) died while in the custody of a peace officer serving in the same jurisdiction; or (iii) was killed by a peace officer serving in the same jurisdiction. (b) If a coroner is disqualified under subsection (4)(a), the county attorney shall request a qualified coroner or peace officer coroner of another jurisdiction to conduct the inquest. The expenses of a coroner fulfilling the request, including salary, must be paid by the requesting county. History: Ap. p. Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 250, L. 1975; Sec. 95-803, R.C.M. 1947; Ap. p. Sec. 1, Ch. 196, L. 1967; Sec. 95-809, R.C.M. 1947; R.C.M. 1947, 95-803(part), 95-809; amd. Sec. 1, Ch. 343, L. 1983; amd. Sec. 15, Ch. 660, L. 1991; amd. Sec. 1, Ch. 478, L. 1997; amd. Sec. 1, Ch. 315, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 2. Inquests 46-4-202. Summoning and swearing in of jurors -- instructions

46-4-202. Summoning and swearing in of jurors -- instructions. (1) When holding an inquest, the coroner shall summon a jury of at least 6 but not more than 12 persons qualified by law to serve as jurors and selected at random from a list of eligible jurors that is furnished to the coroner annually by the county clerk of court. (2) The jury selected by the coroner must be sworn by the coroner to inquire who the person was and when, where, and by what means the person died and into the circumstances attending the person's death and to render a true verdict on the death according to the evidence offered to them or arising from the inspection of the body. (3) The coroner shall instruct the jurors as to their duties. History: (1) En. 95-803 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 250, L. 1975; Sec. 95-803, R.C.M. 1947; (2) En. 95-804 by Sec. 1, Ch. 196, L. 1967; Sec. 95-804, R.C.M. 1947; R.C.M. 1947, 95-803(part), 95-804; amd. Sec. 2, Ch. 343, L. 1983; amd. Sec. 16, Ch. 660, L. 1991; amd. Sec. 1733, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 2. Inquests 46-4-203. Coroner's subpoena

46-4-203. Coroner's subpoena. Upon the request of the county attorney, a coroner shall issue subpoenas for witnesses, returnable immediately or at a time and place the coroner may designate, that may be served by any competent person. History: En. 95-805 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-805; amd. Sec. 1, Ch. 116, L. 1979; amd. Sec. 15, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 2. Inquests 46-4-205. Verdict of jury -- form

46-4-205. Verdict of jury -- form. (1) The jury may view the body, and the county attorney may require the jury to view the body. The jury shall review the death scene and may do so by videotape, photographs, or slide transparencies. After viewing the body and the death scene and hearing the testimony, the jury shall render its verdict, which must be by majority vote, and certify the verdict in writing signed by each juror. (2) (a) The verdict must set forth: (i) who the deceased person is; (ii) when and where the deceased died; (iii) if the deceased died by criminal means; and (iv) if the deceased was killed or the deceased's death was occasioned by the act of another by criminal means, who committed the act, if known. (b) If the jury finds that the death was not by criminal means, that fact must be stated on the verdict form. (c) If evidence presented at the inquest supports a conclusion that the deceased engaged police in a deadly force encounter as a method of suicide, the jury shall indicate on the form that the deceased died by suicide through law enforcement intervention. History: En. 95-807 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-807; amd. Sec. 17, Ch. 660, L. 1991; amd. Sec. 1734, Ch. 56, L. 2009; amd. Sec. 1, Ch. 532, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 2. Inquests 46-4-206. Recording and filing of testimony and proceedings

46-4-206. Recording and filing of testimony and proceedings. Testimony before a coroner's jury must be given under oath. The testimony of the witnesses examined and proceedings before the coroner's jury must be recorded and transcribed by a competent stenographer appointed by the coroner. The record of the inquest and the verdict of the jury must be filed by the coroner in the office of the clerk of the district court of the county in which the inquest was held. The expenses of recording and transcribing must be paid by the county upon claims duly rendered and certified to by the coroner in the same manner as other claims against the county are paid. History: En. 95-808 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-808; amd. Sec. 18, Ch. 660, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 2. Inquests 46-4-207. Coroner's register

46-4-207. Coroner's register. The county coroner shall keep an official register, in which the coroner shall enter the date of holding all inquests, the cause and circumstances of death, if known, and the name of the deceased, when known, and, when not, a

description of the deceased that may be sufficient for identification. History: En. 95-811 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-811; amd. Sec. 1735, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 3. Investigative Subpoenas -- Reporting Requirement for Peace Officers 46-4-301. Issuance of subpoena

46-4-301. Issuance of subpoena. (1) Whenever a prosecutor has a duty to investigate alleged unlawful activity, any justice of the supreme court or district court judge of this state may cause subpoenas to be issued commanding the persons to whom they are directed to appear before the prosecutor and give testimony and produce books, records, papers, documents, and other objects as may be necessary and proper to the investigation. (2) Except as provided in subsection (3), a subpoena may be issued only when it appears upon the affidavit of the prosecutor that the administration of justice requires it to be issued. (3) In the case of constitutionally protected material, such as but not limited to medical records or information, a subpoena may be issued only when it appears upon the affidavit of the prosecutor that a compelling state interest requires it to be issued. In order to establish a compelling state interest for the issuance of such a subpoena, the prosecutor shall state facts and circumstances sufficient to support probable cause to believe that: (a) an offense has been committed; and (b) the information relative to the commission of that offense is in the possession of the person or institution to whom the subpoena is directed. History: En. 95-720 by Sec. 1, Ch. 486, L. 1977; R.C.M. 1947, 95-720(1); amd. Sec. 19, Ch. 800, L. 1991; amd. Sec. 1, Ch. 318, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 3. Investigative Subpoenas -- Reporting Requirement for Peace Officers 46-4-302. Penalty for failure to appear or obey

46-4-302. Penalty for failure to appear or obey. (1) A person who, without just cause, fails to obey a subpoena served under this part is punishable for contempt of court. (2) (a) A person who, after being granted immunity under 46-4-305, refuses to give testimony or produce evidence under this part must be brought without unnecessary delay before the judge issuing the subpoena or, in that judge's absence or inability to act, before the nearest or most accessible judge, who shall inform the person: (i) of the contents and requirements of the subpoena; (ii) that the person has been granted immunity and may not be excused from testifying or producing evidence on the grounds that the testimony may incriminate the person; and (iii) that a refusal to testify or produce evidence as commanded in the subpoena is punishable as a contempt of court under Title 3, chapter 1, part 5. (b) In the presence of the judge, the person must be examined by the prosecutor or produce evidence as commanded in the subpoena. (c) A refusal to testify or produce evidence may be punished as a contempt under Title 3, chapter 1, part 5. History: En. 95-720 by Sec. 1, Ch. 486, L. 1977; R.C.M. 1947, 95-720(2); amd. Sec. 1, Ch. 157, L. 1987; amd. Sec. 20, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 3. Investigative Subpoenas -- Reporting Requirement for Peace Officers 46-4-303. Relief from improper subpoena

46-4-303. Relief from improper subpoena. A person aggrieved by a subpoena issued pursuant to this part may, within a reasonable time, file a motion to dismiss the subpoena and, in the case of a subpoena duces tecum, to limit its scope. The motion must be granted if the subpoena was improperly issued or, in the case of a subpoena duces tecum, if it is overly broad in its scope. History: En. 95-720 by Sec. 1, Ch. 486, L. 1977; R.C.M. 1947, 95-720(3); amd. Sec. 21, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 3. Investigative Subpoenas -- Reporting Requirement for Peace Officers 46-4-304. Conduct of investigative inquiry

46-4-304. Conduct of investigative inquiry. (1) The prosecutor may examine under oath all witnesses subpoenaed pursuant to this part. Testimony must be recorded. The witness has the right to have counsel present at all times. If the witness does not have funds to obtain counsel, the judge or justice shall order the office of state public defender, provided for in 2-15-1029, to assign counsel. (2) The secrecy and disclosure provisions relating to grand jury proceedings apply to proceedings conducted under subsection (1). A person who divulges the contents of the application or the proceedings without legal privilege to do so is punishable for contempt of court. (3) All penalties for perjury or preparing, submitting, or offering false evidence apply to proceedings conducted under this part. History: En. 95-721 by Sec. 2, Ch. 486, L. 1977; R.C.M. 1947, 95-721; amd. Sec. 22, Ch. 800, L. 1991; amd. Sec. 39, Ch. 449, L. 2005; amd. Sec. 13, Ch. 358, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 3. Investigative Subpoenas -- Reporting Requirement for Peace Officers 46-4-305. Self-incrimination -- immunity

46-4-305. Self-incrimination -- immunity. (1) No person subpoenaed to give testimony pursuant to this part may be required to make a statement or to produce evidence that may be personally incriminating. (2) The prosecutor may, with the approval of the judge who authorized the issuance of the subpoena, grant a person subpoenaed immunity from the use of any compelled testimony or evidence or any information directly or indirectly derived from the testimony or evidence against that person in a criminal prosecution. (3) Nothing in this part prohibits a prosecutor from granting immunity from prosecution for or on account of any transaction, matter, or thing concerning which a witness is compelled to testify if the prosecutor determines, in the prosecutor's sole discretion, that the best interest of justice would be served by granting immunity. (4) After being granted immunity, no person may be excused from testifying on the grounds that the testimony may be personally incriminating. Immunity may not extend to

prosecution or punishment for false statements given pursuant to the subpoena. (5) Nothing in this part requires a witness to divulge the contents of a privileged communication unless the privilege is waived as provided by law. History: En. 95-722 by Sec. 3, Ch. 486, L. 1977; R.C.M. 1947, 95-722; amd. Sec. 3, Ch. 577, L. 1983; amd. Sec. 23, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 3. Investigative Subpoenas -- Reporting Requirement for Peace Officers 46-4-306. Applicability of other laws -- costs

46-4-306. Applicability of other laws -- costs. (1) The fees and mileage of witnesses subpoenaed pursuant to this part are the same as those required in criminal actions. The state shall bear all costs, including the cost of service, when the application for the subpoena is made by the attorney general, the appropriate county shall bear all costs, including the cost of service, when the application for the subpoena is made by a county attorney, and the appropriate city shall bear all costs, including the cost of service, when the application for the subpoena is made by a city attorney. (2) All provisions relating to subpoenas in criminal actions apply to subpoenas issued pursuant to this part, including the provisions of 46-15-112, 46-15-113, and 46-15-120. (3) Each investigative cost, including testing of evidence and persons, must be borne by the governmental entity whose action created the cost, unless another governmental entity agrees to or by law is required to bear the cost. History: En. 95-723 by Sec. 4, Ch. 486, L. 1977; R.C.M. 1947, 95-723; amd. Sec. 259, Ch. 800, L. 1991; amd. Sec. 2, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 3. Investigative Subpoenas -- Reporting Requirement for Peace Officers 46-4-307. Sexual abuse of children -- report to national center for missing and exploited children

46-4-307. Sexual abuse of children -- report to national center for missing and exploited children. A peace officer who, pursuant to a criminal investigation, recovers images or movies of a child in an exhibition of sexual conduct, actual or simulated, or images or movies of a child engaging in sexual conduct, actual or simulated, shall: (1) provide the images or movies to the law enforcement contact at the child victim identification program at the national center for missing and exploited children; (2) request the law enforcement contact at the child victim identification program to identify any images or movies recovered that contain an identified victim of child sexual abuse as defined by 45-5-625; and (3) provide case information to the child victim identification program in any case in which the peace officer identifies a previously unidentified victim of child sexual abuse. History: En. Sec. 2, Ch. 198, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-401. Definitions

46-4-401. Definitions. As used in this part, the following definitions apply: (1) "Pen register" means a device that records or decodes electronic or other impulses that identify a number dialed or otherwise transmitted on a telephone line to which the pen register is attached. The term does not include a device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services, such as but not limited to caller identification services, or used for cost accounting or similar purposes in the ordinary course of business. (2) "Trap and trace device" means a device that records or decodes incoming electronic or other impulses that identify the originating number of an instrument or device from which a wire or electronic communication was transmitted. The term does not include a device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services, such as but not limited to caller identification services, or used for cost accounting or similar purposes in the ordinary course of business. History: En. Sec. 1, Ch. 97, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-402. Limitations on use of pen register or trap and trace device

46-4-402. Limitations on use of pen register or trap and trace device. (1) A person may not install or use a pen register or trap and trace device without a court order obtained under 46-4-403, except as provided in subsection (2). Subsection (2) may not be construed to permit a law enforcement agent to operate a pen register or trap and trace device without a court order obtained under 46-4-403. The use of a pen register or trap and trace device that has the ability to record conversations is prohibited. (2) Subsection (1) does not apply to the installation or use of a pen register or trap and trace device by a provider of a wire or electronic communication service: (a) for the: (i) operation, maintenance, or testing of the service; (ii) protection of the rights and property of the provider; or (iii) protection of a user of the service from abuse of or unlawful use of the service; (b) to record the fact that a wire or electronic communication was initiated or completed in order to protect the provider, another provider furnishing service toward the completion of the communication, or a user of the service from fraudulent, unlawful, or abusive use of the service; or (c) if the consent of each person whose originating or transmitted number is recorded or decoded is obtained. (3) A person who knowingly violates subsection (1) commits a criminal offense punishable upon conviction by incarceration for a period of up to 6 months and a fine of up to \$500. History: En. Sec. 2, Ch. 97, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-403. Order for pen register or trap and trace device -- installation -- disclosures

46-4-403. Order for pen register or trap and trace device -- installation -- disclosures.(1) A prosecutor may apply to the district court for an order, or for the extension of an existing order, for the installation and use of a pen register or a trap and trace device. The application must be in writing and under oath. The application must name the prosecutor and must also name the law enforcement agency that will use the pen register or trap and trace device. The applicant shall show probable cause for the order. (2) If the court is satisfied that the applicant has shown probable cause for the order, the court shall issue the order. The order must state: (a) the name, if known, of each person to whom the telephone line is leased or in whose name the telephone line to which a pen register or trap and trace device is to be attached is listed; (b) the name, if known, of each person who is the subject of the criminal investigation; (c) the number and, if known, the physical location of each telephone line to which a pen register or trap and trace device is to be attached and, for a trap and trace device, the geographic limits of the court order; and (d) the offense or offenses to which the information that might be obtained relates. (3) The order must direct the provider of the telephone service and a landlord, custodian, or other person to furnish the prosecutor and law enforcement agency with the information, facilities, and technical assistance necessary to install and operate the pen register or trap and trace device. The installation and operation must create the most minimal interference with the telephone service of each person whose originating or transmitted telephone number is recorded or decoded. Information received by the service provider from the operation of the pen register or trap and trace device must be given to the law enforcement agency at reasonable intervals during regular business hours. (4) The order may cover a period not to exceed 60 days and may be extended for periods not to exceed 60 days for each extension. An extension may be granted only if the court is satisfied that probable cause for the extension has been shown. (5) A person leasing or owning a telephone line that is subject to the order, the provider of the service, and any other person with knowledge of the order, pen register, or trap and trace device may not disclose the existence of the order, pen register, or trap and trace device to any person without the court's permission. (6) A service provider, landlord, custodian, or other person must be reasonably compensated by the law enforcement agency for expenses incurred in furnishing facilities or assistance relating to the order. (7) Proceedings conducted under this section are subject to the secrecy and disclosure provisions relating to grand jury proceedings. Any information obtained pursuant to an order issued under this section is confidential criminal justice information subject to the provisions of Title 44, chapter 5. History: En. Sec. 3, Ch. 97, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-404. Immunity from suit

46-4-404. Immunity from suit. Except for gross negligence or willful or wanton misconduct, there is no cause of action against a service provider, landlord, or custodian or their officers, employees, or agents or other nongovernmental person for injury or damage caused in furnishing facilities or assistance under the order or against a service provider or its officers, employees, or agents for providing the law enforcement agency with information received from the operation of the pen register or trap and trace device. The immunity provided by this section does not extend to any governmental agency, law enforcement agent, or prosecutor. History: En. Sec. 4, Ch. 97, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-405. Procedural irregularity -- rule of evidence

46-4-405. Procedural irregularity -- rule of evidence. An irregularity in a proceeding under this part may not be used to exclude evidence obtained under an order unless the irregularity affects substantial rights of the accused. History: En. Sec. 5, Ch. 97, L. 1999.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-406. Purpose

46-4-406. Purpose. The legislature intends to require the electronic recording of custodial interrogations in felony cases based on the finding that properly recorded interrogations: (1) provide the best evidence of the communications that occurred during an interrogation; (2) prevent disputes about a peace officer's conduct or treatment of a suspect during the course of an interrogation; (3) prevent a defendant from lying about the account of events originally provided to law enforcement by the defendant; (4) spare judges and jurors the time necessary and the need to assess which account of an interrogation to believe; (5) enhance public confidence in the criminal process; and (6) have been encouraged by the Montana supreme court in a written opinion of that court. History: En. Sec. 1, Ch. 214, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-407. Definitions

46-4-407. Definitions. As used in 46-4-406 through 46-4-411, the following definitions apply: (1) "Custodial interrogation" means an interview conducted by a peace officer in a place of detention for the purpose of investigating a felony or, in the case of a youth, an offense that would be a felony if committed by an adult if the interview is reasonably likely to elicit a response from the person being interviewed that may incriminate the person being interviewed with regard to the commission of an offense. (2) "Electronic recording" or "electronically recorded" means an audio recording, visual recording, or audiovisual recording, if available, that is an authentic, unaltered record of a custodial interrogation. (3) "Place of detention" means a jail, police or sheriff's station, holding cell,

correctional or detention facility, office, or other structure in this state where persons are held in connection with criminal charges or juvenile delinquency proceedings. (4) "Statement" means an oral, written, sign language, or nonverbal communication. History: En. Sec. 2, Ch. 214, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-408. Recordings required

46-4-408. Recordings required. Except as provided in 46-4-409, all custodial interrogations must be electronically recorded. The recording must contain a peace officer advising the person being interviewed of the person's Miranda rights, a recording of the interview, and a conclusion of the interview. History: En. Sec. 3, Ch. 214, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-409. Exceptions to custodial recording requirements

46-4-409. Exceptions to custodial recording requirements. A judge shall admit statements or evidence of statements that do not conform to 46-4-408 if, at hearing, the state proves by a preponderance of the evidence that: (1) the statements have been made voluntarily and are reliable; or (2) one or more of the following circumstances existed at the time of the custodial interrogation: (a) the questions put forth by law enforcement personnel and the person's responsive statements were part of the routine processing or booking of the person; (b) before or during a custodial interrogation, the person unambiguously declared that the person would respond to the law enforcement officer's questions only if the person's statements were not electronically recorded; (c) the failure to electronically record an interrogation in its entirety was the result of unforeseeable equipment failure and obtaining replacement equipment was not practicable; (d) exigent circumstances prevented the making of an electronic recording of the custodial interrogation; (e) the person's statements were surreptitiously recorded by or under the direction of law enforcement personnel; (f) the person's statement was made during a custodial interrogation that was conducted in another state by peace officers of that state in compliance with the laws of that state; or (g) the person's statement was made spontaneously and not in response to a question. History: En. Sec. 4, Ch. 214, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-410. Cautionary jury instruction

46-4-410. Cautionary jury instruction. If the defendant objects to the introduction of evidence under 46-4-408 and the court finds by a preponderance of the evidence that the statements are admissible, the judge shall, upon motion of the defendant, provide the jury with a cautionary instruction. History: En. Sec. 5, Ch. 214, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 4. Custodial Interrogations -- Recording 46-4-411. Handling and preservation of electronic recordings

46-4-411. Handling and preservation of electronic recordings. (1) An electronic recording of a custodial interrogation must be clearly identified and catalogued by law enforcement personnel. (2) If a criminal or youth court proceeding is brought against a person who was the subject of an electronically recorded custodial interrogation, the electronic recording must be preserved by law enforcement personnel until all appeals and all postconviction and habeas corpus proceedings are final and concluded or until the time within which the proceedings must be brought has expired. (3) Upon motion by the defendant, the court may order that a copy of the electronic recording be preserved for any period beyond the expiration of all appeals. (4) If a criminal or youth court proceeding is not brought against a person who has been the subject of an electronically recorded custodial interrogation, the related electronic recording must be preserved by law enforcement personnel until all applicable state and federal statutes of limitations bar prosecution of the person. History: En. Sec. 6, Ch. 214, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 5. Lineup Procedure 46-4-501. Definitions

46-4-501. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply: (1) "Eyewitness" means a person whose identification by sight of another person may be relevant in a criminal proceeding. (2) "Live lineup" means a group of people displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime. (3) "Photographic lineup" means an array of photographs displayed to an eyewitness for the purpose of determining if the eyewitness can identify the perpetrator of a crime. History: En. Sec. 1, Ch. 416, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 4. Investigative Procedures Part 5. Lineup Procedure 46-4-502. Lineup procedure

46-4-502. Lineup procedure. A lineup conducted by a law enforcement agency of this state or any political subdivision must meet the following requirements: (1) The peace officer who is the administrator of a live or photographic lineup must be unaware of which person in the lineup is the suspected perpetrator of the crime under investigation or, if that is not practicable, the administrator shall use a photographic lineup that prevents the administrator from seeing which member of the photographic lineup is being viewed by the eyewitness. (2) Before the lineup is administered, the eyewitness must be instructed that the suspected perpetrator may or may

not be in the lineup. (3) Any person who is not the suspected perpetrator in the lineup must be substantially similar to the eyewitness's description of the suspected perpetrator. (4) Immediately after an identification is made, the eyewitness shall provide a statement in the eyewitness's own words that articulates the level of the eyewitness's confidence in the identification. (5) A failure to comply with any of the requirements of this section must be: (a) considered by a court in adjudicating a motion to suppress eyewitness identification; and (b) admissible in support of a claim of eyewitness misidentification if the evidence is otherwise admissible. History: En. Sec. 2, Ch. 416, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-101. Searches and seizures -- when authorized

46-5-101. Searches and seizures -- when authorized. A search of a person, object, or place may be made and evidence, contraband, and persons may be seized in accordance with Title 46 when a search is made: (1) by the authority of a search warrant; or (2) in accordance with judicially recognized exceptions to the warrant requirement. History: En. 95-701 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-701; amd. Sec. 47, Ch. 800, L. 1991; amd. Sec. 3, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-102. Scope of search incident to arrest

46-5-102. Scope of search incident to arrest. When a lawful arrest is effected, a peace officer may reasonably search the person arrested and the area within such person's immediate presence for the purpose of: (1) protecting the officer from attack; (2) preventing the person from escaping; (3) discovering and seizing the fruits of the crime; or (4) discovering and seizing any persons, instruments, articles, or things which may have been used in the commission of or which may constitute evidence of the offense. History: En. 95-702 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-702.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-103. When search and seizure not illegal

46-5-103. When search and seizure not illegal. (1) A search and seizure, whether with or without a warrant, may not be held to be illegal if: (a) the defendant has disclaimed any right to or interest in the place or object searched or the evidence, contraband, or person seized; (b) a right of the defendant has not been infringed by the search and seizure; or (c) any irregularity in the proceedings has no effect on the substantial rights of the accused. (2) Evidence, contraband, or persons lawfully seized are admissible as evidence in any prosecution or proceeding whether or not the prosecution or proceeding is for the offense in connection with which the search was originally made. History: En. 95-717 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-717; amd. Sec. 48, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-105. Reasonable suspicion required before strip search

46-5-105. Reasonable suspicion required before strip search. A person arrested or detained for a traffic offense or an offense that is not a felony may not be subjected to a strip search or a body cavity search by a peace officer or law enforcement employee unless there is reasonable suspicion to believe the person is concealing a weapon, contraband, or evidence of the commission of a crime. History: En. Sec. 1, Ch. 192, L. 2013.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-106. through 46-5-108 reserved

46-5-106 through 46-5-108 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-109. Limitations on unmanned aerial vehicles

46-5-109. Limitations on unmanned aerial vehicles. (1) In any prosecution or proceeding within the state of Montana, information from an unmanned aerial vehicle is not admissible as evidence unless the information was obtained: (a) pursuant to the authority of a search warrant; (b) in accordance with judicially recognized exceptions to the warrant requirement; or (c) during the investigation of a motor vehicle crash scene that occurs on or involves a public roadway. (2) Information obtained from the operation of an unmanned aerial vehicle may not be used in an affidavit of probable cause in an effort to obtain a search warrant unless the information was obtained under the circumstances described in subsection (1)(a), (1)(b), or (1)(c). (3) For the purposes of this section, "unmanned aerial vehicle" means an aircraft that is operated without direct human intervention from on or within the aircraft. The term does not include satellites. History: En. Sec. 1, Ch. 377, L. 2013; amd. Sec. 1, Ch. 178, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-110. Location information privacy -- civil penalty -- definitions

46-5-110. Location information privacy -- civil penalty -- definitions. (1) (a) Except as provided in subsection (1)(b), a government entity may not obtain the location information of an electronic device without a search warrant issued by a duly authorized court. (b)

A government entity may obtain location information of an electronic device under any of the following circumstances: (i) the device is reported stolen by the owner; (ii) in order to respond to the user's call for emergency services; (iii) with the informed, affirmative consent of the owner or user of the electronic device; or (iv) there exists a possible life-threatening situation. (c) Any evidence obtained in violation of this section is not admissible in a civil, criminal, or administrative proceeding and may not be used in an affidavit of probable cause in an effort to obtain a search warrant. (d) A violation of this section will result in a civil fine not to exceed \$50. (2) As used in this section, the following definitions apply: (a) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications. (b) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service. (c) "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission or an individual acting or purporting to act for or on behalf of a state or local agency. (d) "Location information" means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device. (e) "Location information service" means the provision of a global positioning service or other mapping, locational, or directional information service. (f) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system. History: En. Secs. 1, 2, Ch. 394, L. 2013.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-111. Definitions

46-5-111. Definitions. As used in 46-5-111 through 46-5-113, the following definitions apply: (1) "Authorized user" means a person who has the permission of the owner to possess and operate the electronic device. (2) "Electronic communication service" means a service that: (a) provides to users the ability to send or receive electronic communications; (b) provides to users computer storage or processing services; or (c) acts as an intermediary in the transmission of electronic communications. (3) "Electronic device" means a device that enables access to or use of an electronic communication service or remote computing service. (4) "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission or an individual acting or purporting to act for or on behalf of a state or local agency. (5) "Owner" means a person who is the legal owner of the electronic device. If the electronic device is the subject of an agreement for the conditional sale of the electronic device with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the person possessing the device, or in the event the electronic device is subject to a lease, contract, or other legal arrangement vesting the right of possession or control in the person possessing the electronic device, then the owner is the person in whom the right of possession or control is vested. (6) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system. (7) "Stored data" means data or records that are stored on an electronic device that contains: (a) information revealing the identity of users of the applicable service, device, or program; (b) information about a user's use of the applicable service, device, or program; (c) information that identifies the recipient or destination of a wire communication or electronic communication sent to or by the user; (d) the content of a wire communication or electronic communication sent to or by the user; or (e) any data, documents, files, or communications stored by or on behalf of the user with the applicable service provider or on the user's electronic device. History: En. Sec. 1, Ch. 201, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-112. Electronic data privacy -- warrant required -- exceptions

46-5-112. Electronic data privacy -- warrant required -- exceptions. (1) Except as provided in subsection (2), a government entity may not obtain the stored data of an electronic device without a search warrant issued by a court upon a finding of probable cause. (2) A government entity may obtain the stored data of an electronic device without a search warrant: (a) with the consent of the owner or authorized user of the electronic device; (b) in accordance with judicially recognized exceptions to warrant requirements; (c) if the owner has voluntarily and publicly disclosed the stored data; (d) if the government entity, in good faith, believes that an emergency involving danger, death, or serious physical injury to a person requires immediate disclosure of communications relating to the emergency; (e) in order to respond to the user's call for emergency services; or (f) for any electronic devices found within the confines of a correctional facility. (3) Nothing in 46-5-111 through 46-5-113 may be construed to limit a government entity's ability to use, maintain, or store information on its own electronic devices or to disseminate information stored on its own electronic devices. (4) Sections 46-5-111 through 46-5-113 do not apply to motor carrier safety or hazardous materials programs implemented by the department of transportation for purposes of complying with federal motor carrier safety regulations. History: En. Sec. 2, Ch. 201, L. 2017; amd. Sec. 24, Ch. 339, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-113. Civil action for violation

46-5-113. Civil action for violation. The attorney general may apply for an injunction or commence a civil action against any government entity to compel compliance with the terms of 46-5-111 through 46-5-113. History: En. Sec. 3, Ch. 201, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and

Admissibility 46-5-114. through 46-5-116 reserved

46-5-114 through 46-5-116 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-117. Use of license plate reader prohibited -- exceptions -- definition -- penalty

46-5-117. Use of license plate reader prohibited -- exceptions -- definition -- penalty. (1) Except as provided in subsection (2), an agency or employee of the state or any subdivision of the state may not use, either directly or indirectly, a license plate reader on any public highway. (2) (a) The department of transportation or an incorporated city or town may use a license plate reader: (i) to collect data for planning. If data is collected under this subsection (2)(a)(i), the department of transportation or city or town shall ensure and maintain the anonymity of the vehicle, the vehicle owner, the driver of the vehicle, and any passengers in the vehicle. Data collected under this subsection (2)(a)(i) without a search warrant or outside of judicially recognized exceptions to search warrant requirements may not be used to investigate or prosecute an individual or as evidence in court. (ii) in a regulated parking system, but only to identify a vehicle's location and license plate number to enforce parking restrictions. (b) The department of transportation may use a device and equipment, including license plate readers, if necessary, to implement 61-10-101 through 61-10-104, 61-10-106 through 61-10-110, and 61-10-154 if the devices or equipment are used in screening operations associated with: (i) virtual ports of entry; (ii) weigh station ramps using automated weigh station screening systems; (iii) virtual weigh stations using weigh-in-motion technology; or (iv) an automatic vehicle identification system that enables participating transponder-equipped vehicles to be prescreened throughout the nation at designated weigh stations, port-of-entry facilities, or agricultural interdiction facilities. (c) Nothing in this section prohibits an agency of the state or any subdivision of the state from using its own vehicles, aircraft, or equipment, including a license plate reader, to track, monitor, or otherwise maintain information about the agency's or subdivision's vehicles, aircraft, or equipment. (d) State or local law enforcement may use a device and equipment, including license plate readers, if necessary, if the following requirements are met: (i) A state or local law enforcement agency that uses an automatic license plate reader system shall adopt and publicize a written policy governing its use before the automatic license plate reader system is operational. The policy must address the following: (A) use of any database to compare data obtained by the automatic license plate reader system; (B) retention of data associated with the automatic license plate reader system; (C) sharing of the data with another law enforcement agency; (D) training of automatic license plate reader system operators; (E) supervisory oversight of automatic license plate reader system use; (F) access to and security of data; (G) access to data obtained by automatic license plate reader systems not operated by the law enforcement agency; and (H) any other subjects related to automatic license plate reader system use by the law enforcement agency. (ii) At least once every year, the law enforcement agency shall audit its automatic license plate reader system use and effectiveness and report the findings to the head of the law enforcement agency responsible for operating the system. (iii) Data obtained by a law enforcement agency in accordance with this subsection (2)(d) must be obtained, accessed, preserved, or disclosed only for law enforcement or criminal justice purposes. (iv) A law enforcement agency that uses a license plate reader system shall: (A) maintain a record of users who access license plate reader data. The record must be maintained indefinitely. (B) keep system maintenance and calibration schedules and records on file. (v) Operation of a license plate reader by a law enforcement agency and access to data collected by a license plate reader operated by a law enforcement agency must be for official law enforcement purposes only. A license plate reader must be used by a law enforcement agency only to scan, detect, and identify a license plate number for the purpose of identifying a vehicle that is: (A) stolen; (B) associated with a wanted, missing, or endangered person; (C) registered to a person against whom there is an outstanding warrant; (D) in violation of commercial trucking requirements; (E) involved in case-specific criminal investigative surveillance; (F) involved in a homicide, shooting, or other major crime or incident; or (G) in the vicinity of a recent crime and may be connected to that crime. (vi) A positive match by a license plate reader alone does not constitute reasonable suspicion as grounds for a law enforcement officer to stop a vehicle. The officer shall: (A) develop independent reasonable suspicion for the stop; or (B) immediately confirm visually that the license plate on a vehicle matches the image of the license plate displayed on the license plate reader and confirm by other means that the license plate number meets one of the criteria specified in subsection (2)(d)(v). (vii) A law enforcement agency that uses an automatic license plate reader system in accordance with this section shall update the system from the databases specified pursuant to subsection (2)(d)(i) every 24 hours if an update is available or as soon as practicable after an update becomes available. (viii) A license plate reader may be installed for the sole purpose of recording and checking license plates. (3) A public employee or public officer, as the terms are defined in 2-2-102, who violates the provisions of this section is subject to the applicable penalties provided for in Title 2, chapter 2. (4) As used in this section, the following definitions apply: (a) "Law enforcement agency" means: (i) an agency or officer of the state of Montana or of a political subdivision that is empowered by the laws of this state to conduct investigations or to make arrests; and (ii) an attorney, including the attorney general, who is authorized by the laws of this state to prosecute or to participate in the prosecution of a person who is arrested or who may be subject to a civil action related to or concerning an arrest. (b) "License plate reader" means a device principally designed and primarily used for determining the ownership of a motor vehicle, the mileage or route traveled by a motor vehicle, the location or identity of a motor vehicle, or the identity of a motor vehicle's occupants on the public highways, as defined in 60-1-103, through the use of a camera or other imaging device or any other device, including but not limited to a transponder, cellular telephone, global positioning satellite, automated electronic toll collection system, automated license plate recognition system, or radio frequency identification device that by itself or in conjunction with other devices or information can be used to determine the ownership of a motor vehicle or the identity of a motor vehicle's occupants or the mileage,

location, or route traveled by the motor vehicle. History: En. Sec. 1, Ch. 202, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-118. Preservation and disclosure of records by law enforcement agency

46-5-118. Preservation and disclosure of records by law enforcement agency. (1) Except as provided in subsection (2), captured license plate data obtained by an automatic license plate reader system that is operated by or on behalf of a law enforcement agency for law enforcement purposes pursuant to 46-5-117(2)(d) may not be preserved for more than 90 days after the date that the data is captured. (2) Data obtained by an automatic license plate reader may be preserved for more than 90 days pursuant to any of the following: (a) a preservation request submitted pursuant to subsection (3); (b) a search warrant issued pursuant to 46-5-220; or (c) a federal search warrant issued in compliance with the Federal Rules of Civil Procedure. (3) Upon the request of a law enforcement agency, the custodian of captured license plate data shall take all necessary steps to immediately preserve captured license plate data in its possession. A requesting agency must specify in a sworn written statement: (a) the location of the particular camera or cameras for which captured license plate data must be preserved; (b) the particular license plate for which captured license plate data must be preserved; (c) the date or dates and timeframes for which captured license plate data must be preserved; (d) specific and articulable facts showing that there are reasonable grounds to believe that the captured license plate data is relevant and material to an ongoing criminal or missing persons investigation or is needed to prove a violation of a motor carrier safety regulation; and (e) the case and the identity of the parties involved in the case. (4) One year from the date of the initial preservation request, the captured license plate data obtained by an automatic license plate reader system must be destroyed according to the custodian's record or data retention policy, unless the custodian receives another preservation request within the 1-year period. If the custodian receives another preservation request, the 1-year retention period resets based on the date of the second request. (5) License plate data captured in accordance with 46-5-117 is a public record but is protected from disclosure under the provisions of Title 2, chapter 6, parts 10 through 12, except to the person to whom the license plate is registered. (6) Nothing in this section may be construed as requiring the disclosure of captured license plate data if a law enforcement agency determines that disclosure of that data will compromise an ongoing investigation. (7) Captured license plate data gathered by law enforcement may not be sold for any purpose except as provided in 46-5-117. History: En. Sec. 2, Ch. 202, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 1. Legality and Admissibility 46-5-119. Confidentiality of information

46-5-119. Confidentiality of information. The information collected or stored in any database under the provisions of 46-5-117(2)(a) through (2)(c): (1) is private, is not a public record, and is not subject to public disclosure; (2) may be accessed by an employee of the state or of a political subdivision of the state only for the purpose of providing customer service or for statistical, administrative, or legal activities necessary to perform the employee's duties; and (3) may be maintained only for the time minimally necessary, but no more than 18 months. History: En. Sec. 3, Ch. 202, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-202. Renumbered 46-5-221

46-5-202. Renumbered 46-5-221. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-203. Renumbered 46-5-224

46-5-203. Renumbered 46-5-224. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-204. Renumbered 46-5-310

46-5-204. Renumbered 46-5-310. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-205. Renumbered 46-5-226

46-5-205. Renumbered 46-5-226. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-206. Renumbered 46-5-227

46-5-206. Renumbered 46-5-227. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-207. Renumbered 46-5-225

46-5-207. Renumbered 46-5-225. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-208. Renumbered 46-5-228 (1)

46-5-208. Renumbered 46-5-228(1). Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-209. Renumbered 46-5-228 (2)

46-5-209. Renumbered 46-5-228(2). Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-210. and 46-5-211 reserved

46-5-210 and 46-5-211 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-212. Pawnbroker to surrender stolen property -- warrant

46-5-212. Pawnbroker to surrender stolen property -- warrant. (1) When a peace officer informs a pawnbroker or dealer who buys and sells secondhand merchandise that property pawned to or purchased by the pawnbroker or dealer is stolen property, as defined in 45-2-101, the pawnbroker or dealer who buys and sells secondhand merchandise shall hold the property for 30 days upon issuance of an administrative warrant by a peace officer. Following the expiration of the 30-day period, the pawnbroker or dealer shall surrender the property to the peace officer upon demand. The peace officer shall give the pawnbroker or dealer a receipt for any property surrendered by the pawnbroker or dealer. During the 30-day period, the pawnbroker or dealer may appeal the validity of the administrative warrant in justice's court or in municipal court. (2) As used in this section, "administrative warrant" means a warrant: (a) issued by the administrative head, or the administrative head's designee, of the investigating agency of the jurisdiction; (b) that describes the property to be held; and (c) that states that the pawnbroker or dealer shall hold the property for 30 days from the date of receipt. History: En. Sec. 2, Ch. 470, L. 1989; amd. Sec. 1, Ch. 344, L. 1993; amd. Sec. 1, Ch. 310, L. 1995; amd. Sec. 1, Ch. 12, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-213. through 46-5-219 reserved

46-5-213 through 46-5-219 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-220. Authority to issue search warrant

46-5-220. Authority to issue search warrant. (1) A peace officer, the city or county attorney, or the attorney general may apply for a search warrant. (2) A search warrant may be issued by: (a) a city or municipal court judge or justice of the peace within the judge's geographical jurisdiction; or (b) a district court judge within this state. History: En. Sec. 49, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-221. Grounds for search warrant

46-5-221. Grounds for search warrant. A judge shall issue a search warrant to a person upon application, in writing, by telephone, or electronically, made under oath or affirmation, that: (1) states facts sufficient to support probable cause to believe that an offense has been committed; (2) states facts sufficient to support probable cause to believe that evidence, contraband, or persons connected with the offense may be found; (3) particularly describes the place, object, or persons to be searched; and (4) particularly describes who or what is to be seized. History: En. 95-704 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 7, Ch. 184, L. 1977; R.C.M. 1947, 95-704; amd. Sec. 3, Ch. 116, L. 1979; amd. Sec. 1, Ch. 339, L. 1979; amd. Sec. 50, Ch. 800, L. 1991; Sec. 46-5-202, MCA 1989; redes. 46-5-221 by Code Commissioner, 1991; amd. Sec. 1, Ch. 22, L. 2015.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-222. Search warrants issued electronically or by telephone

46-5-222. Search warrants issued electronically or by telephone. (1) Whenever an application for a search warrant is made by telephone, the applicant shall, in addition to the requirements contained in 46-5-221, state reasons to justify immediate issuance of a search warrant. (2) (a) All testimony given over the telephone or electronically that is intended to support an application for a search warrant must be given on oath or affirmation and must identify the person testifying. For the purpose of this section, the judge is authorized to administer an oath or affirmation by telephone. (b) All testimony in support of an application for a search warrant issued electronically must be: (i) subscribed by the applicant in accordance with 1-6-105; and (ii) attached to or logically associated with the electronic signature of the applicant as provided in 30-18-110. (3) (a) Sworn or affirmed testimony given over the telephone must be electronically recorded by the judge or a peace officer on a recording device in the custody of the judge or peace officer when the application is made. (b) If the recording is made by the judge, the recording must be retained in the court records and must be transcribed verbatim as soon as possible after the application is made. The recording must include the time and date it was

recorded. (c) If the recording is made by a peace officer, the recording must be transcribed verbatim as soon as possible after the application for the warrant is made. The recording must contain the time and date when it was recorded. The peace officer making the recording shall, as soon as possible, provide the judge with the original recording and a transcription of the recording so that the judge may expeditiously verify the accuracy of the transcription. The original recording must be retained in the court records. The peace officer making the recording shall secure a copy of the recording and transcription of the recording in the same manner as other evidence is secured. (4) (a) For a search warrant issued electronically, the applicant shall transmit to the judge an electronic record that is capable of being retained by the judge at the time the following are received: (i) the application with an electronic signature that is attached to or logically associated with the application; and (ii) as soon as possible after issuance, a copy of any warrant a judge signs by electronic signature. (b) The electronic record transmitted pursuant to this subsection (4) must include the date and time of transmission and be retained in the court records. (5) (a) If the judge approves a warrant over the telephone, the peace officer serving the warrant shall sign the search warrant in the officer's own name and in the judge's name. The peace officer signing the judge's name shall initial the judge's name indicating the signature was authorized by the judge but signed by the officer. (b) If the judge signs the warrant by electronic signature, the peace officer serving the warrant shall initial the electronic signatures of the peace officer and the judge to indicate that the signatures were made electronically in accordance with this section. (6) Any search warrant issued by telephone must be signed by the issuing judge or the judge's successor as soon as possible after it has been issued. (7) An electronically issued warrant may not be challenged in a proceeding on the basis that either the copy of an application that is electronically made or the copy of a warrant a judge signs by electronic signature is improper if the electronic record is retained in the court records as either: (a) an electronic record in accordance with 30-18-111; or (b) a printed copy of an electronic record properly transmitted in accordance with subsection (4). History: En. Sec. 51, Ch. 800, L. 1991; amd. Sec. 1, Ch. 434, L. 2007; amd. Sec. 1, Ch. 428, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-223. To whom search warrant directed

46-5-223. To whom search warrant directed. A search warrant must be directed to a specific peace officer commanding the officer to search for and seize the evidence, contraband, or person designated in the warrant. History: En. Sec. 52, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-224. What may be seized with search warrant

46-5-224. What may be seized with search warrant. A warrant may be issued under this section to search for and seize any: (1) evidence, including blood samples that may yield evidence of any measured amount or detected presence of alcohol or drugs in a person's body when subjected to testing; (2) contraband; or (3) person for whose arrest there is probable cause, for whom there has been a warrant of arrest issued, or who is unlawfully restrained. History: En. 95-705 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-705; amd. Sec. 53, Ch. 800, L. 1991; Sec. 46-5-203, MCA 1989; redes. 46-5-224 by Code Commissioner, 1991; amd. Sec. 1, Ch. 283, L. 2011.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-225. When warrant may be served

46-5-225. When warrant may be served. The warrant may be served at any time of the day or night. The warrant must be served within 10 days from the time of issuance. Any warrant not served within 10 days is void and must be returned to the court or the judge issuing the warrant and identified as "not served". History: En. 95-711 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-711; amd. Sec. 59, Ch. 800, L. 1991; Sec. 46-5-207, MCA 1989; redes. 46-5-225 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-226. Service of search warrant

46-5-226. Service of search warrant. A search warrant must in all cases be served by the peace officer specifically named and by no other person except in aid of the officer when the officer is present and acting in its service. History: En. 95-707 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-707; amd. Sec. 54, Ch. 800, L. 1991; Sec. 46-5-205, MCA 1989; redes. 46-5-226 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-227. Service and return of search warrant

46-5-227. Service and return of search warrant. Service of a search warrant is made by exhibiting the original warrant or a duplicate original warrant at the place or to the person to be searched. The officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the search warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. Failure to leave a copy and receipt may not render the property seized inadmissible at trial. History: En. 95-708 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-708; amd. Sec. 55, Ch. 800, L. 1991; Sec. 46-5-206, MCA 1989; redes. 46-5-227 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 2. Search Warrants 46-5-228.

Procedures assisting in execution of service of search warrant

46-5-228. Procedures assisting in execution of service of search warrant.(1) All necessary and reasonable force may be used to serve a search warrant or to effect an entry into any building, property, or object to serve a search warrant, but any restraint or detention of the person served must be in the least restrictive manner that is consistent with the safety of the person serving the warrant and anyone assisting that person. (2) The person serving the search warrant may reasonably detain and search any person on the premises being searched at the time of the search, but must do so in the least restrictive manner that is consistent with the safety of the person serving the warrant and anyone assisting that person. The search of persons on the premises is: (a) for protection of the person serving the warrant and anyone assisting that person; or (b) to prevent the disposal or concealment of any evidence, contraband, or persons particularly described in the warrant. History: (1)En. 95-709 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-709; amd. Sec. 56, Ch. 800, L. 1991; Sec. 46-5-208, MCA 1989; redes. 46-5-228(1) by Code Commissioner, 1991; (2)En. 95-710 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-710; amd. Sec. 57, Ch. 800, L. 1991; Sec. 46-5-209, MCA 1989; redes. 46-5-228(2) by Code Commissioner, 1991; amd. Sec. 1, Ch. 153, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-301. Return

46-5-301. Return.(1) A return must be made promptly and must be accompanied by a written inventory of any evidence or contraband taken, verified by the person serving the warrant. The return must be made before the judge who issued the warrant or, if the judge is absent or unavailable, before the nearest available judge. (2) The judge shall, upon request, deliver a copy of the inventory and the order of custody or disposition to the person from whom or from whose premises the property was taken and to the applicant for the warrant. (3) The judge shall enter an order providing for the custody or appropriate disposition of the evidence or contraband seized pending further proceedings. History: En. 95-712 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-712; amd. Sec. 58, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-303. Renumbered 46-5-311

46-5-303. Renumbered 46-5-311. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-304. Renumbered 46-5-312

46-5-304. Renumbered 46-5-312. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-305. Disposition of unclaimed property

46-5-305. Disposition of unclaimed property.If property seized as evidence is not claimed within 6 months of completion of the case for which it was seized, it must be disposed of pursuant to the provisions of 46-5-306 through 46-5-309. History: En. 95-716 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-716; amd. Sec. 4, Ch. 116, L. 1979; amd. Sec. 5, Ch. 348, L. 1989.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-306. Purpose

46-5-306. Purpose.The purpose of 46-5-306 through 46-5-309 is to provide a procedure by which physical evidence in criminal cases may be destroyed or appropriated for law enforcement use when prosecutions have been completed and no further legal proceeding is contemplated or when it does not appear that criminal charges will be initiated. History: En. Sec. 1, Ch. 348, L. 1989.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-307. Petition for destruction, disposal, or use of evidence

46-5-307. Petition for destruction, disposal, or use of evidence.(1) For a case filed in district court, the prosecutor may file a petition with the court alleging that there exist certain items held as evidence either by the law enforcement agency or the court and that the items no longer have any evidentiary value. The petition must include: (a) the name and title of the petitioner; (b) the items of evidence sought to be destroyed, disposed of, or used, including a specific description of each that may be attached to the petition by separate inventory; (c) when the items were seized; (d) whether the items constitute contraband, which for the purposes of 46-5-306 through 46-5-309 means any property that is unlawful to produce or possess; (e) whether the items relate to a filed case and, if so, the court and cause number of the case and its procedural status; (f) whether, in those instances in which the items are not contraband, an effort has been made to return the items to the apparent owner and the results of the effort; (g) an allegation to the effect that any criminal prosecutions involving the items of evidence have been completed and no appeals are pending or that no criminal charges have been filed or are presently contemplated; and (h) the petitioner's intentions relative to disposition of the items. (2) If the petition required under subsection (1) requests the destruction or use of contraband, it must describe how destruction is to be accomplished or how the contraband has training or law enforcement value and its contemplated use by a law enforcement agency. (3) The petitioner shall provide a victim of the offense with a copy of the petition required under subsection (1) at the

victim's last-known address and shall advise the court whether the victim wishes to be heard on the petition. It is the duty of the victim to provide the law enforcement agency, court, or prosecuting attorney's office with the victim's current contact information. (4) (a) For a case filed in a court of limited jurisdiction, the owner of property seized in connection with a criminal charge shall contact the prosecuting attorney's office within 6 months of the conclusion of the case, including appeal, to claim the property. (b) An owner who fails to contact the prosecuting attorney's office within 6 months after the conclusion of the case surrenders the property to the seizing or holding agency and forfeits any right to the property. (c) If an owner claiming property demonstrates proof of ownership and the prosecuting attorney determines the property is no longer needed for the prosecution of the case, the property must be returned to the claiming owner. History: En. Sec. 2, Ch. 348, L. 1989; amd. Sec. 2, Ch. 186, L. 1997; amd. Sec. 3, Ch. 295, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-308. Order

46-5-308. Order. (1) The court may enter an order providing for the destruction or disposition of the evidence. If a victim of the offense wishes to be heard on the petition, the court shall schedule a hearing on the petition and shall allow the victim to be heard in open court. The court shall consider the victim's statements prior to issuing an order under this section. A proposed order must be presented by the petitioner to the court and may include: (a) authorization to destroy all contraband listed in the petition, the method of destruction, and the time within which the destruction must be accomplished; (b) if certain contraband is requested by the petitioner for training or law enforcement purposes, authorization to use the items and a description of each; (c) if the petition requests training or law enforcement use of noncontraband items, authorization to retain the items by the law enforcement agency and a description of the items; (d) if the evidence is money and the owner cannot be ascertained and no civil forfeiture action is pending, authorization to deposit the money to the appropriate city, county, or state drug forfeiture fund; (e) if the petition requests, authorization to sell noncontraband property at public sale or auction and to deposit the proceeds to the appropriate city, county, or state drug forfeiture fund; or (f) authorization to destroy all items not otherwise provided for. (2) The order must specify the time period in which destruction or sale must occur. Within 10 days following the destruction or sale, a return must be filed with the court, listing the property destroyed or sold and the date and method of disposition. History: En. Sec. 3, Ch. 348, L. 1989; amd. Sec. 3, Ch. 186, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-309. Applicability of other statutes

46-5-309. Applicability of other statutes. The provisions of Title 70, chapter 9, relating to the disposition of unclaimed or abandoned property, do not apply to actions filed pursuant to 46-5-306 through 46-5-309. History: En. Sec. 4, Ch. 348, L. 1989.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-310. Filing of return

46-5-310. Filing of return. (1) The application on which the warrant is issued must be retained by the judge but is not required to be filed with the clerk of the court or with the court, if there is no clerk, until the warrant has been served or has been returned "not served". (2) The judge before whom the warrant is returned shall attach to the warrant a copy of the return, the inventory, and all other papers in connection with the warrant and shall file them with the issuing court. History: En. 95-706 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-706; amd. Sec. 60, Ch. 800, L. 1991; Sec. 46-5-204, MCA 1989; redes. 46-5-310 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-311. Custody and disposition -- seizure without search warrant

46-5-311. Custody and disposition -- seizure without search warrant. (1) Evidence or contraband lawfully seized without a warrant may be retained in the custody of the officer making the seizure for a time sufficient to complete an investigation. (2) Notice of the seizure and a receipt for the evidence or contraband seized must be given to the person from whose possession the evidence or contraband was taken and to the owner of the evidence or contraband if the owner is reasonably ascertainable. The failure to give a receipt may not render the evidence seized inadmissible at trial. History: En. 95-714 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-714; amd. Sec. 61, Ch. 800, L. 1991; Sec. 46-5-303, MCA 1989; redes. 46-5-311 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-312. Return of property seized -- right to possess

46-5-312. Return of property seized -- right to possess. (1) A person claiming the right to possession of property seized as evidence may apply to the judge for its return. The judge shall give written notice as the judge considers adequate to the prosecutor and all persons who have or may have an interest in the property and shall hold a hearing to determine the right to possession. (2) If the right to possession is established, the judge shall order the property, other than contraband, returned if: (a) the property is not needed as evidence; (b) the property is needed and satisfactory arrangements can be made for its return for subsequent use as evidence; or (c) all proceedings in which the property might be required have been completed. History: En. 95-715 by Sec. 1, Ch. 196, L. 1967;

R.C.M. 1947, 95-715; amd. Sec. 62, Ch. 800, L. 1991; Sec. 46-5-304, MCA 1989; redes. 46-5-312 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 3. Procedure in Regard to Property Seized 46-5-313. Firearm not to be destroyed

46-5-313. Firearm not to be destroyed. If a firearm possessed by a law enforcement agency was not purchased by the agency for agency use, if it is legal for a private person to own and possess the firearm, and if the legal owner cannot be determined by the agency, the agency may not destroy the firearm and shall sell the firearm to a licensed dealer. The proceeds of the sale must be deposited in the general fund of the governmental entity of which the agency is a part. History: En. Sec. 5, Ch. 332, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 4. Stop and Frisk 46-5-401. Investigative stop and frisk

46-5-401. Investigative stop and frisk. (1) In order to obtain or verify an account of the person's presence or conduct or to determine whether to arrest the person, a peace officer may stop any person or vehicle that is observed in circumstances that create a particularized suspicion that the person or occupant of the vehicle has committed, is committing, or is about to commit an offense. If the stop is for a violation under Title 61, unless emergency circumstances exist or the officer has reasonable cause to fear for the officer's own safety or for the public's safety, the officer shall as promptly as possible inform the person of the reason for the stop. (2) A peace officer who has lawfully stopped a person or vehicle under this section may: (a) request the person's name and present address and an explanation of the person's actions and, if the person is the driver of a vehicle, demand the person's driver's license and the vehicle's registration and proof of insurance; and (b) frisk the person and take other reasonably necessary steps for protection if the officer has reasonable cause to suspect that the person is armed and presently dangerous to the officer or another person present. The officer may take possession of any object that is discovered during the course of the frisk if the officer has probable cause to believe that the object is a deadly weapon until the completion of the stop, at which time the officer shall either immediately return the object, if legally possessed, or arrest the person. (3) A peace officer acting under subsection (2) while the peace officer is not in uniform shall inform the person as promptly as possible under the circumstances and in any case before questioning the person that the officer is a peace officer. History: En. 95-719 by Sec. 4, Ch. 513, L. 1973; amd. Sec. 8, Ch. 184, L. 1977; R.C.M. 1947, 95-719(1) thru (3); amd. Sec. 42, Ch. 800, L. 1991; amd. Sec. 1, Ch. 343, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 4. Stop and Frisk 46-5-403. Duration of stop

46-5-403. Duration of stop. A stop authorized by 46-5-401 or 46-6-411 may not last longer than is necessary to effectuate the purpose of the stop. History: En. Sec. 44, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 5. Roadblocks 46-5-502. Authority to establish temporary roadblocks

46-5-502. Authority to establish temporary roadblocks. (1) A law enforcement agency of this state is authorized to establish, within its jurisdiction, temporary roadblocks on the highways of this state to: (a) apprehend persons known to be wanted for a violation of the laws of this state, of any other state, or of the United States; (b) except as provided in 7-33-2212, respond to an active emergency; or (c) respond to or mitigate conditions in areas 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. (2) During a temporary roadblock, verification of a valid driver's license, vehicle registration, and insurance may be required. (3) In the course of conducting a roadblock under subsection (1)(c), a law enforcement officer may not issue a ticket, citation, or summons for a secondary offense. (4) For purposes of this section, the following definitions apply: (a) "Active emergency" means an incident that threatens public safety, health, or welfare and requires immediate action. (b) "Secondary offense" means a violation of an offense, including a violation of 61-13-103, for which a law enforcement officer may only issue a ticket, citation, or summons after the driver has already been stopped for a violation of another offense. History: En. 95-618 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 1, Ch. 18, L. 1971; R.C.M. 1947, 95-618(b); amd. Sec. 45, Ch. 800, L. 1991; amd. Sec. 1, Ch. 86, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 5. Roadblocks 46-5-506. through 46-5-509 reserved

46-5-506 through 46-5-509 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 5. Roadblocks 46-5-510. Establishing temporary roadblock -- plan required -- exception

46-5-510. Establishing temporary roadblock -- plan required -- exception. (1) A written plan for establishing a temporary roadblock pursuant to 46-5-502(1)(c) must: (a) be designed by the law enforcement agency to ensure motorist safety, minimize motorist inconvenience, and prevent the arbitrary selection of vehicles by providing a schedule for the selection of vehicles to be stopped; (b) be approved in advance of conducting the roadblock by supervisory officers within the law enforcement agency; (c) ensure that a temporary roadblock is minimally intrusive and does not allow for unconstrained discretion by law enforcement agents performing

the roadblock; and (d) include: (i) the purpose of the temporary roadblock; (ii) the location, date, and time at which the temporary roadblock will be conducted; (iii) the pattern sequence of vehicles to be stopped; (iv) a drawing that shows how the temporary roadblock will be established; (v) a copy of the public service announcement to be used to advertise the temporary roadblock; and (vi) the names of the media to be notified of the temporary roadblock. (2) All major media outlets in the area where the temporary roadblock is to be performed must be notified at least 48 hours prior to the scheduled temporary roadblock. (3) This section does not apply to a roadblock established by a law enforcement agency pursuant to 46-5-502(1)(a) or (1)(b). (4) The department of justice may adopt rules to implement the provisions of this part. History: En. Sec. 46, Ch. 800, L. 1991; amd. Sec. 2, Ch. 86, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-601. Definitions

46-5-601. Definitions. As used in this part, the following definitions apply: (1) "Contents" means any information concerning the substance, purport, or meaning of a communication. (2) (a) "Electronic communication" means: (i) any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted or stored in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system; or (ii) any aural transfer made or stored in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other similar connection between the point of origin and the point of reception, including but not limited to the use of the wire, cable, or other similar connection in a switching station. (b) The term does not include: (i) an oral communication uttered by a person exhibiting an expectation that the communication is not subject to interception under circumstances justifying the expectation; (ii) a communication made through a tone-only paging device; (iii) a communication from a tracking device, including an electronic or mechanical device that permits the tracking of the movement of a person or object; or (iv) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds. (3) "Electronic communication service" means: (a) a service that provides to users the ability to send or receive electronic communications; (b) a service that provides to users computer storage or processing services; or (c) a service that acts as an intermediary in the transmission of electronic communications. (4) "Governmental entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency. (5) (a) "Subscriber record" means a record of or information about an electronic communication service or remote computing service that reveals the subscriber's or customer's: (i) name; (ii) address; (iii) local and long-distance telephone connection record or record of session time and duration; (iv) length of service, including start date; (v) type of service used; (vi) telephone number, instrument number, or other subscriber or customer number or identification, including a temporarily assigned network address; and (vii) means and source of payment for the service. (b) The term does not include customer proprietary network information as defined in 47 U.S.C. 222(h)(1). History: En. Sec. 1, Ch. 246, L. 2017; amd. Sec. 1, Ch. 361, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-602. Search warrant or investigative subpoena required

46-5-602. Search warrant or investigative subpoena required. (1) A governmental entity may only require disclosure of an electronic communication stored, held, maintained, or transmitted by an electronic communication service other than a subscriber record pursuant to a search warrant or investigative subpoena issued by a court upon a finding of probable cause pursuant to Title 46, chapter 5, part 2, or Title 46, chapter 4, part 3. (2) The electronic communications collected under this section must be deleted after the conclusion of the criminal investigation, postconviction and after all appeals have been exhausted, or in accordance with data retention requirements under the law. (3) The warrant and investigative subpoena requirements of this section do not apply to the electronic communications of adults or youth currently incarcerated in a correctional facility. History: En. Sec. 2, Ch. 246, L. 2017; amd. Sec. 2, Ch. 361, L. 2021.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-603. and 46-5-604 reserved

46-5-603 and 46-5-604 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-605. Notice -- delayed notice

46-5-605. Notice -- delayed notice. (1) At or before the time that a governmental entity receives the contents of an electronic communication of a subscriber or customer from a provider of an electronic communication service pursuant to 46-5-602, the governmental entity shall serve upon or deliver to the subscriber or customer by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective, as specified by the court issuing the warrant or investigative subpoena: (a) a copy of the warrant or investigative subpoena; and (b) notice that informs the subscriber or customer: (i) of the nature of the government inquiry with reasonable specificity; (ii) that information maintained for the subscriber or customer by the provider of the electronic communication service named in the process or request was supplied to or requested by the governmental entity; and (iii) of the date on which the warrant or investigative subpoena was served on the provider. (2) (a) A governmental entity that is seeking a warrant or investigative subpoena under 46-5-602 may include in the application for the warrant or investigative subpoena a request for an

order delaying the notification required under subsection (1) of this section for a period of not more than 1 year. (b) A governmental entity that is obtaining the contents of an electronic communication may apply to a court for an order directing the provider of an electronic communication service to which a warrant or investigative subpoena under 46-5-602 is directed not to notify any other person of the existence of the warrant or investigative subpoena for a period of not more than 1 year. (c) A court shall grant a request for delayed notification made under subsection (2)(a) or (2)(b) if the court determines that there is reason to believe that notification of the existence of the warrant or investigative subpoena may result in: (i) endangering the life or physical safety of an individual; (ii) flight from prosecution; (iii) destruction or tampering with evidence; (iv) intimidation of potential witnesses; or (v) otherwise seriously jeopardizing an investigation or unduly delaying a trial. (d) Upon request by a governmental entity, a court may grant one or more extensions of the delay of notification granted under subsection (2)(c) of not more than 180 days each. (e) Upon expiration of the period of delay under subsection (2)(c) or (2)(d), the governmental entity shall serve upon or deliver to the subscriber or customer by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective, as specified by the court issuing the warrant or investigative subpoena, a notice that: (i) includes the information referred to in subsection (1); and (ii) informs the subscriber or customer: (A) that notification of the subscriber or customer was delayed; (B) of the identity of the court authorizing the delay; and (C) of the provision of subsection (2)(c) under which the delay was authorized. (3) (a) A warrant or investigative subpoena under 46-5-602 may be served only on a provider of an electronic communication that is a domestic entity or a company or entity otherwise doing business in this state under a contract or a terms of service agreement with a resident of this state if any part of that contract or agreement is to be performed in this state. (b) The provider of an electronic communication shall produce all electronic customer data, contents of communications, and other information sought by the governmental entity pursuant to a valid warrant or investigative subpoena. History: En. Sec. 3, Ch. 246, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-606. Rules of construction

46-5-606. Rules of construction. (1) Except as expressly provided, nothing in this part may be construed to limit an electronic communication service or any other party from disclosing information about a request issued by a governmental entity for electronic communication information. (2) Nothing in 46-5-602 and 46-5-605 may be construed to limit the authority of a governmental entity to use a subpoena authorized under the laws of this state to require an entity that provides electronic communication services to its own officers, directors, employees, or agents for the purpose of carrying out their duties to disclose to the governmental entity the contents of an electronic communication to or from an officer, director, employee, or agent of the entity if the electronic communication is held, stored, or maintained on an electronic communication service owned or operated by the entity. (3) Nothing in this part may be construed to limit a governmental entity's ability to use, maintain, or store information on its own electronic communication service or to disseminate information stored on its own electronic communication service. History: En. Sec. 4, Ch. 246, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-607. Admissibility of proof -- violations

46-5-607. Admissibility of proof -- violations. (1) Except as proof of a violation of this part, evidence obtained in violation of this part is not admissible in a civil, criminal, or administrative proceeding and may not be used in an affidavit in an effort to obtain a search warrant or court order. (2) The attorney general may apply for an injunction or commence a civil action against any governmental entity to compel compliance with the terms of this part. History: En. Sec. 5, Ch. 246, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-608. through 46-5-611 reserved

46-5-608 through 46-5-611 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-612. Standing to challenge warrant or investigative subpoena

46-5-612. Standing to challenge warrant or investigative subpoena. Providers of an electronic communication service subject to a warrant or other legal process under this part have standing to challenge a warrant or other legal process that is inconsistent with this part, any other statute or law, or the state or federal constitution. History: En. Sec. 6, Ch. 246, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-613. No cause of action against providers

46-5-613. No cause of action against providers. No cause of action shall lie in any court against any provider of an electronic communication service, its officers, employees, or agents, or other specified persons for providing information or assistance in accordance with the terms of this part. History: En. Sec. 7, Ch. 246, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 5. Search and Seizure Part 6. Electronic Communications 46-5-614. Voluntary disclosure of electronic communications

46-5-614. Voluntary disclosure of electronic communications.Nothing in this part prohibits the voluntary disclosure of electronic communication information by a provider of an electronic communication service or any other entity when the disclosure is not otherwise prohibited by law, including but not limited to when: (1) the provider first obtains the lawful consent of the subscriber or customer, the originator, an addressee, or the intended recipient of the electronic communication; or (2) the provider, in good faith, believes that an emergency involving danger, death, or serious physical injury to a person requires disclosure without delay of communications relating to the emergency. History: En. Sec. 8, Ch. 246, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 1. General Provisions 46-6-102. Persons exempt from arrest

46-6-102. Persons exempt from arrest.(1) Electors shall in all cases except treason, felony, or breach of the peace be privileged from arrest during their attendance at election and in going to and returning from the same. (2) Senators and representatives shall in all cases except felony or breach of the peace be privileged from arrest during the sessions of the state legislature and in going to and returning from the same. (3) The militia shall in all cases except treason, felony, or breach of the peace be privileged from arrest during their attendance at musters and election and in going to and returning from the same. (4) Judges, attorneys, clerks, sheriffs, and other court officers shall be privileged from arrest while attending court and while going to and returning from court. History: En. 95-616 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-616.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 1. General Provisions 46-6-104. Method of arrest

46-6-104. Method of arrest.(1) An arrest is made by an actual restraint of the person to be arrested or by the person's submission to the custody of the person making the arrest. (2) All necessary and reasonable force may be used in making an arrest, but the person arrested may not be subject to any greater restraint than is necessary to hold or detain that person. (3) All necessary and reasonable force may be used to effect an entry into any building or property or part thereof to make an authorized arrest. History: En. 95-602 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-602; amd. Sec. 34, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 1. General Provisions 46-6-105. Time of making arrest

46-6-105. Time of making arrest.An arrest may be made at any time of the day or night, except that a person may not be arrested in the person's home or private dwelling place at night for a misdemeanor committed at some other time and place unless upon the direction of a judge endorsed upon an arrest warrant. However, a person may be arrested in the person's home or private dwelling at night if the person is being arrested pursuant to 46-6-311 for the offense of partner or family member assault. History: En. 95-607 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-607; amd. Sec. 4, Ch. 700, L. 1985; amd. Sec. 35, Ch. 800, L. 1991; amd. Sec. 13, Ch. 350, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 1. General Provisions 46-6-106. Renumbered 46-6-312

46-6-106. Renumbered 46-6-312.Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 1. General Provisions 46-6-107. Miranda warning prior to custodial interrogation

46-6-107. Miranda warning prior to custodial interrogation.Before interrogating a person who is in custody, a peace officer shall inform the person that the person has the right to remain silent, that anything the person says can be used against the person in a court of law, that the person has the right to speak to an attorney and to have an attorney present during any questioning, and that if the person cannot afford an attorney, one will be provided for the person at no cost to the person. A person who is stopped under 46-5-401 is not in custody unless the stop goes beyond the purposes of that section. History: En. Sec. 1, Ch. 142, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-201. Issuance of arrest warrant upon complaint

46-6-201. Issuance of arrest warrant upon complaint.If it appears from the contents of the complaint and the examination of the complainant and from the examination of other witnesses or affidavits, if any, that there is probable cause to believe that the person against whom the complaint was made has committed an offense, a warrant shall be issued by the court for the arrest of the person complained against. The court, in its discretion, may issue a summons instead of a warrant. Upon the request of the prosecutor, the court shall issue a summons instead of a warrant. More than one warrant or summons may issue on the same complaint. History: En. 95-603 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 6, Ch. 184, L. 1977; R.C.M. 1947, 95-603(1) thru (3); amd. Sec. 4, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-202. Renumbered 46-6-214 and 46-6-215

46-6-202. Renumbered 46-6-214 and 46-6-215.Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-203. Renumbered 46-6-216

46-6-203. Renumbered 46-6-216. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-204. Minor irregularities in warrant

46-6-204. Minor irregularities in warrant. No warrant of arrest shall be dismissed nor shall any person in custody for an offense be discharged from such custody because of technical irregularities not affecting the substantial rights of the accused. History: En. 95-605 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-605.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-205. through 46-6-209 reserved

46-6-205 through 46-6-209 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-210. Arrest by peace officer

46-6-210. Arrest by peace officer. A peace officer may arrest a person when the officer has a warrant commanding that the person be arrested or when the officer believes on reasonable grounds: (1) that a warrant for the person's arrest has been issued in this state, except that unless otherwise provided by law, a warrant for violation of a city ordinance may not be acted upon unless the person is located within the limits of the city in which the violation is alleged to have occurred; or (2) that a felony warrant for the person's arrest has been issued in another jurisdiction. History: En. 95-608 by Sec. 1, Ch. 196, L. 1967; amd. Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; R.C.M. 1947, 95-608; amd. Sec. 5, Ch. 700, L. 1985; amd. Sec. 28, Ch. 800, L. 1991; Sec. 46-6-401, MCA 1989; redes. 46-6-210 by Code Commissioner, 1991; amd. Sec. 5, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-211. Issuance of arrest warrant or summons

46-6-211. Issuance of arrest warrant or summons. (1) Upon the filing of a charge, the court may issue a summons or an arrest warrant as provided in 46-11-201. A summons may be issued to a corporation upon the filing of a charge against it. More than one warrant or summons may be issued on the same charge. (2) A summons may be served personally or by first-class mail. History: En. Sec. 29, Ch. 800, L. 1991; amd. Sec. 198, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-212. Failure to appear following summons or notice to appear

46-6-212. Failure to appear following summons or notice to appear. (1) If, after the issuance of a summons or notice to appear, the judge becomes satisfied that the person has not appeared or will not appear as commanded, the judge may at once issue an arrest warrant. (2) If after being summoned the corporation does not appear, a plea of not guilty must be entered in accordance with 46-12-204 and the matter must proceed to trial and judgment without further process. History: (1) En. 95-613 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-613; amd. Sec. 26, Ch. 800, L. 1991; Sec. 46-6-303, MCA 1989; redes. 46-6-212(1) by Code Commissioner, 1991; (2) En. 95-615 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-615; amd. Sec. 27, Ch. 800, L. 1991; Sec. 46-6-304, MCA 1989; redes. 46-6-212(2) by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-213. Form and content of summons

46-6-213. Form and content of summons. (1) When authorized to issue an arrest warrant, a court may instead issue a summons. (2) A summons may be served personally or by first-class mail. (3) The summons must: (a) be in writing in the name of the state of Montana or in the name of the municipality if the violation of a municipal ordinance is charged; (b) state the name of the person summoned and that person's address, if known; (c) set forth the nature of the offense; (d) state the date when issued and the municipality or county where issued; (e) be signed by the judge of the court with the title of office noted; and (f) command the person to appear before a court at a certain time and place. (4) The summons must plainly state that, upon failure to appear following the service of summons, an arrest warrant must be issued immediately or, if the service is made to a corporation, that a plea of not guilty will be entered. History: En. 95-612 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-612(b); amd. Sec. 25, Ch. 800, L. 1991; Sec. 46-6-302, MCA 1989; redes. 46-6-213 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-214. Form and content of arrest warrant

46-6-214. Form and content of arrest warrant. (1) An arrest warrant must: (a) be in writing in the name of the state of Montana or in the name of a municipality if a violation of a municipal ordinance is charged; (b) set forth the nature of the offense; (c) command that the person against whom the complaint was made be arrested and brought before the nearest or most accessible court for an

initial appearance; (d) specify the name of the person to be arrested or, if that person's name is unknown, designate the person by any name or description by which the person can be identified with reasonable certainty; (e) state the date when issued and the municipality or county where issued; and (f) be signed by the judge of the court with the title of office noted. (2) The arrest warrant may specify the amount of bail. History: En. 95-603 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 6, Ch. 184, L. 1977; R.C.M. 1947, 95-603(4) thru (6); amd. Sec. 30, Ch. 800, L. 1991; Sec. 46-6-202(1), (2), MCA 1989; redes. 46-6-214 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-215. Execution of warrant

46-6-215. Execution of warrant. An arrest warrant may be directed to all peace officers in the state. It must be executed by a peace officer and may be executed in any county of the state. Arrest warrants issued for the violation of city ordinances may not be executed outside the city limits, except as otherwise provided by law. History: En. 95-603 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 6, Ch. 184, L. 1977; R.C.M. 1947, 95-603(4) thru (6); amd. Sec. 30, Ch. 800, L. 1991; Sec. 46-6-202(3), MCA 1989; redes. 46-6-215 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 2. Arrest With a Warrant 46-6-216. Manner of arrest with warrant

46-6-216. Manner of arrest with warrant. (1) When making an arrest pursuant to a warrant, a peace officer shall inform the person to be arrested of the officer's authority, the intention to arrest that person, the cause of the arrest, and the fact that a warrant has been issued for that person's arrest, except: (a) when the person flees or forcibly resists before the peace officer has an opportunity to inform the person; or (b) when the giving of the information will imperil the arrest. (2) The peace officer need not have possession of the warrant at the time of the arrest, but after the arrest, the warrant must be shown to the person arrested as soon as practicable if the person requests. History: En. 95-604 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-604; amd. Sec. 5, Ch. 116, L. 1979; amd. Sec. 31, Ch. 800, L. 1991; Sec. 46-6-203, MCA 1989; redes. 46-6-216 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-302. Renumbered 46-6-213

46-6-302. Renumbered 46-6-213. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-303. Renumbered 46-6-212 (1)

46-6-303. Renumbered 46-6-212(1). Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-304. Renumbered 46-6-212 (2)

46-6-304. Renumbered 46-6-212(2). Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-305. through 46-6-309 reserved

46-6-305 through 46-6-309 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-310. Notice to appear

46-6-310. Notice to appear. (1) Whenever a peace officer is authorized to arrest a person without a warrant, the officer may instead issue the person a notice to appear. (2) The notice must: (a) be in writing; (b) state the person's name and address, if known; (c) set forth the nature of the offense; (d) be signed by the issuing officer; (e) direct the person to appear before a court at a certain time and place; and (f) state that failure to appear may result in the suspension of the person's driver's license. (3) Upon failure of the person to appear, a summons or arrest warrant may be issued. History: En. 95-614 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-614; amd. Sec. 24, Ch. 800, L. 1991; Sec. 46-6-404, MCA 1989; redes. 46-6-310 by Code Commissioner, 1991; amd. Sec. 1, Ch. 360, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-311. Basis for arrest without warrant -- arrest of predominant aggressor -- no contact order

46-6-311. Basis for arrest without warrant -- arrest of predominant aggressor -- no contact order. (1) A peace officer may arrest a person when a warrant has not been issued if the officer has probable cause to believe that the person is committing an offense or that the person has committed an offense and existing circumstances require immediate arrest. (2) (a) The summoning of a peace officer to a place of residence by a partner or family member constitutes an exigent circumstance for making an arrest. Arrest is the preferred response in partner or family member assault cases involving injury to the victim, use or threatened use of a weapon, violation of a restraining order, or other imminent danger to the victim. (b) When a peace officer responds to a partner or family

member assault complaint and if it appears that the parties were involved in mutual aggression, the officer shall evaluate the situation to determine who is the predominant aggressor. If, based on the officer's evaluation, the officer determines that one person is the predominant aggressor, the officer may arrest only the predominant aggressor. A determination of who the predominant aggressor is must be based on but is not limited to the following considerations, regardless of who was the first aggressor: (i) the prior history of violence between the partners or family members, if information about the prior history is available to the officer; (ii) the relative severity of injuries received by each person; (iii) whether an act of or threat of violence was taken in self-defense; (iv) the relative sizes and apparent strength of each person; (v) the apparent fear or lack of fear between the partners or family members; and (vi) statements made by witnesses. (3) If a judge has issued a standing order as provided in 45-5-209, a peace officer shall give a defendant charged with or arrested for partner or family member assault or a violation of 45-5-202, 45-5-213, or 45-5-215 if the victim is a partner or family member of the defendant, both written and verbal notice of the no contact order issued pursuant to 45-5-209. The notice must include specific conditions as ordered by the court. History: En. Sec. 32, Ch. 800, L. 1991; amd. Sec. 3, Ch. 425, L. 1993; amd. Sec. 14, Ch. 350, L. 1995; amd. Sec. 6, Ch. 484, L. 1997; amd. Sec. 1, Ch. 304, L. 2003; amd. Sec. 2, Ch. 411, L. 2005; amd. Sec. 2, Ch. 328, L. 2015; amd. Sec. 9, Ch. 394, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-312. Manner of arrest without warrant

46-6-312. Manner of arrest without warrant. A peace officer making an arrest without a warrant shall inform the person to be arrested of the officer's authority, of the intention to arrest that person, and of the cause of the arrest, except when the person to be arrested is actually engaged in the commission of or in an attempt to commit an offense or is pursued immediately after its commission, after an escape, or when the giving of the information will imperil the arrest. History: En. 95-606 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-606; amd. Sec. 33, Ch. 800, L. 1991; Sec. 46-6-106, MCA 1989; redes. 46-6-312 by Code Commissioner, 1991; amd. Sec. 6, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 3. Warrantless Arrest and Notice to Appear 46-6-313. Release

46-6-313. Release. When no warrant has been issued, a peace officer having custody of a person arrested may release the arrested person without requiring that person to appear before a court when the officer is satisfied that there are insufficient grounds to commence prosecution. History: En. 95-610 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-610; amd. Sec. 37, Ch. 800, L. 1991; Sec. 46-6-403, MCA 1989; redes. 46-6-313 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-401. Renumbered 46-6-210

46-6-401. Renumbered 46-6-210. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-402. Assisting a peace officer

46-6-402. Assisting a peace officer. (1) A peace officer making a lawful arrest may command the aid of persons 18 years of age or older. (2) A person commanded to aid a peace officer in making an arrest: (a) has the same authority to arrest as that officer; and (b) is not civilly liable for any reasonable conduct in aid of the officer. History: En. 95-609 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 60, Ch. 535, L. 1975; R.C.M. 1947, 95-609; amd. Sec. 38, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-403. Renumbered 46-6-313

46-6-403. Renumbered 46-6-313. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-404. Renumbered 46-6-310

46-6-404. Renumbered 46-6-310. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-405. through 46-6-410 reserved

46-6-405 through 46-6-410 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-411. Assisting officer of another state

46-6-411. Assisting officer of another state. (1) Any peace officer of another state, of the United States, or of the District of Columbia who enters this state in close pursuit of a person in order to arrest the person has the same authority to arrest and hold the person in custody as peace officers of this state have to arrest and hold in custody a person on the ground that the person has

committed a crime in this state. (2) If an arrest is made in this state by an officer of another state, of the United States, or of the District of Columbia, the officer shall without unnecessary delay take the arrested person before a judge of a court of record, who shall conduct a hearing for the sole purpose of determining if the arrest was in accordance with the provisions of subsection (1) and not for the purpose of determining the guilt or innocence of the arrested person. (3) If the judge determines that the arrest was in accordance with subsection (1), the judge shall commit the arrested person to the custody of the officer making the arrest, who shall without unnecessary delay take the arrested person to the state from which that person fled. If the judge determines that the arrest was unlawful, the judge shall discharge the person arrested. (4) This section may not be construed to make unlawful any arrest in this state that would otherwise be lawful. History: En. 95-619 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-619(part); amd. Sec. 39, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-412. Arrest by United States customs and border protection officer or immigration and customs enforcement officer

46-6-412. Arrest by United States customs and border protection officer or immigration and customs enforcement officer. A United States customs and border protection officer or immigration and customs enforcement officer may make an arrest without a warrant if the officer is on duty and one or more of the following situations exist: (1) A person commits or attempts to commit an offense in the officer's presence. (2) The officer believes on reasonable grounds that the person is committing an offense or that the person committed an offense and the circumstances require the person's immediate arrest. (3) The officer believes on reasonable grounds that a warrant for the person's arrest has been issued in this state. (4) The officer believes on reasonable grounds that a felony warrant for the person's arrest has been issued in another jurisdiction. History: En. Sec. 1, Ch. 107, L. 1983; amd. Sec. 1736, Ch. 56, L. 2009; amd. Sec. 25, Ch. 19, L. 2011.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-413. through 46-6-419 reserved

46-6-413 through 46-6-419 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-420. Arrest, citation, or stop quotas prohibited

46-6-420. Arrest, citation, or stop quotas prohibited. (1) A state or local government agency employing a peace officer may not adopt and require a peace officer to comply with a quota and may not suggest a quota for arrests, citations, or investigative stops for any criminal offense or class of criminal offenses, including violations of traffic or motor vehicle laws, contained in state law, an administrative rule adopted by an agency of the state government, or a local government ordinance. (2) For purposes of this section, "quota" means a specific number of arrests, citations, or investigative stops. History: En. Sec. 1, Ch. 242, L. 2005; amd. Sec. 5, Ch. 244, L. 2007.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-421. Renumbered 46-6-601

46-6-421. Renumbered 46-6-601. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 4. Arrest by a Peace Officer 46-6-422. Renumbered 46-6-602

46-6-422. Renumbered 46-6-602. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 5. Arrest by a Private Person 46-6-502. Arrest by private person

46-6-502. Arrest by private person. (1) A private person may arrest another when there is probable cause to believe that the person is committing or has committed an offense and the existing circumstances require the person's immediate arrest. The private person may use reasonable force to detain the arrested person. (2) A private person making an arrest shall immediately notify the nearest available law enforcement agency or peace officer and give custody of the person arrested to the officer or agency. History: En. 95-611 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 3, Ch. 274, L. 1974; R.C.M. 1947, 95-611(part); amd. Sec. 40, Ch. 800, L. 1991; amd. Sec. 8, Ch. 332, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 5. Arrest by a Private Person 46-6-505. Custody by peace officer

46-6-505. Custody by peace officer. A peace officer who, pursuant to law, takes custody of a person arrested by a private citizen shall proceed in accordance with 46-6-104 and 46-6-312 and as otherwise provided by law. History: En. Sec. 41, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 5. Arrest by a Private Person 46-6-506. Temporary detention by merchant -- liability

46-6-506. Temporary detention by merchant -- liability.(1) A merchant, as defined in 30-11-301, who has reason to believe that a person has committed or is in the process of committing the offense of theft may stop and temporarily detain that person. The merchant: (a) shall promptly inform the person that the stop is for investigation of shoplifting and that upon completion of the investigation, the person will be released or turned over to the custody of a peace officer; (b) may demand the person's name and present or last address and question the person in a reasonable manner for the purpose of ascertaining whether or not the person is guilty of shoplifting; (c) may take into possession any merchandise for which the purchase price has not been paid and that is in the possession of the person or has been concealed from full view; and (d) may detain the person or request the person to remain on the premises until a peace officer arrives. (2) A stop, detention, questioning, or recovery of merchandise under this section must be done in a reasonable manner and time. Unless evidence of concealment is obvious and apparent to the merchant, this section does not authorize a search of the detained person other than a search of the person's coat or other outer garments and any package, bag, or other container. After the purpose of a stop has been accomplished or 30 minutes have elapsed, whichever occurs first, the merchant shall allow the person to go unless the person is arrested and turned over to the custody of a peace officer. (3) A merchant stopping, detaining, or arresting a person on the belief that the person is shoplifting is not liable for damages to the person unless the merchant acts in a manner contrary to this section. (4) As used in this section, the following definitions apply: (a) "Concealment" means any act or deception done purposely or knowingly upon or outside the premises of a wholesale or retail store or other mercantile establishment, with the intent to deprive the merchant of all or part of the value of the merchandise. The following acts or deceptive conduct is prima facie evidence of concealment: (i) concealing merchandise upon the person or in a container or otherwise removing merchandise from full view while upon the premises; (ii) removing, changing, or altering a price tag; (iii) transferring or moving any merchandise upon the premises to obtain a lower price than the merchandise was offered for sale for by the merchant; or (iv) abandoning or disposing of any merchandise in such a manner that the merchant will be deprived of all or part of the value of the merchandise. (b) "Shoplifting" means the theft of any goods offered for sale by a wholesale or retail store or other mercantile establishment. History: En. Sec. 1, Ch. 180, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 5. Arrest by a Private Person 46-6-507. Arrest by probation and parole officer or corrections officer

46-6-507. Arrest by probation and parole officer or corrections officer.(1) A probation and parole officer who, while in the course of conducting the officer's duties, has a reasonable suspicion that a person is interfering or will interfere with the officer's duties or has probable cause to believe that the person is committing or has committed an offense may detain the person. The probation and parole officer shall immediately notify the nearest available law enforcement agency or peace officer, and the law enforcement agency or peace officer shall either take the person into custody or release the person. (2) A corrections officer employed by the department of corrections pursuant to 44-4-401(2)(a) who, while in the course of conducting the officer's duties on the property of a state correctional facility for adults or juveniles, has reasonable suspicion to believe a person is committing or has committed a violation of 45-6-203, 45-7-306, or 45-7-307 or is aiding or abetting an offender in violation of 45-6-203, 45-7-306, or 45-7-307, may detain the person. The corrections officer shall immediately notify the nearest available law enforcement agency or peace officer, and the law enforcement agency or peace officer shall either take the person into custody or release the person. History: En. Sec. 4, Ch. 386, L. 2003; amd. Sec. 1, Ch. 469, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 5. Arrest by a Private Person 46-6-508. Arrest by surety bail bond insurance producer

46-6-508. Arrest by surety bail bond insurance producer.(1) A surety bail bond insurance producer who has probable cause to believe that a principal insured by the surety insurer to which the producer is appointed will fail to appear in court, in violation of 46-9-503(2), or has violated a condition of their release, may use reasonable force to arrest and detain the principal only as described in 46-9-510 and this section. The producer shall: (a) except under exigent circumstances, prior to and no more than 6 hours before attempting to apprehend the principal, notify the local police department or sheriff's office of the intent to apprehend the principal in that jurisdiction by telephoning nonemergency dispatch and provide: (i) the name and producer license number of the individual who will be effecting the arrest; and (ii) the name and approximate location of the principal; and (b) immediately after the arrest of the principal, notify the local police department or sheriff's office by telephoning nonemergency dispatch and provide: (i) the name and producer license number of the individual who effected the arrest; (ii) the name of the principal arrested and the description of the location of the arrest; and (iii) if no notification was given under subsection (1)(a), a detailed explanation of the reasons a notification could not be given under subsection (1)(a). (2) As used in this section, the following definitions apply: (a) "Principal" means a defendant or a witness who has been admitted to bail and who is obligated to appear in court as required on penalty of forfeiting bail under a commercial bail bond. (b) "Surety bail bond insurance producer" or "producer" means an insurance producer who is licensed to sell, solicit, or negotiate commercial bail bonds pursuant to Title 33, chapters 17 and 26. History: En. Sec. 3, Ch. 592, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 6. Domestic Violence Provisions 46-6-601. Written report when no arrest made in domestic violence situation

46-6-601. Written report when no arrest made in domestic violence situation. When a peace officer is called to the scene of a reported incident of domestic violence but does not make an arrest, the peace officer shall file a written report with the officer

commanding the law enforcement agency employing the peace officer, setting forth the reason or reasons for the decision. History: En. Sec. 2, Ch. 700, L. 1985; amd. Sec. 36, Ch. 800, L. 1991; Sec. 46-6-421, MCA 1989; redes. 46-6-601 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 6. Domestic Violence Provisions 46-6-602. Notice of rights to victim in partner or family member assault

46-6-602. Notice of rights to victim in partner or family member assault. Whenever a peace officer arrests a person for partner or family member assault, as defined in 45-5-206, or responds to a call in which partner or family member assault is suspected, the officer, outside the presence of the offender, shall advise the victim of the availability of a shelter or other services in the community and give the victim immediate notice of any legal rights and remedies available. The notice must include furnishing the victim with a copy of the following statement: "The city or county attorney's office can file criminal charges against an offender if the offender committed the offense of partner or family member assault. In addition to the criminal charges filed by the state of Montana, you are entitled to the following civil remedies: You may go to court and file a petition requesting any of the following orders for relief: (1) an order of protection that prohibits the offender from threatening to hurt you or hurting you; (2) an order of protection that directs the offender to leave your home and prohibits the offender from having any contact with you; (3) an order of protection that prevents the offender from transferring any property except in the usual course of business; (4) an order of protection that prohibits the offender from being within 1,500 feet or other appropriate distance of you, any named family member, and your worksite or other specified place; (5) an order of protection that gives you possession of necessary personal property; (6) an order of protection that prohibits the offender from possessing or using the firearm used in the assault. If you file a petition in district court, the district court may order all of the above and may award custody of your minor children to you or to the other parent. The district court may order visitation of your children between the parents. The district court may order the offender to pay support payments to you if the offender has a legal obligation to pay you support payments. The forms that you need to obtain an order of protection are at _____. You may call _____ at _____ for additional information about an order of protection. You may file a petition in district court at _____. You may be eligible for restitution payments from the offender (the offender would repay you for costs that you have had to pay as a result of the assault) or for crime victims compensation payments (a fund administered by the state of Montana for innocent victims of crime). You may call _____ at _____ for additional information about restitution or crime victims compensation. If a person has been found guilty of partner or family member assault against you or a partner or family member, as defined in 45-5-206, or has been found guilty of stalking or another offense involving bodily harm or the threat of bodily harm against you or a partner or family member, you may choose to keep your residential address off the list of registered voters by contacting the county election administrator at _____. The following agencies may be able to give you additional information or emergency help. (List telephone numbers and addresses of agencies other than shelters with secret locations and a brief summary of services that are available.)" History: En. Sec. 3, Ch. 700, L. 1985; Sec. 46-6-422, MCA 1989; redes. 46-6-602 by Code Commissioner, 1991; amd. Sec. 4, Ch. 425, L. 1993; amd. Sec. 15, Ch. 350, L. 1995; amd. Sec. 3, Ch. 233, L. 1997.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 6. Arrest Part 6. Domestic Violence Provisions 46-6-603. Partner or family member assault -- seizure of weapon

46-6-603. Partner or family member assault -- seizure of weapon. (1) A peace officer who responds to a call relating to partner or family member assault shall seize the weapon used or threatened to be used in the alleged assault. (2) The responding officer may, as appropriate: (a) take reasonable action necessary to provide for the safety of a victim and any other member of the household; (b) transport or arrange for the transportation of the victim and any other member of the household to a safe location; and (c) assist a victim and any other member of the household to remove necessary personal items. (3) A weapon seized under this section may not be returned to the offender until acquittal or until the return is ordered by the court. History: En. Sec. 19, Ch. 350, L. 1995.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 7. Initial Appearance of Arrested Person Part 1. General Provisions 46-7-101. Appearance of arrested person -- use of two-way electronic audio-video communication

46-7-101. Appearance of arrested person -- use of two-way electronic audio-video communication. (1) A person arrested, whether with or without a warrant, must be taken without unnecessary delay before the nearest and most accessible judge for an initial appearance. (2) A defendant's initial appearance before a judge may, in the discretion of the court, be satisfied either by the defendant's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the defendant and the judge can see each other simultaneously and converse with each other and so that the defendant and the defendant's counsel, if any, can communicate privately. A judge may order a defendant's physical appearance in court for an initial appearance hearing. History: En. 95-901 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-901; amd. Sec. 1, Ch. 710, L. 1991; amd. Sec. 87, Ch. 800, L. 1991; amd. Sec. 1737, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 7. Initial Appearance of Arrested Person Part 1. General Provisions 46-7-102. Duty of court

46-7-102. Duty of court. (1) The judge shall inform the defendant: (a) of the charge or charges against the defendant; (b) of the

defendant's right to counsel; (c) of the defendant's right to have counsel assigned by a court of record in accordance with the provisions of 46-8-101; (d) of the general circumstances under which the defendant may obtain pretrial release; (e) of the defendant's right to refuse to make a statement and the fact that any statement made by the defendant may be offered in evidence at the defendant's trial; (f) that conviction may result in the loss of various rights regarding firearms under state and federal law; and (g) of the defendant's right to a judicial determination of whether probable cause exists if the charge is made by a complaint alleging the commission of a felony. (2) The judge shall admit the defendant to bail as provided by law. History: En. 95-902 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-902(part); amd. Sec. 88, Ch. 800, L. 1991; amd. Sec. 1, Ch. 129, L. 1997; amd. Sec. 1, Ch. 346, L. 1999; amd. Sec. 2, Ch. 309, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 7. Initial Appearance of Arrested Person Part 1. General Provisions 46-7-103. Renumbered 46-10-105

46-7-103. Renumbered 46-10-105. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-101. Right to counsel

46-8-101. Right to counsel. (1) During the initial appearance before the court, every defendant must be informed of the right to have counsel and must be asked if the aid of counsel is desired. (2) Except as provided in subsection (3), if the defendant desires assigned counsel because of financial inability to retain private counsel and the offense charged is a felony or the offense is a misdemeanor and incarceration is a sentencing option if the defendant is convicted, the court shall order the office of state public defender, provided for in 2-15-1029, to assign counsel to represent the defendant without unnecessary delay pending a determination of eligibility under the provisions of 47-1-111. (3) If the defendant desires assigned counsel because of financial inability to retain private counsel and the offense charged is a misdemeanor and incarceration is a sentencing option if the defendant is convicted, during the initial appearance the court may order that incarceration not be exercised as a sentencing option if the defendant is convicted. If the court so orders, the court shall inform the defendant that the assistance of counsel at public expense through the office of state public defender is not available and that time will be given to consult with an attorney before a plea is entered. If incarceration is waived as a sentencing option, a public defender may not be assigned. History: En. 95-1001 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1001; amd. Sec. 1, Ch. 415, L. 1981; amd. Sec. 63, Ch. 800, L. 1991; amd. Sec. 40, Ch. 449, L. 2005; amd. Sec. 2, Ch. 344, L. 2011; amd. Sec. 14, Ch. 358, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-102. Waiver of counsel

46-8-102. Waiver of counsel. A defendant may waive the right to counsel when the court ascertains that the waiver is made knowingly, voluntarily, and intelligently. History: En. 95-1002 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1002; amd. Sec. 2, Ch. 386, L. 1979; amd. Sec. 64, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-103. Duration of assignment

46-8-103. Duration of assignment. (1) When counsel has been assigned, the assignment is effective until final judgment, including any proceeding upon direct appeal to the Montana supreme court, unless relieved by order of the court that assigned counsel or that has jurisdiction over the case. (2) If counsel determines that an appeal would be frivolous or wholly without merit, counsel shall file a motion with the court requesting permission to withdraw. The motion must attest that counsel has concluded that an appeal would be frivolous or wholly without merit after reviewing the entire record and researching applicable statutes, case law, and rules and that the defendant has been advised of counsel's decision and of the defendant's right to file a response. The motion to withdraw must be accompanied by a memorandum discussing any issues that arguably support an appeal. The memorandum must include a summary of the procedural history of the case and any jurisdictional problems with the appeal, together with appropriate citations to the record and to the pertinent statutes, case law, and procedural rules bearing upon each issue discussed in the memorandum. Upon filing the motion and memorandum with the court, counsel's certificate of mailing must certify that copies of each filing were mailed to the local county attorney, the attorney general's office, and the defendant. The defendant is entitled to file a response with the court. History: En. 95-1003 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1003; amd. Sec. 65, Ch. 800, L. 1991; amd. Sec. 1, Ch. 19, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-104. Assignment of counsel after trial -- definition

46-8-104. Assignment of counsel after trial -- definition. (1) Any court of record may order the office of state public defender, provided for in 2-15-1029, to assign counsel, subject to the provisions of the Montana Public Defender Act, Title 47, chapter 1, to represent any petitioner or appellant in any postconviction action or proceeding brought under Title 46, chapter 21, if the petitioner or appellant is eligible for the appointment of counsel and: (a) the district court determines that a hearing on the petition is required pursuant to 46-21-201; (b) the office of state public defender requests appointment of a public defender and demonstrates good

cause for the appointment; (c) a statute specifically mandates the appointment of counsel; (d) the petitioner or appellant is clearly entitled to counsel under either the United States or Montana constitution; or (e) extraordinary circumstances exist that require the appointment of counsel to prevent a miscarriage of justice. (2) An appointment of counsel made in the interests of justice, as provided in 46-21-201(2), may be made only when extraordinary circumstances exist. (3) As used in this section, "extraordinary circumstances" includes those in which the petitioner or appellant does not have access to legal materials or has a physical or mental condition or limitation that prevents the petitioner or appellant from reading or writing in English. History: En. 95-1004 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1004; amd. Sec. 41, Ch. 449, L. 2005; amd. Sec. 1, Ch. 417, L. 2007; amd. Sec. 15, Ch. 358, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-105. through 46-8-110 reserved

46-8-105 through 46-8-110 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-113. Payment by defendant for assigned counsel -- costs to be filed with court -- collection of unpaid costs

46-8-113. Payment by defendant for assigned counsel -- costs to be filed with court -- collection of unpaid costs. (1) Subject to the provisions of subsections (2) and (3), as part of or as a condition of a sentence that is imposed under the provisions of this title, the court shall determine whether a convicted defendant should pay the costs of counsel assigned to represent the defendant as follows: (a) If the defendant pleads guilty prior to trial: (i) to one or more misdemeanor charges and no felony charges, the cost of counsel is \$250; or (ii) to one or more felony charges, the cost of counsel is \$800. (b) If the case goes to trial, the defendant shall pay the costs incurred by the office of state public defender for providing the defendant with counsel in the criminal trial. Upon request, the office of state public defender shall file with the court a statement of the hours spent on the case and the costs and expenses incurred for the trial. (2) (a) The office of the court administrator shall prepare a single combined report for each court assessing costs under this section by individual defendant and provide a copy of the report to the office of state public defender on a monthly basis. The report must include available information to personally identify the defendant. (b) The office of state public defender shall: (i) notify the department of revenue of the defendant's unpaid costs and provide the department of revenue with the defendant's full name, social security number, and address and the amount of the defendant's unpaid costs; and (ii) work cooperatively with the department of revenue to collect the defendant's unpaid costs. (c) The department of revenue shall collect the defendant's unpaid costs assessed under this section. All costs collected by the department of revenue or the office of state public defender if the office receives or collects any costs owed under this section must be deposited in the state general fund and clearly credited against any balance owed by a defendant. (d) The office of the court administrator, office of state public defender, and department of revenue shall develop a mutually agreed-upon report format and procedures for ensuring the timely and accurate transfer of information to collect unpaid costs assessed under this section. (3) In any proceeding for the determination of whether a defendant is or will be able to pay the costs of counsel, the court shall question the defendant as to the defendant's ability to pay those costs and shall inform the defendant that purposely false or misleading statements by the defendant may result in criminal charges against the defendant. (4) The court may not sentence a defendant to pay the costs for assigned counsel unless the defendant is or will be able to pay the costs imposed by subsection (1). The court may find that the defendant is able to pay only a portion of the costs assessed. In determining the amount and method of payment of costs, the court shall take into account the financial resources of the defendant and the nature of the burden that payment of costs will impose. (5) A defendant who has been sentenced to pay costs may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may reduce all or part of the amount due in costs or modify the method of payment. The court shall notify the office of state public defender of any reduction to the amount due. (6) A defendant's obligation to make payments for the cost of counsel is suspended during periods of incarceration. (7) Any costs imposed under this section must be included in the court's judgment. History: En. Sec. 4, Ch. 415, L. 1981; amd. Sec. 67, Ch. 800, L. 1991; amd. Sec. 7, Ch. 262, L. 1993; amd. Sec. 42, Ch. 449, L. 2005; amd. Sec. 1, Ch. 467, L. 2009; amd. Sec. 3, Ch. 344, L. 2011; amd. Sec. 1, Ch. 17, L. 2015; amd. Sec. 1, Ch. 170, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-114. Time and method of payment

46-8-114. Time and method of payment. (1) Except as provided in subsection (2), when a defendant is sentenced to pay the costs of assigned counsel pursuant to 46-8-113, the court may order payment to be made within a specified period of time or in specified installments. (2) A defendant's obligation to make payments for the cost of counsel is suspended during periods of incarceration. (3) For public defender fees assessed prior to July 1, 2017, payments must be made to the clerk of the sentencing court for allocation as provided in 46-18-201, 46-18-232, and 46-18-251 and deposited in the general fund. (4) For public defender fees assessed on or after July 1, 2017, payments must be made directly to the office of state public defender and deposited in the general fund. History: En. Sec. 5, Ch. 415, L. 1981; amd. Sec. 1, Ch. 295, L. 1985; amd. Sec. 9, Ch. 680, L. 1985; amd. Sec. 68, Ch. 800, L. 1991; amd. Sec. 47, Ch. 257, L. 2001; amd. Sec. 39, Ch. 585, L. 2001; amd. Sec. 43, Ch. 449, L. 2005; amd. Sec. 4, Ch. 344, L. 2011; amd. Sec.

2, Ch. 17, L. 2015; amd. Sec. 1, Ch. 5, L. 2019.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 8. Right to Counsel Part 1. Extent of Right -- Indigency Repayment of Costs 46-8-115. Effect of nonpayment

46-8-115. Effect of nonpayment. (1) When a defendant who is sentenced to pay the costs of assigned counsel defaults in payment of the costs or of any installment, the court on motion of the prosecutor or on its own motion may require the defendant to show cause why the default should not be treated as contempt of court and may issue a show cause citation or an arrest warrant requiring the defendant's appearance. (2) Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on the defendant's part to make a good faith effort to make the payment, the court may find that the default constitutes civil contempt. (3) The term of imprisonment for contempt for nonpayment of the costs of assigned counsel must be set forth in the judgment and may not exceed 1 day for each \$25 of the payment, 30 days if the order for payment of costs was imposed upon conviction of a misdemeanor, or 1 year in any other case, whichever is the shorter period. A person committed for nonpayment of costs must be given credit toward payment for each day of imprisonment at the rate specified in the judgment. (4) If it appears to the satisfaction of the court that the default in the payment of costs is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the payment or of each installment, or revoking the order for payment of the unpaid portion of the costs in whole or in part. (5) A default in the payment of costs or any installment may be collected by any means authorized by law for the enforcement of a judgment. The writ of execution for the collection of costs may not discharge a defendant committed to imprisonment for contempt until the amount of the payment for costs has actually been collected. History: En. Sec. 6, Ch. 415, L. 1981; amd. Sec. 69, Ch. 800, L. 1991; amd. Sec. 8, Ch. 262, L. 1993; amd. Sec. 44, Ch. 449, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-102. Bailable offenses

46-9-102. Bailable offenses. (1) All persons shall be bailable before conviction, except when death is a possible punishment for the offense charged and the proof is evident or the presumption great that the person is guilty of the offense charged. (2) On the hearing of an application for admission to bail made before or after indictment or information for a capital offense, the burden of showing that the proof is evident or the presumption great that the defendant is guilty of the offense is on the state. History: En. 95-1108 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1108.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-103. Renumbered 46-9-107

46-9-103. Renumbered 46-9-107. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-104. Bail on a new trial

46-9-104. Bail on a new trial. If the judgment of conviction is reversed and the cause remanded for a new trial, the trial court may order that the bail stand pending such trial or substitute, reduce, or increase bail. History: En. 95-1119 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 12, Ch. 184, L. 1977; R.C.M. 1947, 95-1119.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-105. General authority for release and detention

46-9-105. General authority for release and detention. (1) An arrested person must be released or detained pending judicial proceedings pursuant to Title 46, chapter 9. (2) If a person is released, that person shall appear to answer the charge for the alleged commission of the offense, as ordered, in the court having jurisdiction. History: En. Sec. 71, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-106. Release or detention of defendant pending trial

46-9-106. Release or detention of defendant pending trial. Before a verdict has been rendered, the court shall: (1) authorize the release of the defendant upon reasonable conditions that ensure the appearance of the defendant and protect the safety of the community or of any person; or (2) detain the defendant when there is probable cause to believe that the defendant committed an offense for which death is a possible punishment and adequate safeguards are not available to ensure the defendant's appearance and the safety of the community. History: En. Sec. 72, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-107. Release or detention pending appeal -- revocation -- sentencing hearing

46-9-107. Release or detention pending appeal -- revocation -- sentencing hearing. A person intending to appeal from a judgment imposing a fine only or from any judgment rendered by a justice's court or city court must be admitted to bail. The court shall order the detention of a defendant found guilty of an offense who is awaiting imposition or execution of sentence or a revocation hearing

or who has filed an appeal unless the court finds that, if released, the defendant is not likely to flee or pose a danger to the safety of any person or the community. History: En. 95-1109 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1109; amd. Sec. 1, Ch. 207, L. 1979; amd. Sec. 2, Ch. 692, L. 1985; amd. Sec. 73, Ch. 800, L. 1991; Sec. 46-9-103, MCA 1989; redes. 46-9-107 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-108. Conditions upon defendant's release -- notice to victim of stalker's release

46-9-108. Conditions upon defendant's release -- notice to victim of stalker's release. (1) The court may impose any condition that will reasonably ensure the appearance of the defendant as required or that will ensure the safety of any person or the community, including but not limited to the following conditions: (a) the defendant may not commit an offense during the period of release; (b) the defendant shall remain in the custody of a designated person who agrees to supervise the defendant and report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any person or the community; (c) if applicable, the defendant shall maintain employment or, if unemployed, actively seek employment; (d) the defendant shall abide by specified restrictions on the defendant's personal associations, place of abode, and travel; (e) the defendant shall avoid all contact with: (i) an alleged victim of the crime, including in a case of partner or family member assault or strangulation of a partner or family member the restrictions contained in a no contact order issued under 45-5-209; and (ii) any potential witness who may testify concerning the offense; (f) the defendant shall report on a regular basis to a designated agency or individual, pretrial services agency, or other appropriate individual; (g) if applicable, the defendant shall comply with a specified curfew; (h) if applicable, the defendant may not possess a firearm, destructive device, or other dangerous weapon; (i) if applicable, the defendant may not use or possess alcohol or use or possess any dangerous drug or other controlled substance without a legal prescription. If applicable, the court may require an alcohol monitoring device that can detect the usage of alcohol by an individual and includes but is not limited to: (i) a transdermal alcohol monitoring unit; or (ii) a facial recognition breathalyzer unit. (j) if applicable, the defendant shall comply with either a mental health or chemical dependency treatment program, or both; (k) the defendant shall furnish bail in accordance with 46-9-401; or (l) the defendant shall return to custody for specified hours following release from employment, schooling, or other approved purposes. (2) (a) If electronic monitoring is available, there is a rebuttable presumption that the court shall impose electronic monitoring as a condition of release when the offense is: (i) a second or subsequent partner or family member assault as defined in 45-5-206; (ii) any felony assault on a partner or family member, as partner or family member is defined in 45-5-206; (iii) strangulation of a partner or family member as defined in 45-5-215; (iv) felony stalking as defined in 45-5-220; or (v) a felony violation of an order of protection as defined in 45-5-626. (b) If electronic monitoring or alcohol monitoring under subsection (1)(i) is imposed, the court shall specify the terms under which the monitoring must be performed. The court may require as a condition of release that the defendant pay for the costs of the electronic monitoring or alcohol monitoring. If the defendant has not paid for electronic monitoring or alcohol monitoring as a condition of release, on conviction, the court shall require as a condition of the sentence that the defendant reimburse the providing agency for the costs of electronic monitoring or alcohol monitoring, unless the court determines that the defendant is not or will not be able to pay the costs. (c) For the purposes of this subsection (2), "electronic monitoring" means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location, including but not limited to: (i) radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or (ii) active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location, and which may also include electronic monitoring with victim notification technology that is capable of notifying a victim or protected party, either directly or through a monitoring agency, if the monitored individual enters within the restricted distance of a victim or protected party or within the restricted distance of a designated location. (3) The court may not impose an unreasonable condition that results in pretrial detention of the defendant and shall subject the defendant to the least restrictive condition or combination of conditions that will ensure the defendant's appearance and provide for protection of any person or the community. At any time, the court may, upon a reasonable basis, amend the order to impose additional or different conditions of release upon its own motion or upon the motion of either party. (4) Whenever a person accused of a violation of 45-5-206, 45-5-215, 45-5-220, or 45-5-626 is admitted to bail, the detention center shall, as soon as possible under the circumstances, make one and if necessary more reasonable attempts, by means that include but are not limited to certified mail, to notify the alleged victim or, if the alleged victim is a minor, the alleged victim's parent or guardian of the accused's release. (5) If a court orders electronic monitoring of the defendant under subsection (2)(a) and victim notification technology capable of notifying a victim or protected party, either directly or through a monitoring agency, is available, the county attorney or other prosecuting attorney shall provide reasonable notice to the victim or protected party that victim notification technology is available and how the victim or protected party may register to receive notifications directly from the electronic monitoring service provider or monitoring agency if the monitored individual enters within the restricted distance of the victim or protected party or within the restricted distance of a designated location. (6) If a court orders electronic monitoring of the defendant under subsection (2)(a) and places geographic restrictions on the defendant, the electronic monitoring service provider or monitoring agency shall make a reasonable attempt to provide notice of any violation of the geographic restrictions to the county attorney or other prosecuting attorney within 1 business day of the violation. History: En. 95-1118 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 11, Ch. 184, L. 1977; R.C.M. 1947, 95-1118; amd. Sec. 4, Ch. 692, L. 1985; amd.

Sec. 74, Ch. 800, L. 1991; Sec. 46-9-501, MCA 1989; redes. 46-9-108 by Code Commissioner, 1991; amd. Sec. 3, Ch. 292, L. 1993; amd. Sec. 2, Ch. 449, L. 2001; amd. Sec. 1, Ch. 27, L. 2003; amd. Sec. 3, Ch. 411, L. 2005; amd. Sec. 2, Ch. 209, L. 2013; amd. Sec. 10, Ch. 394, L. 2017; amd. Sec. 1, Ch. 412, L. 2021; amd. Sec. 1, Ch. 542, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-109. Release or detention hearing

46-9-109. Release or detention hearing. (1) The release or detention of the defendant must be determined immediately upon the defendant's initial appearance. (2) In determining whether the defendant should be released or detained, the court may use a validated pretrial risk assessment tool and shall take into account the available information concerning: (a) the nature and circumstances of the offense charged, including whether the offense involved the use of force or violence; (b) the history and characteristics of the defendant, including: (i) the defendant's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol or drug abuse, criminal history, and record concerning the appearance at court proceedings; and (ii) whether at the time of the current arrest or offense, the defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentencing for an offense; (c) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release; (d) the property available as collateral for the defendant's release to determine if it will reasonably ensure the appearance of the defendant as required; and (e) for a defendant charged with a violation of 45-5-202, 45-5-206, 45-5-213, or 45-5-215 against an intimate partner, a dangerousness or lethality assessment if it is available to the court. (3) Upon the motion of any party or the court, a hearing may be held to determine whether bail is established in the appropriate amount or whether any other condition or restriction upon the defendant's release will reasonably ensure the appearance of the defendant and the safety of any person or the community. History: En. Sec. 75, Ch. 800, L. 1991; amd. Sec. 8, Ch. 390, L. 2017; amd. Sec. 1, Ch. 288, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-110. Release order

46-9-110. Release order. A release order issued by the court must include a written statement setting forth any restrictions or conditions upon the defendant's release. History: En. Sec. 76, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-111. Release on own recognizance

46-9-111. Release on own recognizance. Any person in custody, if otherwise eligible for bail, may be released on the person's personal recognizance subject to conditions that the court may reasonably prescribe to ensure the person's appearance when required. Any person released as provided in this section must be fully apprised by the court of the penalty provided for failure to comply with the terms of the person's recognizance. History: En. 95-1106 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1106; amd. Sec. 1738, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-112. through 46-9-114 reserved

46-9-112 through 46-9-114 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-115. Release ordered by court where charge not pending

46-9-115. Release ordered by court where charge not pending. If release is ordered or bail is accepted by a court other than the court in which the charge is pending, any bonds, instrument of ownership, or money posted and a written statement of other conditions of release must be delivered without delay to the court in which the charge is pending. History: En. 95-1105 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1105; amd. Sec. 3, Ch. 710, L. 1991; amd. Sec. 77, Ch. 800, L. 1991; Sec. 46-9-202, MCA 1989; redes. 46-9-115 by Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-116. through 46-9-120 reserved

46-9-116 through 46-9-120 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 1. Definition and Availability of Bail 46-9-121. Return of bail bond after conviction

46-9-121. Return of bail bond after conviction. If a commercial surety bond is posted as bail and the defendant is convicted, the bond must be released and returned to the surety within 30 days after the conviction. If the defendant appeals, the court may order that bail be provided during the appeal. History: En. Sec. 1, Ch. 270, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 2. Bail -- General Procedural

Provisions 46-9-201. Who may admit to bail

46-9-201. Who may admit to bail. A judge may admit to bail any defendant properly appearing before the judge in a bail proceeding. When bound over to any court or judge having jurisdiction of the offense charged, bail must be continued provided that the court or judge having jurisdiction may increase, reduce, or substitute bail. On appeal, a judge before whom the trial was had or a judge having the power to issue a writ of habeas corpus may admit the defendant to bail. For purposes of this section, a defendant's appearance before a judge may be either by physical appearance before the court or by two-way electronic audio-video communication as provided in 46-9-206. History: En. 95-1102 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1102(a); amd. Sec. 2, Ch. 710, L. 1991; amd. Sec. 10, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 2. Bail -- General Procedural Provisions 46-9-202. Renumbered 46-9-115

46-9-202. Renumbered 46-9-115. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 2. Bail -- General Procedural Provisions 46-9-205. Renumbered 46-9-510

46-9-205. Renumbered 46-9-510. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 2. Bail -- General Procedural Provisions 46-9-206. Setting bail -- appearance or use of two-way electronic audio-video communication

46-9-206. Setting bail -- appearance or use of two-way electronic audio-video communication. The requirement that a defendant be taken before a judge for setting of bail may, in the discretion of the court, be satisfied either by the defendant's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the defendant and the judge can see each other simultaneously and converse with each other, so that the defendant and the defendant's counsel, if any, can communicate privately, and so that the defendant and the defendant's counsel are both physically present in the same place during the two-way electronic audio-video communication. The defendant may waive the requirement that the defendant's counsel be in the defendant's physical presence during the two-way electronic audio-video communication. A judge may order a defendant's physical appearance in court for the hearing of an application for admission to bail. History: En. Sec. 3, Ch. 710, L. 1991; amd. Sec. 1740, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 3. The Amount of Bail 46-9-301. Determining amount of bail

46-9-301. Determining amount of bail. In all cases in which bail is determined to be necessary, bail must be reasonable in amount and the amount must be: (1) sufficient to ensure the presence of the defendant in a pending criminal proceeding; (2) sufficient to ensure compliance with the conditions set forth in the bail; (3) sufficient to protect any person from bodily injury; (4) not oppressive; (5) commensurate with the nature of the offense charged; (6) considerate of the financial ability of the accused; (7) considerate of the defendant's prior record; (8) considerate of the length of time the defendant has resided in the community and of the defendant's ties to the community; (9) considerate of the defendant's family relationships and ties; (10) considerate of the defendant's mental health status and of the defendant's participation in a mental health treatment program; (11) considerate of the defendant's employment status; and (12) sufficient to include the charge imposed in 46-18-236. History: En. 95-1110 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1110; amd. Sec. 3, Ch. 692, L. 1985; amd. Sec. 2, Ch. 17, Sp. L. June 1986; amd. Sec. 1741, Ch. 56, L. 2009; amd. Sec. 3, Ch. 209, L. 2013.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 3. The Amount of Bail 46-9-302. Bail schedule -- acceptance by peace officer

46-9-302. Bail schedule -- acceptance by peace officer. (1) A judge may establish and post a schedule of bail for offenses over which the judge has original jurisdiction. A person may not be released on bail without first appearing before the judge when the offense is: (a) any assault on a partner or family member, as partner or family member is defined in 45-5-206; (b) strangulation of a partner or family member, as defined in 45-5-215; (c) stalking, as defined in 45-5-220; (d) violation of an order of protection, as defined in 45-5-626; or (e) violation of a no contact order, as defined in 45-5-209. (2) A peace officer may: (a) accept bail on behalf of a judge: (i) in accordance with the bail schedule established under subsection (1); or (ii) whenever the warrant of arrest specifies the amount of bail; or (b) with the offender's permission, accept an unexpired driver's license in lieu of bail for a violation of any offense in Title 61, chapters 3 through 10, except chapter 8, part 4, as provided in subsection (4). (3) Whenever a peace officer accepts bail, the officer shall give a signed receipt to the offender setting forth the bail received. The peace officer shall then deliver the bail to the judge before whom the offender is to appear, and the judge shall give a receipt to the peace officer for the bail delivered. (4) Whenever a peace officer accepts an unexpired driver's license in lieu of bail, the peace officer shall give the offender a signed driving permit, in a form prescribed by the department. The permit must acknowledge the officer's acceptance of the offender's driver's license and serves as a valid temporary driving permit authorizing the operation of a motor vehicle by the offender. The permit is effective as of the date the permit is signed and remains in effect through the date of the appearance listed on the permit.

The peace officer shall deliver the driver's license to the judge before whom the offender is to appear, and the judge shall give the peace officer a receipt acknowledging delivery of the offender's driver's license to the court. After the filing of the complaint and the appearance of the defendant, the judge shall assume jurisdiction and may extend the date of the driving permit for a period of up to 6 months from the defendant's initial appearance date. (5) The judge shall return a driver's license that has been accepted in lieu of bail to a defendant: (a) after the required bail has been posted or there has been a final determination of the charge; and (b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid to the court. History: En. 95-1103 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1103; amd. Sec. 6, Ch. 700, L. 1985; amd. Sec. 78, Ch. 800, L. 1991; amd. Sec. 4, Ch. 292, L. 1993; amd. Sec. 5, Ch. 425, L. 1993; amd. Sec. 16, Ch. 350, L. 1995; amd. Sec. 7, Ch. 484, L. 1997; amd. Sec. 3, Ch. 449, L. 2001; amd. Sec. 3, Ch. 465, L. 2003; amd. Sec. 3, Ch. 328, L. 2015; amd. Sec. 11, Ch. 394, L. 2017.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 3. The Amount of Bail 46-9-304. through 46-9-310 reserved

46-9-304 through 46-9-310 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 3. The Amount of Bail 46-9-311. Reduction, increase, revocation, or substitution of bail

46-9-311. Reduction, increase, revocation, or substitution of bail. (1) Upon application by the state or the defendant, the court before which the proceeding is pending may increase or reduce the amount of bail, substitute one bail for another, alter the conditions of the bail, or revoke bail. (2) Reasonable notice of such application must be given to the opposing parties or their attorneys by the applicant. History: En. 95-1111 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1111; amd. Sec. 7, Ch. 116, L. 1979.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 4. Furnishing Bail 46-9-401. Forms of bail

46-9-401. Forms of bail. (1) Bail may be furnished in the following ways: (a) by a deposit with the court of an amount equal to the required bail of cash, stocks, bonds, certificates of deposit, or other personal property approved by the court; (b) by pledging real estate situated within the state with an unencumbered equity, not exempt, owned by the defendant or sureties at a value double the amount of the required bail; (c) by posting a written undertaking executed by the defendant and by two sufficient sureties; (d) by posting a commercial surety bond executed by the defendant and by a qualified agent for and on behalf of the surety company; or (e) by posting an offender's driver's license in lieu of bail if the summons describes a violation of any offense as provided in 61-5-214 and if the offender is the holder of an unexpired driver's license. (2) The amount of the bond must ensure the appearance of the defendant at all times required through all stages of the proceeding including trial de novo, if any, and unless the bond is denied by the court pursuant to 46-9-107, must remain in effect until final sentence is pronounced in open court. (3) Whenever a driver's license is accepted in lieu of bail, the judge shall return the driver's license to the defendant: (a) after the required bail has been posted or there has been a final determination of the charge; and (b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid to the court. History: En. 95-1112 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1112; amd. Sec. 79, Ch. 800, L. 1991; amd. Sec. 4, Ch. 465, L. 2003; amd. Sec. 2, Ch. 360, L. 2009; amd. Sec. 6, Ch. 592, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 4. Furnishing Bail 46-9-402. Persons prohibited from furnishing bail security

46-9-402. Persons prohibited from furnishing bail security. No attorney at law and no official authorized to admit another to bail shall act as surety or furnish bail. History: En. 95-1120 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1120.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 4. Furnishing Bail 46-9-403. Qualifying property as bail

46-9-403. Qualifying property as bail. (1) If property posted as a condition of release is personal property, the defendant or sureties shall file a sworn schedule that must contain a list of the personal property, including a description of each item, its location and market value, and the total market value of all items listed. (2) If the property is real estate: (a) the defendant or sureties shall file a sworn schedule that must contain a legal description of the property, a description of any and all encumbrances on the property, including the amount of each and the holder of the encumbrance, and the market value of the unencumbered equity owned by the defendant or sureties; and (b) a certified copy of the schedule of the property must be filed immediately by the court in the office of the clerk and recorder of the county in which the property is situated. The state has a lien on the property from the time the copy is filed. The clerk and recorder shall enter, index, and record the schedule without requiring any fee. (3) If the property posted as a condition of release is a written undertaking with sureties, each surety must be a resident or freeholder within the state. Each surety must be worth the amount specified in the undertaking, exclusive of property exempt from execution, but the court or judge on taking the property may allow more than two sureties to justify severally and in amounts less than that expressed in the undertaking if the whole justification is equivalent to the amount required. (4) If the property posted as a condition of release is a commercial bond, it may be executed by any domestic or foreign surety company that is qualified to transact surety business in this state. The undertaking must be in the form prescribed by the commissioner of insurance and must state the following: (a) the name and address of the commercial surety company that issued the bond; (b) the amount of the bond and the unqualified obligation of the surety

company to pay the court should the defendant fail to appear as guaranteed; and (c) a provision that the surety company may not revoke the undertaking without good cause. (5) The court may examine the sufficiency of an undertaking and take any action it considers proper to ensure that a sufficient undertaking is posted. History: En. 95-1113 by Sec. 1, Ch. 196, L. 1967; amd. Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; R.C.M. 1947, 95-1113; amd. Sec. 8, Ch. 116, L. 1979; amd. Sec. 80, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 4. Furnishing Bail 46-9-405. through 46-9-410 reserved

46-9-405 through 46-9-410 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 4. Furnishing Bail 46-9-412. Guaranteed arrest bond certificates

46-9-412. Guaranteed arrest bond certificates. (1) A domestic or foreign surety company that has qualified to transact surety business in this state may, in any year, become surety in an amount not exceeding \$1,000 with respect to any guaranteed arrest bond certificates issued in the year by an automobile club or association or by an insurance company authorized to write automobile liability insurance within this state by filing with the commissioner of insurance an undertaking to become surety. (2) The form of the undertaking must be prescribed by the commissioner of insurance and must include those matters required by 46-9-401. History: En. 95-1121 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 13, Ch. 184, L. 1977; R.C.M. 1947, 95-1121(1), (2); amd. Sec. 2, Ch. 415, L. 1989; amd. Sec. 81, Ch. 800, L. 1991; amd. Sec. 11, Ch. 262, L. 1993.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 4. Furnishing Bail 46-9-414. Certificates accepted in lieu of cash

46-9-414. Certificates accepted in lieu of cash. (1) A guaranteed arrest bond certificate must, when posted by the person whose signature appears on the certificate, be accepted in lieu of cash bail in an amount not exceeding \$1,000 as a bail bond to guarantee the appearance of the person in any court, including a municipal court, in this state at the time required by the court when the person was arrested for violation of a motor vehicle law of this state or an ordinance of a municipality in this state (except for the offense of driving while intoxicated or for any felony) committed prior to the date of expiration shown on the guaranteed arrest bond certificate. (2) A guaranteed arrest bond certificate is subject to the same forfeiture and enforcement provisions established by this chapter unless otherwise provided by law. History: En. 95-1122 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 14, Ch. 184, L. 1977; R.C.M. 1947, 95-1122; amd. Sec. 3, Ch. 415, L. 1989; amd. Sec. 82, Ch. 800, L. 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-501. Renumbered 46-9-108

46-9-501. Renumbered 46-9-108. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-502. Conditions performed -- bail discharged

46-9-502. Conditions performed -- bail discharged. When the conditions of bail have been performed and the accused has been discharged from the accused's obligations in the cause, the court shall return to the accused or the accused's sureties the deposit of any cash, stocks, or bonds. If the bail is real estate, the court shall notify in writing the county clerk and recorder and the lien of the bail bond on the real estate must be discharged. If the bail is a written undertaking or a commercial surety bond, it must be discharged and the sureties exonerated. History: En. 95-1116 by Sec. 1, Ch. 196, L. 1967; amd. Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; R.C.M. 1947, 95-1116(a); amd. Sec. 1742, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-503. Violation of release condition -- forfeiture

46-9-503. Violation of release condition -- forfeiture. (1) If a defendant violates a condition of release, including failure to appear, the prosecutor may make a written motion to the court for revocation of the order of release. A judge may issue a warrant for the arrest of a defendant charged with violating a condition of release. Upon arrest, the defendant must be brought before a judge in accordance with 46-7-101. (2) If a defendant fails to appear before a court as required and bail has been posted, the judge may declare the bail forfeited. Notice of the order of forfeiture must be mailed to the defendant and the defendant's sureties at their last-known address within 10 working days or the bond becomes void and must be released and returned to the surety within 5 working days. (3) If at any time within 90 days after the forfeiture the defendant's sureties surrender the defendant pursuant to 46-9-510 or appear and satisfactorily excuse the defendant's failure to appear, the judge shall direct the forfeiture to be discharged without penalty. If at any time within 90 days after the forfeiture the defendant appears and satisfactorily excuses the defendant's failure to appear, the judge shall direct the forfeiture to be discharged upon terms as may be just. (4) The surety bail bond must be exonerated upon proof of the defendant's death or incarceration or subjection to court-ordered treatment in a foreign jurisdiction for a period exceeding the time limits under subsection (3). (5) A surety bail bond is an appearance bond only. It cannot be held or

forfeited for fines, restitution, or violations of release conditions other than failure to appear. The original bond is in effect pursuant to 46-9-121 and is due and payable only if the surety fails, after 90 days from forfeiture, to surrender the defendant or if the defendant fails to appear on the defendant's own within the same time period. History: En. 95-1116 by Sec. 1, Ch. 196, L. 1967; amd. Sup. Ct. Ord. 11450-2-3-4, Oct. 10, 1968, eff. Dec. 1, 1968; R.C.M. 1947, 95-1116(b), (c); amd. Sec. 83, Ch. 800, L. 1991; amd. Sec. 2, Ch. 270, L. 1993; amd. Sec. 2, Ch. 456, L. 1997; amd. Sec. 1, Ch. 420, L. 2003.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-504. Renumbered 46-9-512

46-9-504. Renumbered 46-9-512. Code Commissioner, 1991.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-505. Issuance of arrest warrant -- redetermining bail -- definition

46-9-505. Issuance of arrest warrant -- redetermining bail -- definition. (1) Upon failure to comply with any condition of a bail or recognizance, the court having jurisdiction at the time of the failure may, in addition to any other action provided by law, issue a warrant for the arrest of the person. (2) On verified application by the prosecutor setting forth facts or circumstances constituting a breach or threatened breach of any of the conditions of the bail or a threat or an attempt to influence the pending proceeding, the court may issue a warrant for the arrest of the defendant. (3) If the defendant has been released under the supervision of a pretrial services agency, referred to in 46-9-108(1)(f), an officer of that agency may arrest the defendant without a warrant or may deputize any other officer with power of arrest to arrest the defendant by giving the officer oral authorization and within 12 hours delivering to the place of detention a verified written statement setting forth that the defendant has, in the judgment of the officer, violated the conditions of the defendant's release. An oral authorization delivered with the defendant by the arresting officer to the official in charge of a county detention center or other place of detention is a sufficient warrant for detention of the defendant if the pretrial officer delivers a verified written statement within 12 hours of the defendant's arrest. (4) Upon the arrest, the defendant must be brought before the court without unnecessary delay and the court shall conduct a hearing and determine bail in accordance with 46-9-311. (5) As used in this section, "pretrial services agency" means a government agency or a private entity under contract with a local government whose employees have the minimum training required in 46-23-1003 and that is designated by a district court, justice's court, municipal court, or city court to provide services pending a trial. History: En. 95-1107 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1107; amd. Sec. 12, Ch. 262, L. 1993; amd. Sec. 1, Ch. 332, L. 2001.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-506. through 46-9-509 reserved

46-9-506 through 46-9-509 reserved.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-510. Surrender of defendant

46-9-510. Surrender of defendant. (1) At any time before the forfeiture of bail or within 90 days after forfeiture: (a) the defendant may surrender to the court or any peace officer of this state; or (b) a surety bail bond insurance producer licensed to sell, solicit, or negotiate commercial bail bonds pursuant to Title 33, chapter 17, may arrest the defendant pursuant to 46-6-508 and surrender the defendant to the court, any peace officer, or any detention center facility of this state. Any arrest or surrender pursuant to this subsection (1) must be reported to the commissioner of insurance on a form and in a manner to be determined by the commissioner. (2) The peace officer or detention center facility shall detain the defendant in custody as upon commitment and shall file a certificate, acknowledging the surrender, in the court having jurisdiction of the defendant. The court shall then order the bail exonerated. History: En. 95-1115 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1115; amd. Sec. 84, Ch. 800, L. 1991; Sec. 46-9-205, MCA 1989; redes. 46-9-510 by Code Commissioner, 1991; amd. Sec. 2, Ch. 420, L. 2003; amd. Sec. 7, Ch. 592, L. 2023.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-511. Forfeiture procedure

46-9-511. Forfeiture procedure. (1) When an order of forfeiture is not discharged, the court having jurisdiction shall proceed with the forfeiture of bail as follows: (a) if money has been posted as bail in a misdemeanor case, as defined in 45-2-101, the court shall pay the money to the treasury of the city or county where the money was posted; (b) if money has been posted as bail in a felony case, as defined in 45-2-101, the court shall pay the money to the department of revenue for deposit in the state general fund; or (c) if other property is posted as a condition of release, the property must be sold in the same manner as property sold in civil actions. The proceeds of the sale must be used to satisfy all court costs and prior encumbrances, if any, and from the balance, a sufficient sum to satisfy the judgment or forfeiture must be paid as provided under subsection (1)(a) in a misdemeanor case or under subsection (1)(b) in a felony case. (2) If a surety bond has been posted as bail, execution may be issued against the sureties or the surety company in the same manner as executions in civil actions. History: En. Sec. 85, Ch. 800, L. 1991; amd. Sec. 1, Ch. 35, L. 2005.

2024 Montana Code Annotated Title 46. Criminal Procedure Chapter 9. Bail Part 5. Conditions of Bail -- Violation Thereof 46-9-512. Use of forfeited bail as restitution

46-9-512. Use of forfeited bail as restitution.(1) If the court enters a judgment declaring bail to be forfeited or if the order of forfeiture is not discharged, the court having jurisdiction may order the bail forfeited to be paid as restitution to any victim of the offense for which the court has received bail. Whenever the court believes that restitution may be proper, the court shall order a hearing for the purpose of considering the nature and extent of the victim's pecuniary loss as defined by law. (2) If the court finds that restitution is appropriate, the court shall order restitution in an amount not exceeding the amount of the victim's complaint or the amount of the victim's pecuniary loss. (3) An order to require restitution is a judgment against the defendant and the defendant's sureties, and the court may order the restitution to be made by payment of money deposited as bail. Any balance of the bail money must be disposed of in the same manner as provided in 46-9-511. (4) A determination or decision under this section is not admissible as evidence in any other civil action and is not res judicata in any civil action. History: En. 95-1117 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-1117; amd. Sec. 1, Ch. 132, L. 1985; amd. Sec. 1, Ch. 142, L. 1989; amd. Sec. 86, Ch. 800, L. 1991; Sec. 46-9-504, MCA 1989; redes. 46-9-512 by Code Commissioner, 1991.

Title: title-61

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 1. Definitions Part 1. Vehicles 61-1-101. Definitions

61-1-101. Definitions. As used in this title, unless the context indicates otherwise, the following definitions apply: (1) (a) "Authorized agent" means a person who has executed a written agreement with the department and is specifically authorized by the department to electronically access and update the department's motor vehicle titling, registration, or driver records, using an approved automated interface, for specific functions or purposes on behalf of a third party. (b) For purposes of this subsection (1), "person" means an individual, corporation, partnership, limited partnership, limited liability company, association, joint venture, state agency, local government unit, another state government, the United States, a political subdivision of this or another state, or any other legal or commercial entity. (2) "Authorized agent agreement" means the written agreement executed between an authorized agent and the department that sets the technical and operational program standards, compliance criteria, payment options, and service expectations by which the authorized agent is required to operate in performing specific motor vehicle or driver-related record functions. (3) "Autocycle" means a three-wheeled motorcycle that is equipped with safety belts, roll bars or roll hoops, a steering wheel, and seating that does not require the operator to straddle or sit astride it. (4) "Bus" means a motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons and any other motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. (5) (a) "Business entity" means a corporation, association, partnership, limited liability partnership, limited liability company, or other legal entity recognized under state law. (b) The term does not include an individual. (6) (a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons. The term includes but is not limited to a cab-over, half cab-over, noncab-over, telescopic, and telescopic cab-over. (b) The term does not include a truck canopy cover or topper. (7) "CDLIS driver record" means the electronic record of a person's commercial driver's license status and history stored as part of the commercial driver's license system established under 49 U.S.C. 31309. (8) "Certificate of title" means the paper record issued by the department or by the appropriate agency of another jurisdiction that establishes a verifiable record of ownership between an identified person or persons and the motor vehicle specifically described in the record and that provides notice of a perfected security interest in the motor vehicle. (9) "Commercial driver's license" means: (a) a driver's license issued under or granted by the laws of this state that authorizes a person to operate a class of commercial motor vehicle; or (b) the privilege of a person to drive a commercial motor vehicle, whether or not the person holds a valid commercial driver's license. (10) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the vehicle: (i) has a gross combination weight rating or a gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; (ii) has a gross vehicle weight rating or a gross vehicle weight of 26,001 pounds or more, whichever is greater; (iii) is designed to transport at least 16 passengers, including the driver; (iv) is a school bus; or (v) is of any size and is used in the transportation of hazardous materials. (b) The following vehicles are not commercial motor vehicles: (i) an authorized emergency vehicle: (A) equipped with audible and visual signals as required under 61-9-401 and 61-9-402; and (B) operated when responding to or returning from an emergency call or operated in another official capacity; (ii) a vehicle: (A) controlled and operated by a farmer, family member of the farmer, or person employed by the farmer; (B) used to transport farm products, farm machinery, or farm supplies to or from the farm within Montana within 150 miles of the farm or, if there is a reciprocity agreement with a state adjoining Montana, within 150 miles of the farm, including any area within that perimeter that is in the adjoining state; and (C) not used to transport goods for compensation or for hire; or (iii) a vehicle operated for military purposes by active duty military personnel, a member of the military reserves, a member of the national guard on active duty, including personnel on full-time national guard duty, personnel in part-time national guard training, and national guard military technicians, or active duty United States coast guard personnel. (c) For purposes of this subsection (10): (i) "farmer" means a person who operates a farm or who is directly involved in the cultivation of land or crops or the raising of livestock owned by or under the direct control of that person; (ii) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination or articulated vehicle; (iii) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle; and (iv) "school bus" has the meaning provided in 49 CFR 383.5. (11) "Commission" means the state transportation commission. (12) "Custom-built motorcycle" means a motorcycle that is equipped with: (a) an engine that was manufactured 20 years prior to the current calendar year and that has been altered from the

manufacturer's original design; or (b) an engine that was manufactured to resemble an engine 20 or more years old and that has been constructed in whole or in part from nonoriginal materials. (13) "Custom vehicle" means a motor vehicle other than a motorcycle that: (a) (i) was manufactured with a model year after 1948 and that is at least 25 years old; or (ii) was built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year, including a kit vehicle intended to resemble a vehicle manufactured after 1948 and that is at least 25 years old; and (b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials. (14) "Customer identification number" means: (a) a driver's license or identification card number when the customer is an individual who has been issued a driver's license or identification card by a state driver licensing authority; (b) a federal employer or tax identification number when the customer is a business entity that has been issued a federal employer or tax identification number; (c) the identification number assigned by the secretary of state to a business entity authorized to do business in this state under Title 35 if the customer is a business entity that does not have a federal employer or tax identification number other than a social security number; or (d) if the customer has not been issued one of the numbers described in subsections (14)(a) through (14)(c), a number assigned to the customer by the department when a transaction is initiated under this title. (15) (a) "Dealer" means a person that, for commission or profit, engages in whole or in part in the business of buying, selling, exchanging, or accepting on consignment new or used motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, off-highway vehicles, or special mobile equipment that is not registered in the name of the person. (b) The term does not include the following: (i) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under a judgment or order of any court of competent jurisdiction; (ii) employees of the persons included in subsection (15)(b)(i) when engaged in the specific performance of their duties as employees; or (iii) public officers while performing or in the operation of their duties. (16) "Declared weight" means the total unladen weight of a vehicle plus the weight of the maximum load to be carried on the vehicle as stated by the registrant in the application for registration. (17) "Department" means the department of justice acting directly or through its duly authorized officers or agents. (18) "Dolly or converter gear" means a device consisting of one or two axles with a fifth wheel and trailer tongue used to support the forward end of a semitrailer, converting a semitrailer into a trailer. (19) "Domiciled" means a place where: (a) an individual establishes residence; (b) a business entity maintains its principal place of business; (c) the business entity's registered agent maintains an address; or (d) a business entity most frequently uses, dispatches, or controls a motor vehicle, trailer, semitrailer, or pole trailer that it owns or leases. (20) "Downgrade" means the removal of a person's privilege to operate a commercial motor vehicle, as maintained by the department on the individual Montana driving record and the CDLIS driver record for that person. (21) "Driver" means a person who drives or is in actual physical control of a vehicle. (22) "Driver's license" means a license or permit to operate a motor vehicle issued under or granted by the laws of this state, including: (a) any temporary license or learner license; (b) the privilege of any person to drive a motor vehicle, whether or not the person holds a valid license; (c) any nonresident's driving privilege; (d) a motorcycle endorsement; or (e) a commercial driver's license. (23) "Electric personal assistive mobility device" means a device that has two nontandem wheels, is self-balancing, and is designed to transport only one person with an electric propulsion system that limits the maximum speed of the device to 12 1/2 miles an hour. (24) "For hire" means an action performed for remuneration of any kind, whether paid or promised, either directly or indirectly, or received or obtained through leasing, brokering, or buy-and-sell arrangements from which a remuneration is obtained or derived for transportation service. (25) (a) "Golf cart" means a motor vehicle that is designed for use on a golf course to carry a person or persons and golf equipment and that has an average speed of less than 15 miles per hour. (b) Except as provided in 61-3-201, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title. (26) "Gross vehicle weight" means the weight of a vehicle without load plus the weight of any load on the vehicle. (27) "Hazardous material" means: (a) any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under 49 CFR, part 172; or (b) any quantity of a material listed as a select agent or toxin in 42 CFR, part 73. (28) "Highway" or "public highway" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel. (29) "Highway patrol officer" means a state officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (30) "Implement of husbandry" means a vehicle that is designed for agricultural purposes and exclusively used by the owner of the vehicle in the conduct of the owner's agricultural operations. (31) "Kit vehicle" is a motor vehicle assembled from a manufactured kit either as: (a) a complete kit, consisting of a prefabricated body and chassis, to construct a new motor vehicle; or (b) a kit with a prefabricated body to be mounted to an existing motor vehicle chassis and drivetrain, commonly referred to as a donor vehicle. (32) "Light vehicle" means a motor vehicle commonly referred to as an automobile, van, sport utility vehicle, or truck having a manufacturer's rated capacity of 1 ton or less. (33) "Low-speed electric vehicle" means a motor vehicle, on or by which a person may be transported, that: (a) has four wheels; (b) has a maximum speed of at least 20 miles an hour and no greater than 40 miles an hour as certified by the manufacturer; (c) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle; (d) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources; (e) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater; (f) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; and (g) is equipped as provided in 61-9-432. (34) "Low-speed restricted driver's license" means a license limited to the operation of a low-speed electric vehicle or a golf cart issued under or granted by the laws of this state, including: (a) a temporary license or learner license; (b) the privilege of a person to drive a low-speed electric vehicle or golf cart under the authority of 61-5-122, whether or not the person holds a valid driver's license; and (c) a nonresident's similarly restricted driving privilege. (35) "Manufactured home" has the meaning provided in 15-24-201. (36) "Manufacturer" includes any person engaged in

the manufacture of motor vehicles, trailers, semitrailers, pole trailers, travel trailers, motorboats, sailboats, snowmobiles, or off-highway vehicles as a regular business. (37) "Manufacturer's certificate of origin" means the original paper record produced and issued by the manufacturer of a vehicle or, if in a medium authorized by the department, an electronic record created and transmitted by the manufacturer of a vehicle to the manufacturer's agent or a licensed dealer. The record must establish the origin of the vehicle specifically described in the record and, upon assignment, transfers of ownership of the vehicle to the person or persons named in the certificate. (38) (a) "Medium-speed electric vehicle" is a motor vehicle, on or by which a person may be transported, that: (i) has a maximum speed of 45 miles an hour as certified by the manufacturer; (ii) is propelled by its own power, using an electric motor or other device that transforms stored electrical energy into the motion of the vehicle; (iii) stores electricity in batteries, ultracapacitors, or similar devices, which are charged from the power grid or from renewable electrical energy sources; (iv) is fully enclosed and includes at least one door for entry; (v) has a wheelbase of 40 inches or greater and a wheel diameter of 10 inches or greater; (vi) exhibits a manufacturer's compliance with 49 CFR, part 565, or displays a 17-character vehicle identification number as provided in 49 CFR, part 565; (vii) bears a sticker, affixed by the manufacturer or dealer, on the left side of the rear window that indicates the vehicle's maximum speed rating; and (viii) as certified by the manufacturer, is equipped as provided in 61-9-432. (b) A medium-speed electric vehicle must be treated as a light vehicle for purposes of titling and registration under Title 61, chapter 3. (c) A medium-speed electric vehicle may not have a gross vehicle weight in excess of 5,000 pounds. (39) "Mobile home" or "house trailer" has the meaning provided in 15-24-201. (40) "Montana resident" means: (a) an individual who resides in Montana as determined under 1-1-215; or (b) for the purposes of chapter 3, a business entity that maintains a principal place of business or a registered agent in this state. (41) (a) "Motor carrier" means a person or corporation or its lessees, trustees, or receivers appointed by a court that are operating motor vehicles on a public highway in this state for the transportation of property for hire on a commercial basis. (b) The term does not include motor carriers regulated under Title 69, chapter 12. (42) "Motor home" means a motor vehicle: (a) designed to provide temporary living quarters, built as an integral part of or permanently attached to a self-propelled motor vehicle chassis or van; (b) containing permanently installed independent life support systems that meet the NFPA 1192 standard on recreational vehicles; and (c) providing at least four of the following types of facilities: (i) cooking, refrigeration, or icebox; (ii) self-contained toilet; (iii) heating or air conditioning, or both; (iv) potable water supply, including a faucet and sink; or (v) separate 110-volt or 125-volt electrical power supply or a liquefied petroleum gas supply, or both. (43) (a) "Motor vehicle" means: (i) a vehicle propelled by its own power and designed or used to transport persons or property on the highways of the state; (ii) a quadricycle if it is equipped for use on the highways as prescribed in chapter 9; or (iii) a golf cart only if it is equipped for use on the highways as prescribed in chapter 9 and is operated pursuant to 61-8-391 or by a person with a low-speed restricted driver's license. (b) The term does not include a bicycle or a moped as defined in 61-8-102, an electric personal assistive mobility device, a motorized nonstandard vehicle, or a motorized wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person. (44) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion. The term includes boats temporarily equipped with detachable motors or engines. (b) The term does not include a vessel that has a valid marine document issued by the United States coast guard or any successor federal agency. (45) (a) "Motorcycle" means a motor vehicle that has a seat or saddle for the use of the operator and that is designated to travel on not more than three wheels in contact with the ground. A motorcycle may carry one or more attachments and a seat for the conveyance of a passenger. (b) A motorcycle designed for use on highways is a motor vehicle unless otherwise prescribed. (c) A motorcycle designed for off-road recreational use is an off-highway vehicle unless it has been modified to meet the equipment standards specified in chapter 9 and has been registered for highway use. (d) The term includes an autocycle. (e) The term does not include a tractor, a bicycle or a moped as defined in 61-8-102, a motorized nonstandard vehicle, or a two- or three-wheeled all-terrain vehicle that is used exclusively on private property. (46) (a) "Motor-driven cycle" means a motorcycle, including a motor scooter, with a motor that produces 5 horsepower or less. (b) The term does not include a bicycle or a moped, as defined in 61-8-102, or a motorized nonstandard vehicle. (47) (a) "Motorized nonstandard vehicle" means a vehicle, on or by which a person may be transported, that: (i) is propelled by its own power, using an internal combustion engine or an electric motor; (ii) has a wheelbase of less than 40 inches and a wheel diameter of less than 10 inches; and (iii) does not display a manufacturer's certification in accordance with 49 CFR, part 567, or have a 17-character vehicle identification number assigned by the manufacturer in accordance with 49 CFR, part 565. (b) The term includes but is not limited to a motorized skateboard and a vehicle commonly known as a "pocket rocket". (c) The term does not include a moped as defined in 61-8-102, an electric personal assistive mobility device, or a motorized wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person. (48) "New motor vehicle" means a motor vehicle, regardless of the mileage of the vehicle, the legal or equitable title to which has never been transferred by a manufacturer, distributor, or dealer to another person as the result of a retail sale. (49) "Nonresident" means a person who is not a Montana resident. (50) (a) "Not used for general transportation purposes" means the operation of a motor vehicle registered as a collector's item, a custom vehicle, a street rod, or a custom-built motorcycle to or from a car or motorcycle club activity or event or an exhibit, show, cruise night, or parade, or for other occasional transportation activity. (b) The term does not include operation of a motor vehicle for routine or ordinary household maintenance, employment, education, or other similar purposes. (51) (a) "Off-highway vehicle" means a self-propelled vehicle designed for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind. (b) The term does not include: (i) vehicles designed primarily for

travel on, over, or in the water; (ii) snowmobiles; or (iii) motor vehicles designed to transport persons or property on the highways unless the vehicle is used for off-road recreation on public lands. (52) "Operator" means a person who is in actual physical control of a motor vehicle. (53) "Owner" means each person who holds the legal title to a vehicle. If a vehicle is the subject of an agreement for the conditional sale of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession and control vested in an individual human being or in the event a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise in an individual human being, or in the event a mortgagor of a vehicle is entitled to possession and control, then the owner is the individual human being or mortgagor in whom is vested the right of possession and control. (54) "Person" means an individual human being, corporation, partnership, association, firm, or other legal entity. (55) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel. (56) "Pole trailer" means a vehicle without power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves as beams between the supporting connections. (57) "Police officer" means an officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (58) (a) "Quadricycle" means a four-wheeled motor vehicle, designed for on-road or off-road use, having a seat or saddle on which the operator sits. (b) The term does not include golf carts. (59) "Railroad" means a carrier of persons or property on cars, other than streetcars, operated on stationary rails. (60) (a) "Railroad train" or "train" means a steam engine or electric or other motor, with or without cars coupled to the engine, that is operated on rails. (b) The term does not include streetcars. (61) "Recreational vehicle" includes a motor home, travel trailer, or camper. (62) "Registration" or "register" means the act or process of creating an electronic record, maintained by the department, of the assignment of a license plate or a set of license plates to and the issuance of a registration decal for a specific vehicle, the ownership of which has been established or is presumed in department records. (63) "Registration decal" means an adhesive sticker produced by the department and issued by the department, its authorized agent, or a county treasurer to the owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat, personal watercraft, or snowmobile as proof of payment of all fees imposed for the registration period indicated on the sticker as recorded by the department under 61-3-101. (64) "Registration receipt" means a paper record that is produced and issued or, if authorized by the department, an electronic record that is transmitted by the department, its authorized agent, or a county treasurer to the owner of a vehicle that identifies a vehicle, based on information maintained in the electronic record of title for the vehicle, and that provides evidence of the payment of all fees required to be paid for the registration of the vehicle for the registration period indicated in the receipt. (65) "Retail sale" means the sale of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment by a dealer to a person for purposes other than resale. (66) "Revocation" means the termination by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for and be issued a driver's license for a period of time designated by law, during which the license or privilege may not be renewed, restored, or exercised. An application for a new license may be presented and acted on by the department after the expiration of the period of the revocation. (67) "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event that a highway includes two or more separate roadways, the term refers to any roadway separately but not to all roadways collectively. (68) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion. (b) The term does not include a canoe or kayak propelled by wind. (69) "School zone" means an area near a school beginning at the school's front door, encompassing the campus and school property, and including the streets directly adjacent to the school property and for as many blocks surrounding the school as determined by the local authority establishing a special speed limit under 61-8-310(1)(d). (70) "Sell" means to transfer ownership from one person to another person or from a dealer to another person for consideration. (71) "Semitrailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests on or is carried by another vehicle. (72) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding accessories, that is designed primarily for travel on snow or ice, that may be steered by skis or runners, and that is not otherwise registered or licensed under the laws of the state of Montana. (73) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property on the highways but incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, and well-boring apparatus. The fact that equipment is permanently attached to a vehicle does not make the vehicle special mobile equipment. The enumeration in this subsection is partial and does not exclude other vehicles that are within the general terms of this subsection. (74) (a) "Specially constructed vehicle" means a motor vehicle, including a motorcycle, that: (i) was not originally constructed under a distinctive make, model, or type by a generally recognized manufacturer of motor vehicles; (ii) has been structurally modified so that it does not have the same appearance as similar vehicles from a generally recognized manufacturer of motor vehicles; (iii) has been constructed or assembled entirely from custom-built parts and materials not obtained from other vehicles; (iv) has been constructed or assembled by using major component parts from one or more manufactured vehicles and that cannot be identified as a specific make or model; or (v) has been constructed by the use of a kit that cannot be visually identified as a specific make or model. (b) The term does not include a motor vehicle that has been repaired or restored to its original design by replacing parts. (75) (a) "Sport utility vehicle" means a light vehicle designed to transport 10 or fewer persons that is constructed on a truck chassis or that has special features for occasional off-road use. (b) The term does not include trucks having a manufacturer's rated capacity of 1

ton or less. (76) (a) "Stop", when required, means complete cessation from movement. (b) "Stop", "stopping", or "standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer, highway patrol officer, or traffic control sign or signal. (77) "Storage lot" means property owned, leased, or rented by a dealer that is not contiguous to the dealer's established place of business where a motor vehicle from the dealer's inventory may be placed when space at the dealer's established place of business is not available. (78) "Street" means the entire width between the boundary lines of every publicly maintained way when any part of the publicly maintained way is open to the use of the public for purposes of vehicular travel. (79) "Street rod" means a motor vehicle, other than a motorcycle, that: (a) was manufactured prior to 1949 or was built to resemble a vehicle manufactured before 1949, including a kit vehicle intended to resemble a vehicle manufactured before 1949; and (b) has been altered from the manufacturer's original design or has a body constructed from nonoriginal materials. (80) "Suspension" means the temporary withdrawal by action of the department of a person's driver's license, privilege to drive a motor vehicle on the public highways, and privilege to apply for or be issued a driver's license for a period of time designated by law. (81) "Temporary registration permit" means a paper record: (a) issued by the department, an authorized agent, a county treasurer, or a person, using a department-approved electronic interface after an electronic record has been transmitted to the department, that contains: (i) required vehicle and owner information; and (ii) the purpose for which the record was generated; and (b) that, when placed in a durable license-plate style plastic pouch approved by the department and displayed as prescribed in 61-3-224, authorizes a person to operate the described motor vehicle, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for: (i) 40 days from the date the record is issued or until the vehicle is registered under Title 23 or this title, whichever first occurs; or (ii) 90 days from the date the record is issued for a permit issued pursuant to 61-3-303(4)(b). (82) "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highways for purposes of travel. (83) (a) "Trailer" means a vehicle, with or without motive power, other than a pole trailer, designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests on the towing vehicle. (b) The term does not include a mobile home or a manufactured home, as defined in 15-1-101. (84) "Transaction summary receipt" means an electronic record produced and issued by the department, its authorized agent, or a county treasurer for which a paper receipt is issued. The record may be created by the department and transmitted to the owner of a vehicle, a secured party, or a lienholder. The record must contain a unique transaction record number and summarize and verify the electronic filing of the transaction described in the receipt on the electronic record of title maintained under 61-3-101. (85) "Travel trailer" means a vehicle: (a) that is 46 feet or less in length; (b) that is of a size or weight that does not require special permits when towed by a motor vehicle; and (c) that is designed to provide temporary facilities for recreational, travel, or camping use and not used as a principal residence. (86) "Truck" or "motortruck" means a motor vehicle designed, used, or maintained primarily for the transportation of property. (87) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn. (88) "Under the influence" has the meaning provided in 61-8-1001. (89) "Used motor vehicle" includes any motor vehicle that has been sold, bargained, exchanged, or given away or had its title transferred from the person who first took title to it from the manufacturer, importer, dealer, wholesaler, or agent of the manufacturer or importer and that has been used so as to have become what is commonly known as "secondhand" within the ordinary meaning of that term. (90) "Van" means a motor vehicle designed for the transportation of at least six persons and not more than nine persons and intended for but not limited to family or personal transportation without compensation. (91) (a) "Vehicle" means a device in, on, or by which any person or property may be transported or drawn on a public highway, except devices moved by animal power or used exclusively on stationary rails or tracks. (b) The term does not include a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle that is designed specifically for use by a physically disabled person and that is used as a means of mobility for that person. (92) "Vehicle identification number" means the number, letters, or combination of numbers and letters assigned by the manufacturer, by the department, or in accordance with the laws of another state or country for the purpose of identifying the motor vehicle or a component part of the motor vehicle. (93) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water. (94) "Wholesaler" means a person that for a commission or with intent to make a profit or gain of money or other thing of value sells, exchanges, or attempts to negotiate a sale or exchange of an interest in a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, motorboat, snowmobile, off-highway vehicle, or special mobile equipment only to dealers and auto auctions licensed under chapter 4, part 1. History: En. Sec. 2, Ch. 267, L. 1947; R.C.M. 1947, 31-118; amd. Sec. 1, Ch. 421, L. 1979; (10), (23), (38), (60), (64)En. Sec. 1, Ch. 458, L. 2005; (1), (2), (9)En. Sec. 2, Ch. 596, L. 2005; (50)En. Sec. 137, Ch. 596, L. 2005; amd. Sec. 7, Ch. 233, L. 2005; amd. Sec. 5, Ch. 241, L. 2005; amd. Sec. 36, Ch. 428, L. 2005; amd. Secs. 11 thru 14, Ch. 468, L. 2005; amd. Sec. 41, Ch. 542, L. 2005; amd. Secs. 129, 133 thru 136, Ch. 596, L. 2005; amd. Sec. 1, Ch. 20, L. 2007; amd. Sec. 50, Ch. 44, L. 2007; amd. Sec. 1, Ch. 83, L. 2007; amd. Sec. 1, Ch. 233, L. 2007; amd. Sec. 16, Ch. 329, L. 2007; amd. Sec. 1, Ch. 83, L. 2009; amd. Sec. 1, Ch. 353, L. 2009; amd. Sec. 5, Ch. 209, L. 2011; amd. Sec. 11, Ch. 247, L. 2011; amd. Sec. 2, Ch. 296, L. 2011; amd. Sec. 1, Ch. 120, L. 2015; amd. Sec. 1, Ch. 199, L. 2015; amd. Sec. 3, Ch. 374, L. 2015; amd. Sec. 2, Ch. 323, L. 2017; amd. Sec. 1, Ch. 435, L. 2017; amd. Sec. 1, Ch. 309, L. 2019; amd. Sec. 2, Ch. 109, L. 2021; amd. Sec. 5, Ch. 389, L. 2021; amd. Sec. 29, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-101. Standards of maximum dimensions, weights, etc

61-10-101. Standards of maximum dimensions, weights, etc. The standards provided for in 61-10-102 through 61-10-104 and

61-10-106 through 61-10-110 govern the maximum dimensions, weights, and other characteristics of motor vehicles operating over the highways in the state to the exclusion of other standards or other requirements respecting the subject matter. History: En. 32-1123.1 by Sec. 12, Ch. 316, L. 1974; R.C.M. 1947, 32-1123.1; amd. Sec. 1, Ch. 236, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-102. Width -- definitions

61-10-102. Width -- definitions. (1) Except as provided in subsections (2) and (3), a vehicle, including a bus, unloaded or with load, may not have a total outside width in excess of 102 inches. This width for buses is allowed only on paved highways 20 feet or more in width. (2) (a) Subsection (1) does not apply to an implement of husbandry or a vehicle used for hauling hay that is moved or propelled upon the highway during daylight hours for a distance of not more than 100 miles if the movement is incidental to the farming operations of the owner of the implement of husbandry or the vehicle used for hauling hay. If the implement or vehicle is more than 12 1/2 feet wide, it must be preceded by flag vehicle escorts to warn other highway users. This restriction does not apply to dual-wheel tractors under 15 feet overall width that are used in farming operations or to movement on a county road within 100 miles of the farming operation of the owner of an implement of husbandry or a vehicle used for hauling hay. Lights that meet the requirements of 61-9-219(4) must be displayed on the rear of the implement of husbandry or vehicle used for hauling hay. However, if the highway passes through a hazardous area, the implements or vehicles must be preceded and followed by flag vehicle escorts unless the movement of the implements or vehicles is restricted to a county road within 100 miles of the farming operation of the owner. (b) An implement of husbandry or a vehicle used for hauling hay that exceeds 16 1/2 feet in width and that is traveling on an interstate or a four-lane highway must be followed by a flag vehicle escort. (c) A commercial vehicle that is hauling hay but does not qualify under subsection (2)(a) may be granted a permit subject to the provisions of 61-10-121 through 61-10-127. (d) Subsection (1) does not apply to a commercial hay grinder moved or propelled upon the highway during daylight hours for a distance of not more than 100 miles if the movement is incidental to operations of the commercial hay grinder. A commercial hay grinder exceeding 102 inches in width must have a permit issued under 61-10-124. If the commercial hay grinder is more than 12 1/2 feet wide, it must be preceded by flag vehicle escorts to warn other highway users. Lights that meet the requirements of 61-9-219(4) must be displayed on the rear of the commercial hay grinder. Movement of a commercial hay grinder that does not exceed 138 inches in width may occur on any day of the week, including holidays, and is restricted to movement during daylight hours. Movement of a commercial hay grinder may not exceed the posted speed limit, including the speed limit on an interstate highway. (3) (a) The width of a recreational vehicle, as defined in 61-1-101, and a camper, as defined in 61-1-101, that is being operated for noncommercial purposes may exceed 102 inches if: (i) the excess width is attributable to recreational vehicle or camper appurtenances that do not extend beyond the exterior rearview mirrors of the recreational vehicle, the camper, a vehicle being towed by the recreational vehicle, or the motor vehicle providing motive power; and (ii) the rearview mirrors extend only the distance necessary to provide the appropriate field of view for the vehicle before the recreational vehicle or camper appurtenances are attached. (b) For the purposes of this section, "recreational vehicle or camper appurtenances" means an awning and its support hardware or any appendage that is intended to be an integral part of the recreational vehicle or camper and that is installed by the manufacturer or dealer. (4) A safety device that the department determines by rule adopted pursuant to 61-9-504 to be necessary for safe and efficient operation of motor vehicles is not included in the calculation of width provided in subsection (1). (5) Except as provided in subsections (2)(a) and (2)(b), a rear flag vehicle escort is not required for a vehicle that exceeds 12 1/2 feet in width, that is hauling or towing an implement of husbandry, construction equipment, or forestry equipment, and that is operating under this section or as authorized by special permit issued under 61-10-121 through 61-10-125 if the vehicle is operating at highway speed or with the flow of traffic. (6) For the purposes of this section, the following definitions apply: (a) "Construction equipment" means any vehicle, machine, or attachment designed or adapted for and used in construction, heavy construction, highway construction, and remodeling work. (b) "Flag vehicle" means a vehicle equipped as required by law or by department of transportation rule to warn or guide vehicular traffic. When not being operated as a flag vehicle, signs must be removed. History: En. 32-1123.3 by Sec. 14, Ch. 316, L. 1974; amd. Sec. 1, Ch. 314, L. 1975; R.C.M. 1947, 32-1123.3; amd. Sec. 74, Ch. 421, L. 1979; amd. Sec. 1, Ch. 109, L. 1983; amd. Sec. 1, Ch. 340, L. 1989; amd. Sec. 1, Ch. 413, L. 1993; amd. Sec. 1, Ch. 283, L. 1997; amd. Sec. 2, Ch. 449, L. 1999; amd. Sec. 4, Ch. 241, L. 2005; amd. Sec. 224, Ch. 542, L. 2005; amd. Sec. 1, Ch. 210, L. 2011; amd. Sec. 1, Ch. 115, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-103. Height

61-10-103. Height. (1) Except as provided in subsection (2), a vehicle, unladen or with load, may not exceed a height of 14 feet. (2) Subsection (1) does not apply to an implement of husbandry or a vehicle, unladen or with load, that does not exceed a height of 15 feet 6 inches if: (a) the implement of husbandry or vehicle is transporting hay, straw, or both for a distance not more than 25 miles and is incidental to farming operations; and (b) the implement of husbandry or the vehicle will not encounter overhead obstacles 17 feet from the ground or lower while in transit. History: En. 32-1123.4 by Sec. 15, Ch. 316, L. 1974; R.C.M. 1947, 32-1123.4; amd. Sec. 1, Ch. 73, L. 1987; amd. Sec. 1, Ch. 437, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-104. Length -- definitions

61-10-104. Length -- definitions. (1) A single truck, bus, or self-propelled vehicle, unladen or with load, may not have an overall

length, inclusive of front and rear bumpers, in excess of 55 feet. (2) (a) When used in a truck tractor-semitrailer combination, the semitrailer may not exceed 53 feet in length, excluding those portions not designed to carry a load, except as provided by 61-10-124. When used in a truck tractor-semitrailer-trailer or a truck tractor-semitrailer-semi-trailer combination, the semitrailer and trailer or the two semitrailers may not exceed 28 1/2 feet each in length or 61 feet in combined trailer length, excluding those portions not designed to carry a load, except as provided by 61-10-124. Truck tractor-semitrailer, truck tractor-semitrailer-trailer, and truck tractor-semitrailer-semi-trailer combinations are not subject to a combination length limit. (b) (i) A stinger-steered boat transporter may not exceed 80 feet in length plus a maximum 4 feet of front overhang and 6 feet of rear overhang, except as provided by 61-10-124. (ii) A stinger-steered automobile transporter may not exceed 80 feet in length plus a maximum 4 feet of front overhang and 6 feet of rear overhang, except as provided by 61-10-124. (c) All other combinations of vehicles may not have a combination length in excess of 75 feet, except as provided by 61-10-124. If the combination consists of more than two units, the rear units of the combination must be equipped with breakaway brakes. (3) A motor vehicle may not tow more than one motor vehicle, and a motor vehicle may not draw more than three motor vehicles attached to it by the triple saddle-mount method (that is, by mounting the front wheels of one vehicle on the bed of another, leaving only the rear wheels of the vehicle in contact with the roadway), and this combination may not have a combination length in excess of 75 feet. (4) A passenger vehicle or truck of less than 2,000 pounds "manufacturer's rated capacity" may not tow more than one trailer or semitrailer, and this combination may not have a length in excess of 65 feet. (5) (a) The length of a vehicle combination consisting of a truck or truck tractor and one pole trailer or semitrailer hauling raw logs may not exceed 75 feet in overall length. As used in this subsection (5)(a), the term "length" means the total length of the vehicle combination beginning at the front of the front bumper of the truck or truck tractor and extending to the most distant end of the logs being hauled. A term permit for an overlength vehicle combination, as provided in 61-10-124(2), does not apply to the vehicle combination described in this subsection (5)(a). A vehicle combination exceeding 75 feet must have a trip permit. (b) The maximum overhang of any log may not exceed 15 feet, except by special, single-trip permit. Overhang is measured from the center of the rear-most axle to the most distant end of the logs being hauled. (c) The provisions in subsections (5)(a) and (5)(b) do not apply to a vehicle combination hauling utility poles. (6) As used in this chapter, the following definitions apply: (a) "Axle" means a transverse beam that is the common axis of rotation of one or more wheels and that, to receive credit for allowable total gross loading, must be capable of continuously transmitting a proportionate share of the total gross load to the roadway when the axle is in operation. (b) "Combination length" means the total length of a combination of vehicles, such as a truck tractor-semitrailer-trailer combination, measured from the front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer, including the connection tongues. (c) "Combined trailer length" means the total length of a combination of trailers measured from the front of the first trailer, or the front bunk on a pole trailer, to the back of the last trailer, including the connection tongues and rear overhang. (d) "Length", except as provided in subsection (5)(a), means the total longitudinal dimension of a single vehicle, a trailer, or a semitrailer. The length of a trailer or semitrailer is measured from the front of the cargo-carrying unit to its rear, exclusive of safety or energy efficiency devices, air-conditioning units, air compressors, flexible fender extensions, splash and spray suppressant devices, bolsters, mechanical fastening devices, and hydraulic lift gates. (e) "Rocky Mountain double" means a combination of vehicles that includes a truck tractor pulling a long semitrailer and a shorter trailer. (f) "Steering axle" means an axle that pivots at the hub to allow the wheel to follow the travel of the vehicle. A steering axle is capable of being steered but need not always be connected to a steering wheel. (g) "Stinger-steered automobile transporter" means a truck tractor-semitrailer combination that has a fifth wheel on a drop frame located behind and below the rear axle of the truck tractor and that is designed and used for the transportation of vehicles. (h) "Stinger-steered boat transporter" means a truck tractor-semitrailer combination that has a fifth wheel on a drop frame located behind and below the rear axle of the truck tractor and that is designed and used for the transportation of assembled boats or boat hulls. History: En. 32-1123.5 by Sec. 16, Ch. 316, L. 1974; amd. Sec. 1, Ch. 20, L. 1975; R.C.M. 1947, 32-1123.5; amd. Sec. 2, Ch. 40, L. 1981; amd. Sec. 1, Ch. 487, L. 1983; amd. Sec. 1, Ch. 121, L. 1989; amd. Sec. 1, Ch. 327, L. 1991; amd. Sec. 1, Ch. 672, L. 1991; amd. Sec. 1, Ch. 423, L. 1993; amd. Sec. 1, Ch. 209, L. 1995; amd. Sec. 1, Ch. 313, L. 1995; amd. Sec. 1, Ch. 58, L. 1997; amd. Sec. 2, Ch. 232, L. 1997; amd. Sec. 225, Ch. 542, L. 2005; amd. Sec. 1, Ch. 131, L. 2011; amd. Sec. 1, Ch. 68, L. 2017; amd. Sec. 3, Ch. 89, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-106. Measuring distance between axles

61-10-106. Measuring distance between axles. The distance between axles shall be measured to the nearest foot. When a fractional measurement is exactly one-half foot, the next larger whole number shall be used. History: En. 32-1123.8 by Sec. 19, Ch. 316, L. 1974; R.C.M. 1947, 32-1123.8.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-107. Maximum gross weight

61-10-107. (Temporary) Maximum gross weight. (1) (a) An axle may not carry a load in excess of 20,000 pounds, and no two consecutive axles more than 40 inches or less than 96 inches apart may carry a load in excess of 34,000 pounds. An axle load is the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. For purposes of this section, axles 40 inches or less apart are considered to be a single axle. Except as provided in subsection (1)(b), the maximum gross weight allowed on a vehicle, group of axles, or combination of vehicles must be determined by the formula: $W = 500((LN/(N - 1)) + 12N + 36)$ in which W equals gross weight, L

equals wheelbase in feet, and N equals number of axles, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The maximum gross weight allowed on a vehicle may not exceed the weight limits adopted by the department. The department shall adopt rules for weight limits based upon the most recent version of 23 CFR, part 658, appendix c, for vehicles operating in Montana. (b) A vehicle traveling on U.S. highway 93 from the border between Canada and the United States to 10 miles south of the border or on Montana highway 16 from the border between Canada and the United States to 20 miles south of the border is subject to the specific maximum allowable gross weight limit provided in rules adopted by the department but is not subject to maximum gross weight limits determined by the formula in subsection (1)(a). (2) (a) Notwithstanding a vehicle's conformance with the requirements of subsection (1), except for the steering axle, all axles weighing over 11,000 pounds must have at least four tires or have wide-base tires. The maximum load on an axle, other than a steering axle, equipped with wide-base tires is limited to 500 pounds for each inch of tire width. (b) The provisions of subsection (2)(a) do not apply to passenger buses. (c) For the purposes of this section, wide-base tires are tires that are 14 or more inches in nominal width. The maximum tire weight limit is computed for wide-base tires based on the number of inches shown on the tire marking, or if the tire marking is shown by metric size, the tire weight limit is computed by conversion of the metric size. (3) This section does not apply to highways that are a part of the national system of interstate and defense highways (as referred to in 23 U.S.C. 127) when application of this section would prevent this state from receiving federal funds for highway purposes. (Terminates on occurrence of contingency--sec. 2, Ch. 342, L. 2005.) 61-10-107. (Effective on occurrence of contingency) Maximum gross weight.(1) An axle may not carry a load in excess of 20,000 pounds, and no two consecutive axles more than 40 inches or less than 96 inches apart may carry a load in excess of 34,000 pounds. An axle load is the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle. For purposes of this section, axles 40 inches or less apart are considered to be a single axle. The maximum gross weight allowed on a vehicle, group of axles, or combination of vehicles must be determined by the formula: $W = 500((LN/(N - 1)) + 12N + 36)$ in which W equals gross weight, L equals wheelbase in feet, and N equals number of axles, except that two consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The maximum gross weight allowed on a vehicle may not exceed the weight limits adopted by the department. The department shall adopt rules for weight limits based upon the most recent version of 23 CFR, part 658, appendix c, for vehicles operating in Montana. (2) (a) Notwithstanding a vehicle's conformance with the requirements of subsection (1), except for the steering axle, all axles weighing over 11,000 pounds must have at least four tires or have wide-base tires. The maximum load on an axle, other than a steering axle, equipped with wide-base tires is limited to 500 pounds for each inch of tire width. (b) The provisions of subsection (2)(a) do not apply to passenger buses. (c) For the purposes of this section, wide-base tires are tires that are 14 or more inches in nominal width. The maximum tire weight limit is computed for wide-base tires based on the number of inches shown on the tire marking, or if the tire marking is shown by metric size, the tire weight limit is computed by conversion of the metric size. (3) This section does not apply to highways that are a part of the national system of interstate and defense highways (as referred to in 23 U.S.C. 127) when application of this section would prevent this state from receiving federal funds for highway purposes. History: En. 32-1123.7 by Sec. 18, Ch. 316, L. 1974; R.C.M. 1947, 32-1123.7; amd. Sec. 3, Ch. 40, L. 1981; amd. Sec. 2, Ch. 366, L. 1981; amd. Sec. 1, Ch. 392, L. 1981; amd. Sec. 2, Ch. 487, L. 1983; amd. Sec. 3, Ch. 474, L. 1987; amd. Sec. 1, Ch. 235, L. 1989; amd. Sec. 49, Ch. 16, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 399, L. 1993; amd. Sec. 2, Ch. 236, L. 1995; amd. Sec. 3, Ch. 232, L. 1997; amd. Sec. 1, Ch. 283, L. 2001; amd. Sec. 1, Ch. 342, L. 2005; amd. Sec. 1, Ch. 219, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-108. Reduction under special circumstances

61-10-108. Reduction under special circumstances. The maximum axle and axle group loads stated in 61-10-107 are subject to reasonable reduction in the discretion of the department of transportation during periods when road subgrades have been weakened by water saturation or other causes. History: En. 32-1123.9 by Sec. 20, Ch. 316, L. 1974; R.C.M. 1947, 32-1123.9; amd. Sec. 117, Ch. 370, L. 1987; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 3, Ch. 236, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-109. Operation without special permits prohibited

61-10-109. Operation without special permits prohibited. The operation of vehicles or combinations of vehicles having dimensions or weights in excess of the maximum limits specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-108 is permitted only if authorized by special permit issued under 61-10-121 through 61-10-125 by the department of transportation or its agents or the highway patrol. History: En. 32-1123.10 by Sec. 21, Ch. 316, L. 1974; R.C.M. 1947, 32-1123.10; amd. Sec. 75, Ch. 421, L. 1979; amd. Sec. 4, Ch. 40, L. 1981; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 4, Ch. 236, L. 1995; amd. Sec. 4, Ch. 232, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-110. Federal law

61-10-110. Federal law. Sections 61-10-101 through 61-10-104 and 61-10-106 through 61-10-109 do not authorize, without a permit issued as provided by law, the operation of a combination of vehicles having a gross weight, axle load, or size in excess of that

authorized in those sections or the operation on the national system of interstate and defense highways of a combination of vehicles having a gross weight or size in excess of the maximum weight and size permitted by law in this state before July 1, 1956, or permitted by federal law or regulation. If federal law allows establishment of weight and size limits in excess of the allowable limits permitted in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-109, without penalty or denial of federal funds for highway purposes, the department of transportation may, by permit designating highway routing, authorize the movement on highways under its jurisdiction of vehicles or combinations of vehicles of a weight or size in excess of the limits provided for in those sections, but within the limits necessary to qualify for federal-aid highway funds. History: En. 32-1123.11 by Sec. 22, Ch. 316, L. 1974; R.C.M. 1947, 32-1123.11; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 5, Ch. 236, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-111. Governor's authority to exempt vehicles from size and weight limits

61-10-111. Governor's authority to exempt vehicles from size and weight limits. (1) The governor may, through executive order, exempt vehicles from the size and weight limits imposed under this part: (a) upon a request of the director of the department of transportation and any other agency involved in the need to move oversize or overweight vehicles on the highway during emergency circumstances; (b) for a specified, limited period of time; and (c) during emergency circumstances and to meet unusual conditions to ensure the general welfare of the public. (2) The agency director who requests the executive order may specify the areas in which the exemption is in effect, the duration of the exemption, the types of vehicles to be exempted, and any other appropriate conditions of the order. (3) For the purposes of this section, "emergency circumstances" means conditions brought about by a weather event or a natural or other occurrence for which the movement of vehicles that may exceed size and weight limits is necessary for responding to the event or occurrence or for moving supplies, agricultural or other products, or equipment in a manner that is necessary because of the event or occurrence. History: En. Sec. 1, Ch. 291, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-112. reserved

61-10-112 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-113. Issuance of permits for overweight and oversize loads -- interstate agreements

61-10-113. Issuance of permits for overweight and oversize loads -- interstate agreements. The department of transportation may enter into agreements with other states to provide for the issuance of permits for overweight and oversize loads, as authorized by the laws and rules of each state. History: En. Sec. 1, Ch. 24, L. 1991; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-114. through 61-10-120 reserved

61-10-114 through 61-10-120 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-121. Permits for excess size and weight -- exempt from environmental review -- agents

61-10-121. Permits for excess size and weight -- exempt from environmental review -- agents. (1) (a) Upon application and with good cause shown, the department of transportation, or its agent under subsection (4), and local authorities in their respective jurisdictions may issue a special permit authorizing the applicant to operate or move a vehicle, combination of vehicles, load, object, or other thing of a size or weight exceeding the maximum specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 upon a highway under the jurisdiction of and for the maintenance of which the body granting the permit is responsible. However, only the department may issue permits for movement of a vehicle or combination of vehicles carrying built-up or reducible loads in excess of 9 feet in width or exceeding the length, height, or weight specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. This permit must be issued in the public interest. A carrier receiving this permit must have public liability and property damage insurance for the protection of the traveling public as a whole. (b) The department may issue oversize permits to dealers in implements of husbandry and self-propelled machinery. The permits may be transferred from unit to unit by the dealer for the fee set forth in 61-10-124. These oversize permits may not restrict dealers in implements of husbandry and self-propelled machinery from traveling on a Saturday or Sunday and expire on December 31 of each year, with no grace period. For the purposes of this section, a dealer in implements of husbandry or self-propelled machinery must be a resident of the state. A post-office box number is not a permanent address under this section. (2) The applicant for a special permit shall specifically describe the powered vehicle or towing vehicle and generally describe the type of vehicle, combination of vehicles, load, object, or other thing to be operated or moved and the particular state highways over which the vehicle, combination of vehicles, load, object, or other thing is to be moved and whether the permit is required for a single trip or for continuous operation. (3) Issuance of a permit pursuant to this section is exempt from the provisions of Title 75, chapter 1, parts 1 and 2, when existing roads through existing rights-of-way are used. (4) The department may enter into a contract with a private party to act as an agent of the department for the purpose of issuing, in writing, a special permit allowed under this section. (5) This section does not authorize a local authority to

require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local authority. History: En. 32-1127.1 by Sec. 27, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.1; amd. Sec. 76, Ch. 421, L. 1979; amd. Sec. 1, Ch. 595, L. 1979; amd. Sec. 1, Ch. 166, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 71, L. 1995; amd. Sec. 6, Ch. 236, L. 1995; amd. Sec. 1, Ch. 218, L. 2013; amd. Sec. 28, Ch. 55, L. 2015; amd. Sec. 6, Ch. 173, L. 2015; amd. Sec. 4, Ch. 89, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-122. Discretion of issuer -- conditions

61-10-122. Discretion of issuer -- conditions. The department of transportation or local authority may issue or withhold a special permit at its discretion or, if the permit is issued, limit the number of trips or establish seasonal or other time limitations within which the vehicle, combination of vehicles, load, object, or other thing described may be operated on the public highways indicated, or otherwise limit or prescribe conditions of operation of the vehicle, combination of vehicles, load, object, or other thing when necessary to assure against damage to the road foundation, surfaces, or structures or safety of traffic, and may require an undertaking or other security considered necessary to compensate for injury to a roadway or road structure. During harvest no permit may be denied to oversize harvest or harvest-related agricultural machinery solely on the grounds that the travel takes place on a Saturday or Sunday. No permit may be denied to dealers in implements of husbandry and self-propelled machinery solely on the grounds that the travel may take place on a Saturday or Sunday. History: En. 32-1127.2 by Sec. 28, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.2; amd. Sec. 2, Ch. 595, L. 1979; amd. Sec. 118, Ch. 370, L. 1987; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-123. Haystack movers

61-10-123. Haystack movers. (1) A self-propelled vehicle used only for the purpose of moving haystacks on a commercial basis is subject to 61-10-121 through 61-10-127, except as provided in subsections (2) through (8). (2) The vehicle, loaded or unloaded, may not exceed 55 feet in length or 20 feet in width. (3) A single load may not be moved on the vehicle a distance greater than 75 miles from the point of origin on public roads. (4) When the vehicle is hauling a load, it must be accompanied by two pilot cars. Each car must be equipped with a flashing warning light, a red flag, and a sign with the words "wide load" written on it. One car must precede the vehicle by not less than 100 yards or more than one-fourth mile, and one car must follow the vehicle at a distance not less than 100 yards or more than one-fourth mile. The following pilot car must be in radio contact with the vehicle at all times. (5) The speed of the vehicle must be reasonable and proper but not in excess of 35 miles per hour. (6) The vehicle may be operated only between the hours of sunrise and sunset. (7) The vehicle may not be operated on an interstate or a controlled-access highway as defined in 61-8-102. (8) A term or blanket permit may be issued for the vehicle. History: En. 32-1127.4 by Sec. 30, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.4; amd. Sec. 226, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-124. Special permits -- fees

61-10-124. (Temporary) Special permits -- fees. (1) Except as provided in subsections (2)(d) and (3), in addition to the regular registration and gross vehicle weight fees, a fee of \$10 for each trip permit and a fee of \$75 for each term permit issued for size in excess of that specified in 61-10-101 through 61-10-104 must be paid for all movements under special permits on the public highways under the jurisdiction of the department of transportation. (2) (a) Except as provided in subsections (2)(b), (2)(d), (2)(f), (2)(h), (3), and (4), term or blanket permits may not be issued for an overwidth vehicle, combination of vehicles, load, or other thing in excess of 15 feet; an overlength vehicle, combination of vehicles, load, object, or other thing in excess of 95 feet; or an overweight vehicle, combination of vehicles, load, or other thing in excess of 14 feet or of a limit determined by the department. A vehicle, combination of vehicles, load, or other thing in excess of these dimensions is limited to trip permits. Except as provided in subsection (2)(g), a Rocky Mountain double may not exceed 81 feet in combined trailer length. A Rocky Mountain double is not subject to a combination length limit. Special permits for vehicle combinations of more than two trailers or more than two units designed for or used to carry a load are not permitted except as provided in subsections (3) and (4). Special permits for vehicle combinations may specify and special permits under subsections (3) and (4) must specify highway routing and otherwise limit or prescribe conditions of operation of the vehicle or combination, including but not limited to required equipment, speed, stability, operational procedures, and insurance. (b) A term permit may be issued to a dealer in implements of husbandry and self-propelled machinery for an overwidth or overlength vehicle referred to in subsection (2)(a). This permit expires on December 31 of each year, with no grace period. (c) With payment of the appropriate gross weight fees required by 61-10-201 and with payment of the fee prescribed in subsection (1), allowable gross weight of a five-axle combination logging vehicle is 80,000 pounds. (d) A term permit may be issued for any combination of vehicles that exceeds 95 feet in length but does not exceed 100 feet in combination length, except a truck-trailer-trailer or a truck tractor-semitrailer-trailer-trailer combination, for travel only on interstate highways, as defined in 60-1-103, or on other highways within a 2-mile radius of an interstate highway interchange in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange. The fee for this permit is \$125. (e) A term permit may be issued for a truck tractor-semitrailer combination when the semitrailer exceeds 53 feet in length but does not exceed 57 feet in length. (f) (i) An annual permit may be

issued for nondivisible loads up to 120 feet in length. The fee for this permit is \$125. (ii) Portions of a nondivisible load hauled on a public road off of the interstate highway may be detached and reloaded on the same hauling unit if the separate pieces are necessary to the operation of the machine or equipment that is being hauled and if the arrangement does not exceed limits for which a permit may be issued. (iii) An applicant for a nondivisible load permit for use as provided in subsection (5)(b) is responsible for providing information regarding the number of work hours required to dismantle the load. (iv) For use as provided in subsection (5)(b) and for the purposes of this section, emergency response vehicles and casks designed and used for the transport of spent nuclear materials are considered nondivisible loads. (g) A Rocky Mountain double carrying baled hay may not exceed 88 feet of combined trailer length. (h) A term permit may be issued for an overlength vehicle moving a mobile home or a manufactured home, as defined in 15-24-201, when the vehicle does not exceed 110 feet in length or 16 feet in width. (3) The department may issue special permits to the operating company for a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles under the following conditions: (a) the combination may be operated only on interstate highways, as defined in 60-1-103, and on other highways within a 2-mile radius of an interstate highway interchange only in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange. (b) a combination of vehicles powered by a cab-over or tilt-cab truck tractor or a truck may not exceed an overall length of 105 feet, inclusive of front and rear bumpers and overhang; (c) a combination of vehicles powered by a conventional truck tractor may not exceed an overall length of 110 feet, inclusive of the front and rear bumpers and overhang; (d) an individual cargo unit of the combination may not exceed 28 1/2 feet in length and 102 inches in width; (e) gross weight fees under 61-10-201 must be paid on the truck or truck tractor for the declared registered gross weight of the special vehicle combination, but not to exceed the formula in 61-10-107; (f) the combination must have a special overlength permit issued at a fee of \$200 for a term permit or \$20 for each trip permit; (g) travel of the combination may be restricted to specific routes, hours of operation, specific days, or seasonal periods; and (h) the department may enforce any other restrictions determined by the department to be necessary. The permit is not transferable, and the fee for the permit is \$200. (4) The department of transportation may issue special permits under subsection (3) for vehicle combinations that consist of a truck-trailer-trailer if: (a) the vehicle combination's overall length, inclusive of front and rear bumpers, is not more than 95 feet; and (b) the person, firm, or corporation applying for the permit: (i) restricts truck-trailer-trailer operations authorized by the permit to the hauling of talc ore, chlorite, dolomite, limestone, and custom combine equipment; (ii) operated the truck-trailer-trailer combination before July 1, 1987; (iii) restricts the truck-trailer-trailer operations authorized by the permit to the specified routes that those vehicles used before July 1, 1987; and (iv) provides the department of transportation with an affidavit confirming the routes used before July 1, 1987, for truck-trailer-trailer operations. (5) For the purposes of this section, a "nondivisible load" is: (a) on public roads off of interstate highways, a load that cannot be readily or reasonably dismantled and that is reduced to a minimum practical size and weight; (b) on interstate highways, a load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would: (i) compromise the intended use of the vehicle; (ii) destroy the value of the load or vehicle; or (iii) require more than 8 work hours to dismantle using appropriate equipment. (Void on occurrence of contingency--sec. 2, Ch. 285, L. 2003.) 61-10-124. (Effective on occurrence of contingency) Special permits -- fees.(1) Except as provided in subsections (2)(d) and (3), in addition to the regular registration and gross vehicle weight fees, a fee of \$10 for each trip permit and a fee of \$75 for each term permit issued for size in excess of that specified in 61-10-101 through 61-10-104 must be paid for all movements under special permits on the public highways under the jurisdiction of the department of transportation. (2) (a) Except as provided in subsections (2)(b), (2)(d), (2)(f), (2)(g), (3), and (4), term or blanket permits may not be issued for an overwidth vehicle, combination of vehicles, load, or other thing in excess of 15 feet; an overlength vehicle, combination of vehicles, load, object, or other thing in excess of 95 feet; or an overheight vehicle, combination of vehicles, load, or other thing in excess of 14 feet or of a limit determined by the department. A vehicle, combination of vehicles, load, or other thing in excess of these dimensions is limited to trip permits. A Rocky Mountain double may not exceed 81 feet in combined trailer length. A Rocky Mountain double is not subject to a combination length limit. Special permits for vehicle combinations of more than two trailers or more than two units designed for or used to carry a load are not permitted except as provided in subsections (3) and (4). Special permits for vehicle combinations may specify and special permits under subsections (3) and (4) must specify highway routing and otherwise limit or prescribe conditions of operation of the vehicle or combination, including but not limited to required equipment, speed, stability, operational procedures, and insurance. (b) A term permit may be issued to a dealer in implements of husbandry and self-propelled machinery for an overwidth or overlength vehicle referred to in subsection (2)(a). This permit expires on December 31 of each year, with no grace period. (c) With payment of the appropriate gross weight fees required by 61-10-201 and with payment of the fee prescribed in subsection (1), allowable gross weight of a five-axle combination logging vehicle is 80,000 pounds. (d) A term permit may be issued for any combination of vehicles that exceeds 95 feet in length but does not exceed 100 feet in combination length, except a truck-trailer-trailer or a truck tractor-semitrailer-trailer-trailer combination, for travel only on interstate highways, as defined in 60-1-103, or on other highways within a 2-mile radius of an interstate highway interchange in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange. The fee for this permit is \$125. (e) A term permit may be issued for a truck tractor-semitrailer combination when the semitrailer exceeds 53 feet in length but does not exceed 57 feet in length. (f) (i) An annual permit may be issued for nondivisible loads up to 120 feet in length. The fee for this permit is \$125. (ii) Portions of a nondivisible load hauled on a public road off of the interstate highway may be detached and reloaded on the same hauling unit if the separate pieces are necessary to the operation of the machine or equipment that is being hauled and if the arrangement does not exceed limits for which a permit may be issued. (iii) An applicant for a nondivisible load permit for use as

provided in subsection (5)(b) is responsible for providing information regarding the number of work hours required to dismantle the load. (iv) For use as provided in subsection (5)(b) and for the purposes of this section, emergency response vehicles and casks designed and used for the transport of spent nuclear materials are considered nondivisible loads. (g) A term permit may be issued for an overlength vehicle moving a mobile home or a manufactured home, as defined in 15-24-201, when the vehicle does not exceed 110 feet in length or 16 feet in width. (3) The department may issue special permits to the operating company for a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles under the following conditions: (a) the combination may be operated only on interstate highways, as defined in 60-1-103, and on other highways within a 2-mile radius of an interstate highway interchange only in order to obtain necessary services or to load or unload at a terminal. When a terminal is beyond a 2-mile radius, the department may authorize travel between the terminal and the interchange. (b) a combination of vehicles powered by a cab-over or tilt-cab truck tractor or a truck may not exceed an overall length of 105 feet, inclusive of front and rear bumpers and overhang; (c) a combination of vehicles powered by a conventional truck tractor may not exceed an overall length of 110 feet, inclusive of the front and rear bumpers and overhang; (d) an individual cargo unit of the combination may not exceed 28 1/2 feet in length and 102 inches in width; (e) gross weight fees under 61-10-201 must be paid on the truck or truck tractor for the declared registered gross weight of the special vehicle combination, but not to exceed the formula in 61-10-107; (f) the combination must have a special overlength permit issued at a fee of \$200 for a term permit or \$20 for each trip permit; (g) travel of the combination may be restricted to specific routes, hours of operation, specific days, or seasonal periods; and (h) the department may enforce any other restrictions determined by the department to be necessary. The permit is not transferable, and the fee for the permit is \$200. (4) The department of transportation may issue special permits under subsection (3) for vehicle combinations that consist of a truck-trailer-trailer if: (a) the vehicle combination's overall length, inclusive of front and rear bumpers, is not more than 95 feet; and (b) the person, firm, or corporation applying for the permit: (i) restricts truck-trailer-trailer operations authorized by the permit to the hauling of talc ore, chlorite, dolomite, limestone, and custom combine equipment; (ii) operated the truck-trailer-trailer combination before July 1, 1987; (iii) restricts the truck-trailer-trailer operations authorized by the permit to the specified routes that those vehicles used before July 1, 1987; and (iv) provides the department of transportation with an affidavit confirming the routes used before July 1, 1987, for truck-trailer-trailer operations. (5) For the purposes of this section, a "nondivisible load" is: (a) on public roads off of interstate highways, a load that cannot be readily or reasonably dismantled and that is reduced to a minimum practical size and weight; (b) on interstate highways, a load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would: (i) compromise the intended use of the vehicle; (ii) destroy the value of the load or vehicle; or (iii) require more than 8 work hours to dismantle using appropriate equipment. History: (1)En. Sec. 1, Ch. 248, L. 1987; (2) thru (4)En. 32-1127.3, 32-1127.5 by Secs. 29, 31, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.3, 32-1127.5(part); amd. Sec. 77, Ch. 421, L. 1979; amd. Sec. 3, Ch. 595, L. 1979; amd. Sec. 5, Ch. 40, L. 1981; amd. Sec. 1, Ch. 462, L. 1983; amd. Sec. 3, Ch. 487, L. 1983; amd. Sec. 2, Ch. 73, L. 1987; amd. Sec. 2, Ch. 248, L. 1987; amd. Sec. 119, Ch. 370, L. 1987; amd. Sec. 2, Ch. 474, L. 1987; amd. Sec. 2, Ch. 437, L. 1989; amd. Sec. 1, Ch. 320, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 2, Ch. 672, L. 1991; amd. Sec. 11, Ch. 575, L. 1993; amd. Sec. 1, Ch. 621, L. 1993; amd. Sec. 7, Ch. 236, L. 1995; amd. Sec. 1, Ch. 312, L. 1995; amd. Sec. 5, Ch. 232, L. 1997; amd. Sec. 1, Ch. 317, L. 1999; amd. Sec. 1, Ch. 327, L. 2001; amd. Sec. 1, Ch. 285, L. 2003; amd. Sec. 1, Ch. 509, L. 2005; amd. Sec. 1, Ch. 34, L. 2011; amd. Sec. 35, Ch. 299, L. 2019; amd. Sec. 5, Ch. 89, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-125. Other fees

61-10-125. Other fees. (1) For a single trip permit for a load that is over the gross allowable load provided for by the formula in 61-10-107(1) but that does not exceed axle limits set forth in 61-10-107(1), the department of transportation shall charge for distances traveled: (a) \$10 for distances up to and including 100 miles; (b) \$30 for distances from 101 to 199 miles; and (c) \$50 for distances 200 miles and over. (2) (a) Upon application, the department of transportation or its agent under 61-10-121(4) may issue a wintertime permit or a durational permit authorizing the applicant to operate a vehicle, combination of vehicles, load, or object exceeding by up to 10% the maximum weight limits specified in 61-10-106 through 61-10-110. (b) (i) The nonrefundable fee for a wintertime permit is \$50 for each vehicle. A wintertime permit is valid for 30 days or until March 7, whichever is earlier. (ii) The nonrefundable fee for a durational permit is \$150 for each vehicle. A durational permit is valid for the period between December 1 and March 7. (3) (a) The department of transportation shall charge a fee of: (i) \$200 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 5,000 pounds in excess axle weight; (ii) \$500 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 10,000 pounds in excess axle weight, with no single axle exceeding 5,000 pounds in excess axle weight; (iii) \$750 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 15,000 pounds in excess axle weight, with no single axle exceeding 5,000 pounds in excess axle weight; (iv) \$1,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 20,000 pounds in excess axle weight, with no single axle exceeding 5,000 pounds in excess axle weight and no tandem axle exceeding 15,000 pounds in excess axle weight; (v) \$1,500 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 25,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation; (vi) \$2,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 30,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation; (vii) \$3,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but

that does not exceed a total of 35,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation; (viii) \$4,000 for a term permit for a load that is in excess of the limits set forth in 61-10-107(1) but that does not exceed a total of 40,000 pounds in excess axle weight, with no axle or axle group exceeding the maximum weight allowed by a weight analysis conducted by the department of transportation. (b) The fees provided in subsection (3)(a) are annual fees but may be prorated on a quarterly basis and may be paid quarterly, semiannually, or annually. However, if the fee is paid other than annually, there is an additional fee of \$10 each time a fee is paid. (c) A permit issued under this subsection (3) is valid for a period of no less than 1 calendar quarter and no more than 1 calendar year. (d) The department of transportation or its agent may not issue a term permit for loads that exceed 10,000 pounds in excess axle weight unless the person applying for the term permit has obtained approval from the department of transportation, through a weight analysis, for the configuration of the vehicle. (4) The department of transportation shall charge for a permit to move a load that exceeds the single axle, tandem axle, or axle group limits set forth in 61-10-107(1) the following fee based upon the sum of excess in axle or axle group weights: (5) For purposes of subsection (4): (a) mileage must be rounded off in units of 25 miles and mileage in excess of a 25-mile increment must be assessed at the next higher 25-mile increment; and (b) weight must be rounded off in 5,000-pound increments and weight in excess of a 5,000-pound increment must be assessed at the next higher 5,000-pound increment. (6) A vehicle must be licensed to the maximum allowable weight authorized under 61-10-107 before an overweight permit may be issued. History: En. 32-1127.5 by Sec. 31, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.5(part); amd. Sec. 6, Ch. 40, L. 1981; amd. Sec. 1, Ch. 571, L. 1993; amd. Sec. 2, Ch. 71, L. 1995; amd. Sec. 1, Ch. 311, L. 2003; amd. Sec. 1, Ch. 24, L. 2005; amd. Sec. 1, Ch. 326, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-126. Deposit of fees

61-10-126. Deposit of fees. All fees collected under 61-10-101 through 61-10-104 and 61-10-106 through 61-10-125 must be forwarded to the department of transportation for deposit in the highway nonrestricted account provided for in 15-70-125. History: En. 32-1127.10 by Sec. 36, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.10; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 8, Ch. 236, L. 1995; amd. Sec. 58, Ch. 509, L. 1995; amd. Sec. 31, Ch. 257, L. 2001; amd. Sec. 1, Ch. 126, L. 2015; amd. Sec. 20, Ch. 267, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-127. Permits issued to governmental entities

61-10-127. Permits issued to governmental entities. Permits issued to the United States government, states, counties, cities, and their political subdivisions shall be issued without fee for a term beginning with the date of issuance and expiring December 31. History: En. 32-1127.6 by Sec. 32, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.6.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-128. When authorities may restrict right to use roadway

61-10-128. When authorities may restrict right to use roadway. (1) A local authority may not alter the limitations provided in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 or substitute other limitations or requirements, except as provided in this section. (2) The department of transportation by order, or a local road authority by ordinance or resolution, may prohibit the operation of or impose restrictions on the weight and speed of a vehicle traveling on a public highway under its respective jurisdiction and for which it is responsible for maintenance whenever the highway will be seriously damaged or destroyed by deterioration, rain, snow, or other climatic conditions, unless the use of vehicles on the highway is prohibited or the permissible vehicle weights and speed are reduced. The department of transportation or the authority that enacts the ordinance or resolution shall erect signs designating the department's order or the authority's ordinance or resolution at each end of that portion of the highway affected, and the order, ordinance, or resolution is not effective until the signs are erected. The department of transportation or the authority by ordinance or resolution may prohibit the operation of trucks or other commercial vehicles or impose limitations on their weight on designated highways, subject to the provisions of subsection (3). These prohibitions and limitations must be designated by appropriate signs placed on the highways. (3) Neither the department of transportation nor a local authority may prohibit the operation of or impose a restriction on the weight of a vehicle loaded with perishable seed potatoes or a vehicle loaded with fertilizer that is traveling on a public highway if: (a) the vehicle is being operated within its legal licensed gross vehicle weight; (b) the driver possesses a federal-state inspection certificate issued for the load or a bill of lading; and (c) the vehicle takes the most direct route from the point of loading or point of unloading to the nearest nonrestricted road. (4) Hay grinders and their towing units are exempt from weight limits imposed by the department of transportation under this section. History: (1) En. 32-1123.12 by Sec. 23, Ch. 316, L. 1974; Sec. 32-1123.12, R.C.M. 1947; (2) En. Sec. 7, Ch. 171, L. 1931; re-en. Sec. 1751.7, R.C.M. 1935; amd. Sec. 6, Ch. 184, L. 1939; amd. Sec. 37, Ch. 316, L. 1974; Sec. 32-1128, R.C.M. 1947; R.C.M. 1947, 32-1123.12, 32-1128; amd. Sec. 1, Ch. 57, L. 1981; amd. Sec. 120, Ch. 370, L. 1987; amd. Sec. 1, Ch. 468, L. 1987; amd. Sec. 1, Ch. 476, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 57, L. 1993; amd. Sec. 9, Ch. 236, L. 1995; amd. Sec. 6, Ch. 232, L. 1997; amd. Sec. 1, Ch. 518, L. 2001; amd. Sec. 1, Ch. 90, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and

Fees61-10-129. Rules regarding overlength vehicles

61-10-129. Rules regarding overlength vehicles. The department of transportation may adopt rules to implement 61-10-124 and may by rule prescribe standards for the qualifications of drivers operating special vehicle combinations under 61-10-124 and for the equipping and operation of such combinations to enhance highway traffic safety. History: En. Sec. 5, Ch. 474, L. 1987; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 3, Ch. 672, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-130. Custom combiner's special permit -- fee -- collection -- distribution -- not transferable

61-10-130. Custom combiner's special permit -- fee -- collection -- distribution -- not transferable. (1) In lieu of the taxes required by 15-24-301 and in lieu of motor vehicle license fees, gross vehicle weight fees, and overwidth, overlength, and overheight permits provided for in Title 61, a nonresident engaged in the business of custom combining who brings equipment into the state may pay a special permit fee of \$40 for each unit. A unit includes: (a) one truck suitable for hauling grain; (b) one header trailer or one combine trailer; and (c) pickup trucks and all other equipment, except combines, used by a nonresident and brought into the state as part of the nonresident's business of custom combining. (2) In lieu of gross vehicle weight fees and overwidth, overlength, and overheight permits, Montana residents engaged in the business of custom combining may pay the annual farm gross vehicle weight fees and a special permit fee of \$20 for each unit. A unit includes: (a) one truck suitable for hauling grain; (b) one header trailer or one combine trailer; and (c) pickup trucks used by the resident in the resident's business of custom combining. (3) When used to transport agricultural products, a truck authorized to be used under a custom combiner's special permit may be operated only within a 100-mile radius from the harvested field to the point of first unloading. The truck may not haul agricultural products from one commercial elevator to another commercial elevator. The truck may be operated on any highway, except an interstate highway, as defined in 60-1-103, without incurring excess weight penalties under 61-10-145 if the total gross weight of the truck does not exceed allowable weight limitations by more than 20% for each axle and the maximum load for each inch of tire width does not exceed 670 pounds. A trip permit is not required. If the truck exceeds the tolerance provided under this subsection, the fine or penalty imposed applies to all weight over the legal limit allowed by 61-10-107. (4) A combine trailer authorized to be used under subsection (1)(b) or (2)(b) may be operated under the same limitations, except that the 100-mile limitation does not apply and the combine trailer may be used upon any highway of the state, including an interstate highway, as defined in 60-1-103. If the combine trailer exceeds the tolerance provided under subsection (3), the fine or penalty imposed applies to all weight over the legal limit allowed by 61-10-107. (5) The fee required by this section must be collected by the department of transportation. Upon payment of the fee, the department of transportation shall provide an identifying device to be displayed on each truck, header trailer, or combine trailer and other equipment used by the nonresident or resident in the person's business of custom combining in the state. The device is valid for the calendar year in which the fee is collected. (6) All fees collected under this section must be distributed not later than January 31 immediately following the period of licensure as follows: (a) 62 1/2% to the state general fund; and (b) 37 1/2% to the state special revenue fund for the department of transportation. (7) The identifying devices and fee paid for each unit are not transferable from one vehicle to another or transferable on the sale or change of ownership. (8) The department of transportation may adopt rules, as provided in Title 2, chapter 4, to implement the provisions of this section. History: En. 84-6015 by Sec. 1, Ch. 371, L. 1974; amd. Sec. 1, Ch. 50, L. 1975; R.C.M. 1947, 84-6015; amd. Sec. 1, Ch. 206, L. 1979; amd. Sec. 19, Ch. 581, L. 1979; amd. Sec. 2, Ch. 48, L. 1983; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 8, Ch. 20, L. 1985; amd. Sec. 1, Ch. 183, L. 1989; Sec. 15-24-1001, MCA 1987; redes. 61-10-130 by Sec. 3, Ch. 183, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 369, L. 2001; amd. Sec. 179, Ch. 574, L. 2001; amd. Sec. 36, Ch. 299, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-131. through 61-10-140 reserved

61-10-131 through 61-10-140 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads -- definition

61-10-141. Officers authorized to weigh vehicles and require removal of excessive loads -- definition. (1) (a) A peace officer, officer of the highway patrol, or employee of the department of transportation may weigh any vehicle regulated by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110, except recreational vehicles, travel trailers, or motor homes, by means of either portable scales used on an engineered site or stationary scales. The peace officer, officer of the highway patrol, or employee of the department of transportation may require that the vehicle be driven to the nearest stationary scales or engineered site for use of portable scales if those stationary scales or an engineered site is within 2 miles. (b) If it is determined in the weighing process that the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 have been exceeded, the peace officer, officer of the highway patrol, or employee of the department of transportation may then require the driver to unload at a designated facility that portion of the load necessary to decrease the weight of the vehicle to conform to the maximum allowable weights specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. If the excess weight does not exceed 10,000 pounds, an excess weight permit may be issued in accordance with 61-10-121. The permit authorizes the driver of the excess weight load to proceed to a designated facility where the load can be safely reduced to legal limits. (2) Commodities and

material unloaded as required by this section must be cared for by the owner or operator of the vehicle at the risk of that owner or operator. Commodities or material unloaded as required by this section may not be left on the highway right-of-way. (3) The department of transportation may establish, maintain, and operate weigh stations, either intermittently or on a continuous schedule, and may, except for trucks exempted by department administrative rule, require all trucks and commercial motor vehicles of 26,000 pounds GVW or greater to enter for the purpose of weighing and inspection for compliance with all laws pertaining to their operation and safety requirements. The department may require vehicles over 10,000 pounds, except those exempted by department administrative rule, to be inspected and weighed by portable scale crews when the portable scales are used on an engineered site. (4) For the purposes of this section, "engineered site" means: (a) a turnout designed and constructed by the department of transportation that has indents in the pavement to level portable scales; or (b) a site where leveling pads can be used in strict accordance with all of the manufacturer's manuals and specifications. History: En. Sec. 5, Ch. 171, L. 1931; re-en. Sec. 1751.5, R.C.M. 1935; amd. Sec. 4, Ch. 184, L. 1939; amd. Sec. 4, Ch. 243, L. 1961; amd. Sec. 1, Ch. 321, L. 1971; amd. Sec. 26, Ch. 316, L. 1974; amd. Sec. 3, Ch. 280, L. 1977; R.C.M. 1947, 32-1126(1) thru (4); amd. Sec. 2, Ch. 226, L. 1981; amd. Sec. 3, Ch. 686, L. 1985; amd. Sec. 121, Ch. 370, L. 1987; amd. Sec. 2, Ch. 57, L. 1989; amd. Sec. 1, Ch. 446, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 70, L. 1993; amd. Sec. 12, Ch. 575, L. 1993; amd. Sec. 10, Ch. 236, L. 1995; amd. Sec. 1, Ch. 206, L. 2001; amd. Sec. 9, Ch. 366, L. 2005; amd. Sec. 227, Ch. 542, L. 2005; amd. Sec. 1, Ch. 340, L. 2009; amd. Sec. 1, Ch. 142, L. 2011; amd. Sec. 6, Ch. 89, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-142. Display of permit

61-10-142. Display of permit. A special permit issued under 61-10-121 shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any peace officer, officer of the highway patrol, or employee of the department of transportation. History: En. 32-1127.8 by Sec. 34, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.8; amd. Sec. 122, Ch. 370, L. 1987; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-144. Violation of standards -- tolerance

61-10-144. Violation of standards -- tolerance. (1) It is a misdemeanor for a person, firm, or corporation to violate any provision of 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. (2) The operator of a vehicle or combination of vehicles may move over the highways to the first open stationary scale or portable scale on an engineered site, as defined in 61-10-141, without incurring the excess weight penalties set forth in 61-10-145 if the total gross weight of the vehicle or combination of vehicles does not exceed allowable total gross weight limitations by more than 10% and if the weight carried by any axle or combination of axles does not exceed the allowable axle weight limitations by more than 10%. If the vehicle or combination of vehicles is not in excess of the allowable total gross or axle weight limitations by more than 10%, the department may issue a single trip permit for the fee of \$10, allowing the vehicle or combination of vehicles to move over the highways to the first facility where its load can be safely adjusted or to its destination. Violations of total gross or axle weight limitations in excess of 10% are subject to the fines provided in 61-10-145, and all loads in excess of 10% of the total gross or axle weight limitations: (a) may be required to be adjusted or reduced to conform to the size and weight limitations before the vehicle or combination of vehicles is moved from the point of weighing; or (b) may be issued a permit as authorized by 61-10-141. (3) Farm vehicles transporting agricultural products from a harvesting combine or other harvesting machinery may be operated on any highway, except an interstate highway, as defined in 60-1-103, within a 100-mile radius of the harvested field to the point of first unloading without incurring excess weight penalties under 61-10-145 if the total gross weight of the farm vehicle or combination of vehicles does not exceed allowable weight limitations by more than 20% for each axle and the maximum load for each inch of tire width does not exceed 670 pounds. A single trip permit, as required in subsection (2), is not applicable to the farm vehicle or combination of vehicles. When a farm vehicle or combination of vehicles violates any of the provisions of this subsection, the fine or penalty imposed applies to that portion of the load above the legal limit. History: En. Sec. 3(a), Ch. 123, L. 1947; amd. Sec. 2, Ch. 243, L. 1961; amd. Sec. 24, Ch. 316, L. 1974; amd. Sec. 1, Ch. 239, L. 1977; R.C.M. 1947, 32-1124; amd. Sec. 2, Ch. 392, L. 1981; amd. Sec. 4, Ch. 487, L. 1983; amd. Sec. 2, Ch. 70, L. 1993; amd. Sec. 1, Ch. 62, L. 1995; amd. Sec. 11, Ch. 236, L. 1995; amd. Sec. 7, Ch. 232, L. 1997; amd. Sec. 1, Ch. 216, L. 1999; amd. Sec. 1, Ch. 254, L. 2001; amd. Sec. 2, Ch. 369, L. 2001; amd. Sec. 2, Ch. 340, L. 2009; amd. Sec. 37, Ch. 299, L. 2019; amd. Sec. 7, Ch. 89, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-145. Penalties

61-10-145. Penalties. (1) A person, firm, or corporation convicted of violating 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 shall be punished by a fine of not less than \$30 or more than \$100. A person, firm, or corporation convicted of operating a motor vehicle upon the public highways of this state with weight upon a wheel, axle, or group of axles greater than the maximum permitted by 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 shall be fined, in addition to other penalties provided by law for the offense, the following amounts: (a) \$30 for any excess weight up to and including 2,000 pounds; (b) \$75 for any excess weight more than 2,000 pounds and less than 4,001 pounds; (c) \$125 for any excess weight more than 4,000 pounds and less than 6,001 pounds; (d) \$175 for any excess weight more than 6,000 pounds and less than 8,001 pounds; (e) \$250 for any excess weight more than 8,000 pounds and less than 10,001 pounds; (f) \$275 for any excess weight more than 10,000 pounds and less than

12,001 pounds; (g) \$300 for any excess weight more than 12,000 pounds and less than 14,001 pounds; (h) \$400 for any excess weight more than 14,000 pounds and less than 16,001 pounds; (i) \$500 for any excess weight more than 16,000 pounds and less than 18,001 pounds; (j) \$600 for any excess weight more than 18,000 pounds and less than 20,001 pounds; (k) \$1,000 for any excess weight more than 20,000 pounds and less than 25,001 pounds; (l) \$2,000 for any excess weight more than 25,000 pounds. (2) If a motor vehicle is equipped with a retractable axle that is not fully extended and carrying its proportionate share of the load while the motor vehicle is operated upon the highways of this state, the weight penalties in subsection (1) apply to all weight over the legal maximum allowed by the fixed axles regardless of whether the axle is extended at the time of weighing. In addition to the penalties in subsection (1), the owner or operator shall be fined \$100 for failure to have the retractable axle fully extended while the gross weight of the vehicle exceeds the legal maximum allowed by the fixed axles. (3) A complaint filed and a summons or notice to appear issued pertaining to a violation of the gross weight regulations in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110 must specify the amount of the excess weight that the defendant is alleged to have had upon the vehicle or combination of vehicles. (4) It is a misdemeanor, punishable as provided in 46-18-212, for a person, firm, or corporation to violate any of the provisions of 61-10-123, 61-10-141, or 61-10-142. History: En. Sec. 3(b), Ch. 123, L. 1947; amd. Sec. 3, Ch. 243, L. 1961; amd. Sec. 25, Ch. 316, L. 1974; R.C.M. 1947, 32-1125; amd. Sec. 78, Ch. 421, L. 1979; amd. Sec. 1, Ch. 100, L. 1981; amd. Sec. 1, Ch. 601, L. 1983; amd. Sec. 1, Ch. 380, L. 1985; amd. Sec. 1, Ch. 122, L. 1991; amd. Sec. 3, Ch. 70, L. 1993; amd. Sec. 12, Ch. 236, L. 1995; amd. Sec. 8, Ch. 232, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-146. Special permits -- misrepresentations and violations as misdemeanor

61-10-146. Special permits -- misrepresentations and violations as misdemeanor. (1) A person who knowingly and willfully misrepresents the size or weight of a vehicle, combination of vehicles, load, object, or other thing in obtaining a special permit or who does not follow the requirements and conditions of the special permit or who operates a vehicle, combination of vehicles, load, object, or other thing the size or weight of which requires a special permit without first obtaining a special permit is guilty of a misdemeanor. (2) A person, firm, or corporation convicted of: (a) operating a vehicle or combination of vehicles with weight upon a wheel, axle, or group of axles greater than the maximum authorized by a special permit or of operating without a special permit a vehicle or combination of vehicles the weight of which requires a special permit shall, in addition to the other penalties provided by law for the offense, be punished by a fine in the amount provided in 61-10-145(1); or (b) violating any provision of 61-10-124(3) or any restriction on the special permits issued by the department under 61-10-124(3) shall be punished by a fine of not less than \$500 or more than \$1,000, and all special permits issued for the operation of the combination in violation must be confiscated. The combination must be separated into combinations of legal length before the units may proceed. History: En. 32-1127.7 by Sec. 33, Ch. 316, L. 1974; R.C.M. 1947, 32-1127.7; amd. Sec. 79, Ch. 421, L. 1979; (2) En. Sec. 4, Ch. 474, L. 1987; amd. Sec. 50, Ch. 16, L. 1991; amd. Sec. 2, Ch. 122, L. 1991; amd. Sec. 9, Ch. 232, L. 1997; amd. Sec. 8, Ch. 89, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-147. Penalties for using highway when use is restricted

61-10-147. Penalties for using highway when use is restricted. (1) It is a misdemeanor for a person, firm, or corporation to violate any of the provisions of 61-10-128(2). (2) A person, firm, or corporation first convicted of a misdemeanor for a violation of any of the provisions of 61-10-128(2) shall be punished by a fine of not less than \$10 or more than \$50. For a second conviction within 1 year the person, firm, or corporation shall be punished by a fine of not less than \$50 or more than \$200. On a third or subsequent conviction within 1 year after the first conviction the person, firm, or corporation shall be punished by a fine of not less than \$200 or more than \$500. History: En. Sec. 9, Ch. 171, L. 1931; re-en. Sec. 1751.9, R.C.M. 1935; amd. Sec. 7, Ch. 184, L. 1939; amd. Sec. 38, Ch. 316, L. 1974; R.C.M. 1947, 32-1130; amd. Sec. 2, Ch. 115, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-148. Disposition of fines and forfeited bonds

61-10-148. Disposition of fines and forfeited bonds. (1) Except as provided in 61-12-701 and subsection (2) of this section, all the money collected as fines and forfeited bonds for violations of Title 61, chapter 10, must be remitted monthly by the county treasurer to the state, as provided in 15-1-504, for deposit in the state general fund. This subsection does not apply to fines and forfeited bonds paid to justices' courts. (2) If the apprehension or arrest was for a violation of Title 61, chapter 10, and if the offense occurred on a road or highway not included under the provisions of 60-2-128 and 60-2-203, all money collected as fines and forfeited bonds must be deposited in the state general fund. History: En. Sec. 1, Ch. 10, Ch. 72, L. 1913; re-en. Sec. 1, Ch. 10, Ch. 141, L. 1915; re-en. Sec. 1752, R.C.M. 1921; re-en. Sec. 1752, R.C.M. 1935; amd. Sec. 12, Ch. 226, L. 1965; amd. Sec. 11, Ch. 214, L. 1969; R.C.M. 1947, 32-1131; amd. Sec. 80, Ch. 421, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 2, Ch. 601, L. 1983; amd. Sec. 2, Ch. 316, L. 1987; amd. Secs. 39, 66, Ch. 557, L. 1987; amd. Sec. 18, Ch. 87, L. 1993; amd. Sec. 59, Ch. 509, L. 1995; amd. Sec. 23, Ch. 389, L. 1999; amd. Sec. 32, Ch. 257, L. 2001; amd. Sec. 180, Ch. 574, L. 2001; amd. Sec. 22, Ch. 13, Sp. L. August 2002; amd. Sec. 228, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-149. through 61-10-153 reserved

61-10-149 through 61-10-153 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-154. Department of transportation to adopt motor carrier safety standards -- enforcement -- designation of peace officers -- duties -- violations

61-10-154. Department of transportation to adopt motor carrier safety standards -- enforcement -- designation of peace officers -- duties -- violations. (1) As used in this section, the terms "for-hire motor carrier", "private motor carrier", "gross vehicle weight rating", and "gross combination weight rating" have the same meaning as provided in 49 CFR 390.5. (2) The department of transportation shall adopt, by rule, standards for safety of operations of: (a) any for-hire motor carrier or any private motor carrier; (b) any motor vehicle or vehicle combination used in interstate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 10,001 pounds or more; (c) any motor vehicle or vehicle combination used in intrastate commerce that has a gross vehicle weight rating, gross combination weight rating, gross vehicle weight, or gross combination weight, whichever is greater, of 26,001 pounds or more and that is not a farm vehicle operating solely in Montana; (d) any motor vehicle that is designed or used to transport at least 16 passengers, including the driver, and that is not used to transport passengers for compensation; (e) any motor vehicle that is designed or used to transport at least nine passengers, including the driver, for compensation; or (f) any motor vehicle that is used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with federal hazardous materials regulations in 49 CFR, part 172. (3) Standards of safety adopted under this section must substantially comply, within allowed tolerance guidelines, to the federal motor carrier safety regulations and the federal hazardous material regulations as applied to motor carriers and vehicles transporting passengers or property in commerce. (4) The department of transportation shall work with the highway patrol in the enforcement of safety standards adopted pursuant to this section. The highway patrol and the department of transportation shall cooperate to ensure minimum duplication and maximum coordination of enforcement efforts. (5) In order to enforce compliance with safety standards adopted pursuant to this section, the department of transportation shall designate employees as peace officers. The designated employees must be employed in the administration of the motor carrier services functions of the department of transportation. Each employee designated as a peace officer may: (a) issue citations and make arrests in connection with violations of safety standards adopted under this section; (b) issue summonses; (c) accept bail; (d) serve warrants for arrest; (e) make reasonable inspections of cargo carried by commercial motor vehicles; (f) enforce the provisions of Title 49 of the United States Code and regulations that have been adopted under Title 49 and make reasonable safety inspections of commercial motor vehicles used by motor carriers; and (g) require production of documents relating to the cargo, driver, routing, or ownership of commercial motor vehicles. (6) In addition to other enforcement duties assigned under 61-10-141 and this section, an employee of the department of transportation who is appointed as a peace officer pursuant to 61-12-201 or this section: (a) has the same authority to enforce provisions of the motor carriers law as that granted to the public service commission under 69-12-203; (b) has the duty to secure or make copies, or both, of all bills of lading or other evidence of delivery for shipment of agricultural seeds, as defined in 80-5-120, that have been sold or are intended for sale in Montana and to forward the copies to the department of agriculture within 24 hours of the date that the bill of lading was obtained; (c) has the authority, if probable cause exists, to stop and inspect a supply tank connected to the engine of any diesel-powered motor vehicle operating on the public highways of this state in order to determine compliance with Title 15, chapter 70, part 4; (d) has for vehicle configurations subject to 61-10-141 and this section, the authority to issue a citation: (i) pursuant to 61-9-520(1)(a) for violation of 61-9-406(6) when the vehicle configuration causes a lane blockage; and (ii) pursuant to 61-9-520(1)(b) for violation of 61-9-406(6) when the vehicle configuration causes an incident that results in the closure of all lanes in one or both directions of a highway; and (e) may, on any highway under the jurisdiction of the department of transportation within the exterior boundaries of a reservation whose tribal government has entered into an agreement with the department of transportation pursuant to Title 18, chapter 11, part 1, exercise the authority under this part to issue a citation pursuant to 61-9-520 for violation of 61-9-406(6). (7) A violation of the standards adopted pursuant to this section is punishable as provided in 61-9-512, and the court, upon conviction, as defined in 61-5-213, shall forward a record of conviction to the department of transportation within 5 days in accordance with 61-11-101. (8) The department of transportation shall report to the transportation interim committee biennially, in accordance with 5-11-210, on its enforcement of the provisions of Title 15, chapter 70, part 4, pursuant to the authority provided in subsection (6)(c) and on any impacts that enforcement has had on the state special revenue fund. History: En. Sec. 8, Ch. 366, L. 2005; amd. sec. 38, Ch. 428, L. 2005; amd. Sec. 5, Ch. 3, L. 2015; amd. Sec. 18, Ch. 163, L. 2019; amd. Sec. 1, Ch. 37, L. 2021; amd. Sec. 2, Ch. 126, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 1. Standards, Permits, and Fees 61-10-155. Rulemaking authority

61-10-155. Rulemaking authority. The department of transportation may adopt and enforce rules to implement this chapter. History: En. Sec. 1, Ch. 371, L. 1989; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-201. Weight fees on motor trucks, truck tractors, and buses

61-10-201. Weight fees on motor trucks, truck tractors, and buses. In addition to other fees for the licensing of vehicles, there must be paid and collected annually for each truck, truck tractor, and bus, based upon the manufacturer's rated capacity for trucks with a

capacity of 1 ton or less and upon the maximum gross loaded weight and the maximum gross weight of any towed unit of each truck and truck tractor as set by the licensee in the licensee's application, the following fees: History: Ap. p. Sec. 6-201, Ch. 197, L. 1965; amd. Sec. 2, Ch. 2, Ex. L. 1967; Sec. 32-3301, R.C.M. 1947; Ap. p. Sec. 6-203, Ch. 197, L. 1965; amd. Sec. 4, Ch. 2, Ex. L. 1967; amd. Sec. 113, Ch. 316, L. 1974; Sec. 32-3303, R.C.M. 1947; R.C.M. 1947, 32-3301, 32-3303; amd. Sec. 81, Ch. 421, L. 1979; amd. Sec. 13, Ch. 575, L. 1993; amd. Sec. 6, Ch. 88, L. 1995; amd. Sec. 13, Ch. 236, L. 1995; amd. Sec. 10, Ch. 232, L. 1997; amd. Sec. 2, Ch. 327, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-206. Special fees -- certain farm vehicles

61-10-206. Special fees -- certain farm vehicles. (1) Except for motor trucks owned and operated by cooperative associations or cooperative marketing associations, there must be paid and collected annually a fee equal to 35% of the fees provided in 61-10-201 on: (a) motor trucks owned and operated by ranchers or farmers in: (i) the transportation of their own ranch, farm, orchard, or dairy products from point of production to market; (ii) the transportation of timber harvested on their own ranch, farm, orchard, or dairy from point of harvest to market; (iii) the transportation of supplies, commodities, or equipment to be used on the ranch, farm, orchard, or dairy; (iv) the infrequent or seasonal transportation by one farmer for another for any purpose other than commercial hire of products of the farm, orchard, or dairy; or (v) the transportation of supplies or commodities to be used on the farm, orchard, or dairy; and (b) one truck tractor and lowboy trailer used by contractors engaged exclusively in soil conservation work and land leveling activities that result in direct benefit to agriculture. (2) The minimum fee is \$6. (3) A motor vehicle or trailer designed and used to apply fertilizer to agricultural land must be treated as special mobile equipment. History: En. Sec. 6-206, Ch. 197, L. 1965; amd. Sec. 1, Ch. 143, L. 1967; amd. Sec. 6, Ch. 2, Ex. L. 1967; R.C.M. 1947, 32-3306; amd. Sec. 17, Ch. 575, L. 1993; amd. Sec. 2, Ch. 314, L. 1995; amd. Sec. 1, Ch. 55, L. 2003; amd. Sec. 229, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-209. Monthly payment -- quarterly payment -- penalty for failure to pay fee

61-10-209. Monthly payment -- quarterly payment -- penalty for failure to pay fee. (1) When the gross weight of a vehicle exceeds 24,000 pounds, the gross weight or special fees for trucks, tractors, or buses may be paid for a 1-month period for one-twelfth the regular fee or for a 3-month period for one-fourth the regular fee at the beginning of any quarter of the calendar year. For each fee paid other than at the time of payment of the annual vehicle registration fee, an additional fee of \$5 must be charged. The department may adopt rules relative to the issuance and display of certificates or insignia, which must state the months for which the vehicle is licensed. (2) A vehicle licensed under this section may not be operated over the public highways after the expiration of: (a) the 1-month period until the owner pays the required fee for a license for an additional 1-month or 3-month period or for the remainder of the year; or (b) the 3-month period unless the owner or operator of the vehicle, within 10 calendar days or 7 business days as provided by law, whichever is greater, pays the required fee for a license for an additional 1-month or 3-month period or for the remainder of the year. (3) A person who operates a vehicle upon the public highways in violation of subsection (2) is guilty of a misdemeanor. History: (1) En. Sec. 6-208, Ch. 197, L. 1965; amd. Sec. 114, Ch. 316, L. 1974; Sec. 32-3308, R.C.M. 1947; (2) thru (4) En. Sec. 6-209, Ch. 197, L. 1965; amd. Sec. 2, Ch. 292, L. 1967; amd. Sec. 115, Ch. 316, L. 1974; Sec. 32-3309, R.C.M. 1947; R.C.M. 1947, 32-3308, 32-3309; amd. Sec. 83, Ch. 421, L. 1979; amd. Sec. 1, Ch. 187, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 18, Ch. 575, L. 1993; amd. Sec. 3, Ch. 115, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-211. Fees on motor trucks, truck tractors, trailers, and semitrailers from other states

61-10-211. Fees on motor trucks, truck tractors, trailers, and semitrailers from other states. (1) In lieu of other fees for the licensing of vehicles, there must be collected a fee for each motor truck and truck tractor already licensed for the year in another jurisdiction and operated upon an itinerant basis in this state. The fee provided in subsection (2) must be collected upon each entrance of the vehicle into the state and must be based upon the number of miles to be traveled in the state and the registered gross vehicle weight of the motor truck or truck tractor as shown in the application of the nonresident operator. (2) The fee for each trip in Montana is: (3) The fees do not apply to any trailer the principal use of which is as temporary or permanent living quarters, or to any vehicle of a carnival that is under contract with a state, county, or district fair association. (4) A fee must be collected for each nonresident, unlicensed or unregistered trailer or semitrailer entering Montana. The fee for each trip in Montana is: (a) \$10 for each trip of 200 miles or less; (b) \$15 for each trip of over 200 miles to 400 miles; and (c) \$20 for each trip of over 400 miles. History: En. Sec. 6-212, Ch. 197, L. 1965; R.C.M. 1947, 32-3312; amd. Sec. 7, Ch. 40, L. 1981; amd. Sec. 7, Ch. 88, L. 1995; amd. Sec. 12, Ch. 232, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-212. Temporary trip permits showing payment of fees -- display

61-10-212. Temporary trip permits showing payment of fees -- display. (1) Temporary trip permits showing payment of the fees provided for in 61-10-211 shall be issued under rules prescribed by the department. The permit shall be displayed in the vehicle for which the fee has been paid at all times while the vehicle is being operated on the highways of this state by posting it where it may

be read. (2) The department may limit the operation of the vehicle in this state to a definite period of time. History: En. Sec. 6-213, Ch. 197, L. 1965; amd. Sec. 117, Ch. 316, L. 1974; R.C.M. 1947, 32-3313.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-213. Time for payment of fees by nonresidents -- disposition

61-10-213. Time for payment of fees by nonresidents -- disposition. (1) A nonresident owner or operator of a motor truck, truck tractor, trailer, or semitrailer shall pay the fee and secure the permit prescribed either: (a) electronically, prior to entering the state; or (b) immediately on arrival in the state by contacting the department's Helena office or the nearest open weigh station location, whether permanent or temporary. (2) All fees collected must be remitted in accordance with 61-10-226. History: En. Sec. 6-214, Ch. 197, L. 1965; amd. Sec. 118, Ch. 316, L. 1974; R.C.M. 1947, 32-3314; amd. Sec. 4, Ch. 115, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-214. Exemptions

61-10-214. Exemptions. (1) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part. (2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively for transportation of agricultural workers are exempt from this part. (3) Vehicles lawfully displaying a dealer's or wholesaler's plate as provided in 61-4-102 and 61-4-125 are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or wholesaler's place of business when unloaded or loaded with dealer's or wholesaler's property only or while being demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be leased, rented, or operated for compensation by the licensed dealer or wholesaler. (4) Vehicles exempt from property tax under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o) or 15-6-228(4) are exempt from this part. The department of transportation may require documentation of tax-exempt status from the department of revenue before granting this exemption. History: En. Sec. 12, Ch. 219, L. 1951; amd. Sec. 1, Ch. 262, L. 1967; amd. Sec. 1, Ch. 46, L. 1973; Sec. 53-626, R.C.M. 1947; amd. and redes. 32-3319 by Sec. 183, Ch. 316, L. 1974; R.C.M. 1947, 32-3319(part); amd. Sec. 84, Ch. 421, L. 1979; amd. Sec. 3, Ch. 39, L. 1981; amd. Sec. 1, Ch. 311, L. 1991; amd. Sec. 12, Ch. 383, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 64, Ch. 18, L. 1995; amd. Sec. 30, Ch. 409, L. 1999; amd. Sec. 17, Ch. 532, L. 2005; amd. Sec. 8, Ch. 584, L. 2005; amd. Sec. 4, Ch. 278, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-215. Additional tax by municipalities prohibited -- exceptions

61-10-215. Additional tax by municipalities prohibited -- exceptions. Municipalities shall not levy, assess, collect, or charge any additional tax upon any carrier of persons or property for hire, except as provided by law. However, no carrier shall be exempt hereby from paying a parking, curb, or ad valorem property tax levied by any municipality. History: En. Sec. 6-106, Ch. 197, L. 1965; R.C.M. 1947, 32-3206.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-216. through 61-10-220 reserved

61-10-216 through 61-10-220 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-221. Purpose of fees

61-10-221. Purpose of fees. The fees provided in this part are in consideration of the right to use the highways of the state of Montana. History: En. Sec. 13, Ch. 219, L. 1951; Sec. 53-627, R.C.M. 1947; amd. and redes. 32-3320 by Sec. 184, Ch. 316, L. 1974; R.C.M. 1947, 32-3320(part).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-222. Time for payment of fees

61-10-222. Time for payment of fees. Prior to or at the time of registration of the vehicle as required under chapter 3 or chapter 4 or prior to the operation of the vehicle on the public highways, fees provided in this part must be paid in the full amount unless otherwise provided by law. With respect to vehicles operating on the highways with a current temporary registration permit issued under 61-3-224, the fees provided in this part are due and payable at the time of registration. History: En. Sec. 6-101, Ch. 197, L. 1965; amd. Sec. 1, Ch. 292, L. 1967; amd. Sec. 1, Ch. 47, L. 1973; amd. Sec. 109, Ch. 316, L. 1974; amd. Sec. 14, Ch. 74, L. 1975; R.C.M. 1947, 32-3201; amd. Sec. 85, Ch. 421, L. 1979; amd. Sec. 4, Ch. 342, L. 1995; amd. Sec. 118, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-223. Expiration date

61-10-223. Expiration date. Any GVW license issued shall be valid only for the period for which issued. History: En. Sec. 6-102, Ch.

197, L. 1965; R.C.M. 1947, 32-3202; amd. Sec. 86, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-224. GVW license transferable

61-10-224. GVW license transferable. The GVW license issued hereunder is transferable by the licensee of a truck, truck tractor, trailer, semitrailer, lowboy trailer, pole trailer, housetrailer, or passenger car to a replacement vehicle of the same type. This gross vehicle weight license transfer may take place without the licensee transferring ownership of the first vehicle. If the transfer is to a smaller vehicle, there shall be no refund. History: En. Sec. 6-103, Ch. 197, L. 1965; amd. Sec. 4, Ch. 127, L. 1969; R.C.M. 1947, 32-3203; amd. Sec. 2, Ch. 415, L. 1979; amd. Sec. 87, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-225. Disposition of fees collected by county treasurer

61-10-225. Disposition of fees collected by county treasurer. The county treasurer shall transmit the fees provided for in 61-10-222 to the state, as provided in 15-1-504, for deposit to the credit of the department of transportation in the highway restricted account provided for in 15-70-126. The remittance must be made on forms furnished to the county treasurer by the department of transportation. History: En. Sec. 6-104, Ch. 197, L. 1965; amd. Sec. 1, Ch. 293, L. 1967; amd. Sec. 110, Ch. 316, L. 1974; R.C.M. 1947, 32-3204; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 60, Ch. 509, L. 1995; amd. Sec. 33, Ch. 257, L. 2001; amd. Sec. 181, Ch. 574, L. 2001; amd. Sec. 230, Ch. 542, L. 2005; amd. Sec. 21, Ch. 267, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-226. Deposit of state highway money

61-10-226. Deposit of state highway money. (1) Money received for the use of the department of transportation from the receipt or transfer of GVW license fees, as provided by law, or from other state sources must be deposited in the highway restricted account provided for in 15-70-126 to the credit of the department. (2) Money received from the federal government or other agencies must be deposited in a federal or state special revenue fund to the credit of the department. (3) Money collected for the department as authorized by law must be credited to the appropriate fund by the state treasurer. (4) Money received from the counties must be deposited in the appropriate account in the state special revenue fund to the credit of the department. History: En. Sec. 6-105, Ch. 197, L. 1965; amd. Sec. 111, Ch. 316, L. 1974; R.C.M. 1947, 32-3205; amd. Sec. 88, Ch. 421, L. 1979; amd. Sec. 1, Ch. 48, L. 1981; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 48, Ch. 281, L. 1983; amd. Sec. 6, Ch. 700, L. 1989; amd. Sec. 61, Ch. 509, L. 1995; amd. Sec. 22, Ch. 267, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-227. Blank forms furnished to county treasurers

61-10-227. Blank forms furnished to county treasurers. The department shall furnish all county treasurers with the following: (1) blank application forms and affidavit forms outlining and providing for the information needed in each classification of license required; (2) GVW licenses in a form determined most suitable by the department; (3) the other forms, registration decals, certificates, or blanks that the department considers necessary to carry out this part. History: En. Sec. 6, Ch. 219, L. 1951; Sec. 53-620, R.C.M. 1947; amd. and redes. 32-3205.1 by Sec. 181, Ch. 316, L. 1974; R.C.M. 1947, 32-3205.1; amd. Sec. 89, Ch. 421, L. 1979; amd. Sec. 74, Ch. 130, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-228. through 61-10-230 reserved

61-10-228 through 61-10-230 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-231. Enforcement

61-10-231. Enforcement. The highway patrol and any designated employee of the department of transportation shall enforce this part, and those persons shall examine and inspect the motor vehicles operating upon the highways in this state and regulated by this part to ascertain whether or not those laws are being complied with. History: En. Sec. 10, Ch. 219, L. 1951; amd. Sec. 1, Ch. 156, L. 1955; Sec. 53-624, R.C.M. 1947; amd. and redes. 32-3318 by Sec. 182, Ch. 316, L. 1974; R.C.M. 1947, 32-3318; amd. Sec. 4, Ch. 39, L. 1981; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 45, Ch. 515, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-232. Violation -- penalty

61-10-232. Violation -- penalty. Any owner or operator of a motor truck, truck tractor, trailer, semitrailer, bus, or automobile who violates any provision of this part is guilty of a misdemeanor and shall be punished by a fine of not more than \$300 or by a sentence of not more than 60 days in the county jail or both. History: En. Sec. 6-216, Ch. 197, L. 1965; R.C.M. 1947, 32-3316.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-233. Excess weight -- penalties

61-10-233. Excess weight -- penalties. (1) The operator is subject to the penalties stated in 61-10-232 whenever the gross loaded weight of any trucks, truck tractor, trailer, or semitrailer operated upon any highway in this state exceeds the gross vehicle weight shown on: (a) the owner's certificate of registration and registration receipt issued under 61-3-322; or (b) the gross vehicle weight license issued under this part. (2) In addition, the operator shall immediately pay to the nearest county treasurer or to the department the difference between the fee already paid and that applicable to the gross weight of the vehicle before unloading the excess, provided that it does not exceed the legal axle weight. History: En. Sec. 6-217, Ch. 197, L. 1965; amd. Sec. 1, Ch. 37, L. 1971; amd. Sec. 120, Ch. 316, L. 1974; R.C.M. 1947, 32-3317; amd. Sec. 90, Ch. 421, L. 1979; amd. Sec. 37, Ch. 614, L. 1981; amd. Sec. 75, Ch. 130, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-234. through 61-10-240 reserved

61-10-234 through 61-10-240 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 10. Size -- Weight -- Load Part 2. Gross Vehicle Weight Licensing Requirements 61-10-241. Terminated

61-10-241. Terminated. Sec. 39(5), Ch. 15, Sp. L. July 1992. History: En. Sec. 34, Ch. 15, Sp. L. July 1992.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 1. General Provisions 61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses

61-11-101. Report of convictions and suspension or revocation of driver's licenses -- surrender of licenses. (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8, makes mandatory the revocation of the driver's license or commercial driver's license of the person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's licenses then held by the convicted person. The court shall forward the conviction to the department and destroy the driver's licenses. (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days after the conviction. The court may recommend that the department issue a restricted probationary license on the condition that the individual comply with the requirement that the person attend and complete a chemical dependency education course, treatment, or both, as ordered by the court under 61-8-1009. (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication upon which it is based to the department within 5 days on forms furnished by the department. (4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's license or who is required to hold a commercial driver's license, a court may not take any action, including deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to the conviction of a person who holds any other type of driver's license. (b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in subsection (1). (5) (a) If a person who holds a valid registry identification card or license issued pursuant to 16-12-203 or 16-12-508 is convicted of or pleads guilty to any offense related to driving under the influence of alcohol or drugs when the initial offense with which the person was charged was a violation of 61-8-1002, the court in which the conviction occurs shall require the person to surrender the registry identification card or license. (b) Within 5 days after the conviction, the court shall forward the registry identification card and a copy of the conviction to the department of revenue. History: (1), (2) En. Sec. 29, Ch. 267, L. 1947; amd. Sec. 1, Ch. 165, L. 1957; amd. Sec. 1, Ch. 27, L. 1961; amd. Sec. 1, Ch. 386, L. 1973; amd. Sec. 3, Ch. 430, L. 1977; Sec. 31-145, R.C.M. 1947; (3) En. Sec. 5, Ch. 154, L. 1963; Sec. 31-167, R.C.M. 1947; R.C.M. 1947, 31-145(a), (b), 31-167; amd. Sec. 1, Ch. 74, L. 1985; amd. Sec. 2, Ch. 444, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 36, Ch. 443, L. 1987; amd. Sec. 11, Ch. 789, L. 1991; amd. Sec. 8, Ch. 525, L. 1997; amd. Sec. 6, Ch. 455, L. 1999; amd. Sec. 15, Ch. 207, L. 2001; amd. Sec. 31, Ch. 428, L. 2005; amd. Sec. 1, Ch. 76, L. 2009; amd. Sec. 32, Ch. 419, L. 2011; amd. Sec. 26, Ch. 153, L. 2013; amd. Sec. 3, Ch. 194, L. 2013; amd. Sec. 21, I.M. No. 182, approved Nov. 8, 2016; amd. Sec. 42, Ch. 498, L. 2021; amd. Sec. 92, Ch. 576, L. 2021; amd. Sec. 4, Ch. 686, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 1. General Provisions 61-11-102. Records to be kept by department

61-11-102. Records to be kept by department. (1) Except as provided in subsection (8), the department shall create and maintain a central database of electronic files that includes an individual Montana driving record for each person: (a) who has been issued a Montana driver's license; (b) who does not have a driver's license from, or active driving record in, another jurisdiction and for

whom the department receives a report of conviction of a traffic violation or an offense requiring suspension or revocation of the person's driver's license; and (c) whose driver's license or driving privileges have been suspended, revoked, canceled, or otherwise withdrawn by the department. (2) An individual Montana driving record maintained under this section must include: (a) personal information obtained from the application for a driver's license or a report of conviction; (b) the person's driver's license number, license type, status, endorsements, restrictions, issue and expiration dates, and any suspensions, revocations, disqualifications, or cancellations that have been imposed against the person; (c) all convictions reported to the department for the person; and (d) traffic accidents in which the person was involved, except that a record of involvement in a traffic accident may not be entered on a licensee's record unless the licensee was convicted, as defined in 61-11-203, for an act causally related to the accident. (3) (a) The department shall create and maintain a CDLIS driver record for each person who has been issued a Montana commercial driver's license or for whom a record of conviction, disqualification, or other licensure action has been taken for violations of any state or local law relating to motor vehicle traffic regulation, other than a parking violation, committed while operating a commercial motor vehicle. (b) A CDLIS driver record maintained by the department must meet the requirements of 49 CFR 384.225. (c) If the department receives notice that a person has been disqualified by the federal motor carrier safety administration the department shall record the suspension or revocation on the CDLIS driver record. (4) The department shall retain records created under this section for a period of time that meets or exceeds the standards established under 49 CFR, part 384. (5) The department is further authorized, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, to forward, by electronic or other means, a report of the conviction to the motor vehicle administrator in the state in which the person is a resident or licensed. (6) The department may place on a computer storage device the information contained on original records or reproductions of original records made pursuant to this section. Signatures on records are not required to be placed on a computer storage device. (7) (a) Except as provided in subsection (7)(b), a reproduction of the information placed on a computer storage device is an original of the record for all purposes and is admissible in evidence without further foundation in all courts or administrative agencies when the department certifies the record. (b) An order, record, or paper generated from the department's central database of electronic files of individual Montana driving records may be certified electronically by the generating computer. The certification must be a certification of the order, record, or paper as it appeared on a specific date. (c) A court, an office of a clerk of court, or an attorney licensed to practice law in this state may receive and use a computer-generated individual Montana driving record as evidence without further foundation when: (i) the individual Montana driving record is electronically transmitted from the department's central database of electronic individual Montana driving records to a department-authorized terminal device maintained by the court, the office of the clerk of court, or the attorney; and (ii) the judge, an officer of the court, or the attorney certifies that the record was not altered in any way. (8) Except as provided in subsection (4), the department may destroy any individual Montana driving record maintained under this section if there are no suspensions or revocations on the record and there has been no renewed credential in the immediately preceding 16 years. History: En. Secs. 25, 27, Ch. 267, L. 1947; R.C.M. 1947, 31-141, 31-143(b); amd. Sec. 1, Ch. 503, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 76, L. 1987; amd. Sec. 19, Ch. 428, L. 2003; amd. Sec. 32, Ch. 428, L. 2005; amd. Sec. 119, Ch. 596, L. 2005; amd. Sec. 8, Ch. 41, L. 2009; amd. Sec. 9, Ch. 296, L. 2011; amd. Sec. 23, Ch. 123, L. 2013; amd. Sec. 26, Ch. 323, L. 2017; amd. Sec. 18, Ch. 335, L. 2019; amd. Sec. 10, Ch. 445, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 1. General Provisions 61-11-104. Justices of the peace -- availability of records

61-11-104. Justices of the peace -- availability of records. Justices of the peace shall make available to the department records of cases which involve the state highway patrol as the department may request. History: En. Sec. 16, Ch. 199, L. 1943; R.C.M. 1947, 31-116; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 40, Ch. 557, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 1. General Provisions 61-11-105. Release of information -- fees

61-11-105. Release of information -- fees. (1) Subject to the limitations of this section, the department shall, upon request, furnish a person the individual Montana driving record of a driver or licensee, containing the following data: (a) the driver's or licensee's name, driver's license number, and date of birth; (b) driver's license status, including the license type and any endorsements, the license issue date, license restrictions, any suspensions, revocations, or cancellations that have been imposed against the driver or licensee, and the license expiration date; (c) convictions of the driver or licensee; and (d) traffic accidents in which the driver or licensee was involved. (2) The department may not enter into any agreement to disclose or sell, in bulk, any data contained in an individual Montana driving record unless the requester of the information provides the department with the names, driver's license numbers, and dates of birth of the drivers or licensees from whose records a change in license status or conviction activity is to be reported. (3) (a) The department may not disclose personal information or highly restricted personal information from an individual Montana driving record, except as permitted or required under 61-11-507, 61-11-508, or 61-11-509. (b) The department may not disclose medical certification status, driver self-certification status, or medical certificate information from a CDLIS driver record as part of an individual Montana driving record except as expressly authorized under 49 CFR 384.225. (4) Information relating to a traffic accident that did not involve a conviction, as defined in 61-11-203, may not be released by the department unless the release is requested or approved by a party involved in the accident or is required by court order or a duly executed subpoena. (5) (a) Subject to the requirements of subsection (6) and except as provided in subsection (5)(b), a fee of \$4 must be paid for each

individual Montana driving record requested. A fee of \$10 must be paid if a certified Montana record, as provided in 61-11-102(7), is requested. A fee of 6 cents must be paid for each individual Montana driving record that is searched by the department to report to a requester a change in license status or conviction activity from one or more individual Montana driving records. (b) An individual Montana driving record must be provided without charge to any criminal justice agency, as defined in 44-5-103, or other state or federal agency. (6) In addition to the fees required in 61-11-510(3) and subsection (5) of this section, an individual Montana driving record or any report compiled from one or more individual Montana driving records that are digitally transmitted to a requester by an authorized agent as provided in 61-3-116 or through a point of entry for digital government services are subject to the convenience fee provided for in 2-17-1103 or 61-3-116. (7) The department may require a requester, other than a federal, state, or local government agency, seeking one or more individual Montana driving records or any data otherwise contained in one or more individual Montana driving records in digital format to use an authorized agent as provided in 61-3-116 or a point of entry for digital government services to obtain the record or data. History: En. Sec. 2, Ch. 503, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 467, L. 1989; amd. Sec. 1, Ch. 525, L. 1991; amd. Sec. 1, Ch. 346, L. 1993; amd. Sec. 16, Ch. 416, L. 1999; amd. Sec. 14, Ch. 363, L. 2001; amd. Sec. 3, Ch. 533, L. 2003; amd. Sec. 120, Ch. 596, L. 2005; amd. Sec. 58, Ch. 329, L. 2007; amd. Sec. 10, Ch. 296, L. 2011; amd. Sec. 16, Ch. 196, L. 2013; amd. Sec. 28, Ch. 365, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-201. Purpose

61-11-201. Purpose. This part is predicated upon the belief and philosophy that innocent drivers and other innocent passengers and pedestrians have a constitutional right to live, free from fear of death or injury from habitual traffic offenders. Further, it is the purpose of this part to reduce the number of motor vehicle accidents in this state and to provide greater safety to the motoring public and others by denying to the habitual traffic offenders the privilege of operating a motor vehicle upon the public streets and highways of this state. History: En. 31-175 by Sec 1, Ch. 362, L. 1974; R.C.M. 1947, 31-175.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-202. Legislative intent

61-11-202. Legislative intent. It is the legislative intent of this part to: (1) establish criteria and procedures by which persons who have demonstrated their apparent indifference for the safety and welfare of others and their disrespect for the laws of this state and its political subdivisions and their disregard for the orders of its courts and administrative agencies may be adjudged habitual traffic offenders; and (2) impose increased deprivation of the privilege to operate a motor vehicle upon these persons. History: En. 31-176 by Sec. 2, Ch. 362, L. 1974; R.C.M. 1947, 31-176.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-203. Definitions -- habitual traffic offenders -- point schedule

61-11-203. Definitions -- habitual traffic offenders -- point schedule. (1) As used in this part, the following definitions apply: (a) "Conviction" has the meaning provided in 61-5-213 resulting from a violation of traffic regulations on highways in this state or a traffic statute or traffic regulation in another jurisdiction. (b) "Habitual traffic offender" means any person who within a 3-year period accumulates 30 or more conviction points according to the schedule specified in subsection (2). (c) "License" means any type of license or permit to operate a motor vehicle. (d) "Moving violation" means a violation of a traffic regulation of this state or another jurisdiction by a person while operating a motor vehicle or in actual physical control of a motor vehicle upon a highway. (e) "Traffic regulation" includes any provision governing motor vehicle operation, equipment, safety, or driver licensing. A traffic regulation does not include provisions governing vehicle registration or local parking. (2) Subject to subsection (3), when the department receives a report of conviction, the department shall assign points based on the point schedule to determine whether an individual is a habitual traffic offender, as follows: (a) deliberate homicide resulting from the operation of a motor vehicle, 15 points; (b) mitigated deliberate homicide, negligent homicide resulting from operation of a motor vehicle, or negligent vehicular assault, 12 points; (c) any offense punishable as a felony under the motor vehicle laws of Montana or any felony in the commission of which a motor vehicle is used, 12 points; (d) driving while under the influence of intoxicating liquor or narcotics or drugs of any kind, 10 points; (e) operating a motor vehicle while the license to do so has been suspended or revoked, 6 points; (f) failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance, 8 points; (g) willful failure of the driver involved in an accident resulting in property damage of \$1,000 to stop at the scene of the accident and give the required information or failure to otherwise report an accident in violation of Title 61, chapter 7, 4 points; (h) reckless driving, 5 points; (i) illegal drag racing or engaging in a speed contest in violation of the law, 5 points; (j) any of the mandatory motor vehicle liability protection offenses, 5 points; (k) operating a motor vehicle without a license to do so, 2 points. However, this subsection (2)(k) does not apply to operating a motor vehicle within a period of 180 days from the date the license expired. (l) speeding, except as provided in 61-8-725(2)(a), 3 points; (m) all other moving violations, 2 points. (3) If there are two or more convictions involving a single occurrence, only the number of points for the specific conviction carrying the highest points is chargeable against that defendant. History: En. 31-177 by Sec. 3, Ch. 362, L. 1974; amd. Sec. 48, Ch. 359, L. 1977; R.C.M. 1947, 31-177(1), (2), (5); amd. Sec. 1, Ch. 519, L. 1979; amd. Sec. 12, Ch. 698, L. 1983; amd. Sec. 124, Ch. 370, L. 1987; amd. Sec. 2, Ch. 335, L. 1989; amd. Sec. 6, Ch. 365, L. 1993; amd. Sec. 4, Ch. 393, L. 1995; amd. Sec. 7, Ch. 43, L. 1999; amd. Sec. 20, Ch. 309, L. 1999; amd. Sec. 24, Ch. 395, L. 1999; amd. Sec. 3, Ch. 218, L. 2001; amd. Sec. 6,

Ch. 329, L. 2003; amd. Sec. 11, Ch. 556, L. 2003; amd. Sec. 33, Ch. 428, L. 2005; amd. Sec. 231, Ch. 542, L. 2005; amd. Sec. 1, Ch. 155, L. 2009; amd. Sec. 31, Ch. 19, L. 2011; amd. Sec. 5, Ch. 395, L. 2015; amd. Sec. 11, Ch. 445, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-204. Department's duties

61-11-204. Department's duties. (1) If the records maintained by the department show that a person's driving record brings the person within the definition of a habitual traffic offender, the department shall: (a) declare the person a habitual traffic offender; (b) revoke the person's driver's license or driving privileges as provided in 61-11-211; and (c) notify the person in writing of the declaration and revocation. (2) The notice must be sent by first-class mail to the most current address on record with the department. The notice must include a record of the convictions and bond forfeitures upon which the habitual traffic offender designation was based. The notice must inform the person of the right under 61-11-210 to appeal the declaration and revocation. Service of the notice is complete upon mailing. History: En. 31-178 by Sec. 4, Ch. 362, L. 1974; R.C.M. 1947, 31-178; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 338, L. 1995; amd. Sec. 21, Ch. 309, L. 1999; amd. Sec. 4, Ch. 218, L. 2001; amd. Sec. 12, Ch. 556, L. 2003; amd. Sec. 121, Ch. 596, L. 2005; amd. Sec. 27, Ch. 323, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-207. Abstracts admissible as evidence

61-11-207. Abstracts admissible as evidence. A copy of a driving record maintained by the department, including abstracts of the records of convictions and bond forfeitures in the custody of the department, certified in writing by the department to be a correct account of its records, may be admitted in evidence in a judicial proceeding under this part. A certified driving record is evidence that the person was convicted of each offense shown in the record. A copy of a driving record may be a copy of an original paper record, a digital image of a paper record, or an electronically transmitted copy of a record. History: En. 31-181 by Sec. 7, Ch. 362, L. 1974; R.C.M. 1947, 31-181; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 338, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-210. Appeals

61-11-210. Appeals. (1) A person declared to be a habitual traffic offender may file a petition in the district court in the county in which the person resides, or in Lewis and Clark County if the person is not a resident of the state, challenging the declaration and revocation. The petition must be filed within 30 days after the person received notice under 61-11-204. Receipt under 61-11-204 is presumed to be on the third day after the date of mailing. After the petition is filed, a copy must be promptly served on the county attorney of the county in which the petition was filed. The county attorney shall represent the department in the proceeding. Proof of service must be filed with the clerk of the court prior to a hearing or grant of relief. Untimely service or lack of service upon the county attorney waives the right to a hearing. The filing of the petition does not stay enforcement of the revocation. (2) Upon receipt from the county attorney of notice of the petition, the department shall give the county attorney a certified record of the convictions and bond forfeitures upon which the habitual traffic offender declaration was based. (3) A hearing date must be set and at least 10 days' notice of the date must be given to the parties. The scope of the hearing is limited to whether the petitioner is the person named in the certified record of convictions and bond forfeitures upon which the habitual traffic offender declaration was based and whether the petitioner is a habitual traffic offender. The petitioner has the burden of proving that the department's actions are invalid or that its records are erroneous. (4) If the court finds that the petitioner is the person declared by the department to be a habitual traffic offender and that the petitioner is a habitual traffic offender, the court shall dismiss the petition. If the court finds that the petitioner is not the person declared by the department to be a habitual traffic offender or that the petitioner is not a habitual traffic offender, the court shall grant the petition and provide the petitioner with appropriate relief, which must include an order that the department reimburse the petitioner for court fees paid by the petitioner. (5) Upon a finding adverse to the petitioner, the clerk of the court shall file with the department a copy of the court's order, together with the petitioner's driver's license if the license has not been previously surrendered. If the petition is granted, the clerk of the court shall file with the department a copy of the court's order granting the petition. The order must state the grounds upon which the relief was granted and must specify the court findings on the conviction points, if any, that have been accrued by the petitioner. The department shall then correct the petitioner's driving record to comport with the court's specific findings. History: En. 31-184 by Sec. 10, Ch. 362, L. 1974; R.C.M. 1947, 31-184; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 3, Ch. 338, L. 1995; amd. Sec. 122, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-211. Department to revoke license of habitual offender -- removal of points upon revocation

61-11-211. Department to revoke license of habitual offender -- removal of points upon revocation. After it declares a person to be a habitual offender, the department shall revoke the person's driver's license or driving privilege for a period of 3 years from the date of the declaration, subject to the provisions of 61-2-302. The department shall remove from the person's record the habitual offender points upon which the habitual traffic offender designation was based. History: En. 31-184.1 by Sec. 1, Ch. 176, L. 1975; R.C.M. 1947, 31-184.1; amd. Sec. 91, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 390, L. 1991; amd. Sec. 4, Ch. 338, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-212. Penalties

61-11-212. Penalties. A person who has been declared to be a habitual traffic offender may not be issued a license to operate a motor vehicle in this state until: (1) a period of 3 years has elapsed from the date of the declaration, subject to the provisions of 61-2-302; (2) the person has met the requirements of all applicable laws and rules relating to the licensing of motor vehicle operators in this state; and (3) the person files with the department, and maintains for a period of 3 years, proof of financial responsibility in the limits required by law. History: En. 31-185 by Sec. 11, Ch. 362, L. 1974; R.C.M. 1947, 31-185; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 390, L. 1991; amd. Sec. 5, Ch. 338, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-213. Habitual traffic offender operating motor vehicle guilty of misdemeanor

61-11-213. Habitual traffic offender operating motor vehicle guilty of misdemeanor. A person who is declared to be a habitual traffic offender under this part who operates a motor vehicle in this state during the period of revocation of the person's driver's license or driving privileges is guilty of a misdemeanor and upon conviction shall be imprisoned for a period of not less than 14 days or more than 1 year or fined not more than \$1,000, or both, and the department, upon receiving a record of the conviction of a person under this section, shall extend the period of revocation for an additional 1 year. However, in cases in which the prohibited operation of a motor vehicle by a habitual traffic offender is necessitated in a situation of extreme emergency in order to save life, limb, or property, the person may not be considered guilty of a violation under this part. History: En. 31-187 by Sec. 13, Ch. 362, L. 1974; R.C.M. 1947, 31-187; amd. Sec. 3, Ch. 390, L. 1991; amd. Sec. 6, Ch. 338, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 2. Habitual Traffic Offenders 61-11-215. Construction

61-11-215. Construction. Nothing contained in this part shall be construed as to repeal, modify, or amend any other laws or parts of laws, or any existing ordinance of any political subdivision relating to the operation or licensing of motor vehicles, the licensing of persons to operate motor vehicles or providing penalties for the violation thereof; nor shall anything in this part be construed so as to preclude the exercise of regulatory powers of any division, agency, department, or political subdivision of this state or of the federal government having the statutory power to regulate the operation and licensing of motor vehicles and the licensing of motor vehicle operators. History: En. 31-189 by Sec. 15, Ch. 362, L. 1974; R.C.M. 1947, 31-189.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-501. Short title

61-11-501. Short title. This part may be cited as the "Montana Driver Privacy Protection Act". History: En. Sec. 1, Ch. 363, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-502. Purpose

61-11-502. Purpose. The purpose of this part is to create a more restrictive state version of the federal prohibition on release and use of certain personal information from state motor vehicle records, found in 18 U.S.C. 2721, to protect an individual's privacy, consistent with the Montana constitution, by prohibiting the disclosure and use of personal information contained in Montana motor vehicle records, except when that use may be authorized by law. History: En. Sec. 2, Ch. 363, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-503. Definitions

61-11-503. Definitions. As used in this part, the following definitions apply: (1) "Disclose" means to engage in any practice or conduct that makes available or known, by means of any communication to another person, organization, or entity, personal information contained in a motor vehicle record. (2) "Express consent" means an affirmative authorization given in writing by a person to whom personal information pertains that specifically allows the department to release personal information to another person, organization, or entity. Consent may be conveyed electronically if the conveyance includes an electronic signature, as defined in 30-18-102, from the person to whom the personal information pertains. (3) "Highly restricted personal information" means an individual's photograph or image, social security number, or medical or disability information. (4) "Motor vehicle record" means any record maintained by the department that pertains to a driver's license, commercial driver's license, driving permit, identification card, or title or registration for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle. (5) "Person" does not mean a state agency or local government entity. (6) (a) "Personal information" means information that identifies a person, including a person's name, address, telephone number, social security number, driver's license or identification number, date of birth, photograph or image, and medical or disability information. (b) The term does not include the five-digit zip code of an address, information on vehicular accidents, driving or equipment-related violations, a person's driver's license or vehicle registration status, or a vehicle's insurance status. (7) "Record" includes all books, papers, photographs, photostats, cards, film, tapes, recordings, electronic data, printouts, or other documentary materials, regardless of physical form or characteristics. History: En. Sec. 3, Ch. 363, L. 2001; amd. Sec. 4, Ch. 533, L. 2003; amd. Sec. 3, Ch. 130, L.

2007; amd. Sec. 19, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-504. and 61-11-505 reserved

61-11-504 and 61-11-505 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-506. Disclosure of personal information from motor vehicle record prohibited

61-11-506. Disclosure of personal information from motor vehicle record prohibited. The department may not disclose personal information from a motor vehicle record unless the disclosure is permitted or required, as provided in 61-11-507, 61-11-508, or 61-11-509. History: En. Sec. 4, Ch. 363, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-507. Required disclosure

61-11-507. Required disclosure. Upon application, proof of the identity of a person requesting a record, and payment of the fees required in 61-11-510, the department shall disclose personal information, excluding highly restricted personal information, from a motor vehicle record for use in implementing federal law and federal regulations regarding: (1) motor vehicle or driver safety and theft; (2) motor vehicle emissions; (3) motor vehicle product alterations, recalls, or advisories; (4) performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and (5) removal of nonowner records from the original owner records of motor vehicle manufacturers. History: En. Sec. 5, Ch. 363, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-508. Permitted disclosure of personal information -- specific uses

61-11-508. Permitted disclosure of personal information -- specific uses. (1) On application, proof of the identity of the person requesting a record, and payment of fees required in 61-11-510, the department may disclose personal information, including highly restricted personal information, from a motor vehicle record to: (a) the person who is the subject of the motor vehicle record; or (b) a person who represents that the use of the information will be strictly limited to one or more of the following: (i) a federal, state, or local government agency, including a court or a law enforcement agency, and any individual acting on behalf of the agency in carrying out its functions, including county government elections officials verifying voter registration information and representatives of the news media for a legitimate law enforcement purpose, as determined by the department; or (ii) a person, organization, or entity, on the express consent of the person to whom the information pertains. (2) The department may not disclose a social security number unless: (a) it is disclosed for the purposes of subtitle VI of Title 49 of the U.S.C.; (b) it is disclosed to the department of public health and human services for use in administering Title IV-D of the Social Security Act; (c) the release of the social security number is specifically authorized by law, but only the final four numbers of a social security number may be released to county government election officials verifying voter registration information; or (d) it is disclosed to the department of revenue for use in administering and enforcing Montana's income tax laws. The department of revenue shall treat social security numbers received pursuant to this subsection (2)(d) as confidential pursuant to 15-30-2618. History: En. Sec. 6, Ch. 363, L. 2001; amd. Sec. 12, Ch. 445, L. 2019; amd. Sec. 1, Ch. 538, L. 2023; amd. Sec. 1, Ch. 627, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-509. Permitted disclosure of personal information, excluding highly restricted personal information -- specific uses

61-11-509. Permitted disclosure of personal information, excluding highly restricted personal information -- specific uses. Upon application, proof of the identity of the person requesting a record, and payment of the fees required in 61-11-510 and subject to the provisions of 61-11-105, the department may disclose personal information, excluding highly restricted personal information, from a motor vehicle record to a person who represents that the use of the personal information will be limited to one or more of the following uses: (1) in the normal course of business by a legitimate business or its agents, employees, or contractors, but only: (a) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and (b) if the submitted information is not correct or is no longer correct, to obtain the correct information for the purposes of preventing fraud by pursuing legal remedies against or recovering on a debt or security interest against the individual; (2) by a party in interest, or the agent of a party in interest, in a civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, an investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court; (3) by an insurer or insurance-support organization or a self-insured entity or its agents, employees, or contractors, in connection with the following arising under insurance policies: (a) the investigation of claims; (b) antifraud activities; (c) ratemaking; or (d) underwriting; (4) by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license required under federal or state law; (5) to conduct research activities and produce statistical reports and journalistic articles as long as the personal information is not published, disclosed to a third party, or used to contact individuals; (6) to provide notice to the owners of towed, abandoned, or impounded

vehicles; (7) for use by any licensed private investigative agency or licensed security service for any purpose provided under this section; (8) for use in activities pertaining to: (a) motor vehicle or driver safety and theft; (b) motor vehicle emissions; (c) motor vehicle product alterations, recalls, or advisories; (d) performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and (e) removal of nonowner records from the original owner records of motor vehicle manufacturers; (9) for any other use that is specifically related to the operation of a motor vehicle or to public safety and that is authorized by state law; and (10) for any use by a requester who demonstrates to the department that the requester has obtained the express consent of the person to whom the information pertains. History: En. Sec. 7, Ch. 363, L. 2001; amd. Sec. 5, Ch. 533, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-510. Prerequisites to disclosure

61-11-510. Prerequisites to disclosure. (1) Prior to the disclosure of personal information or highly restricted personal information, as provided in 61-11-507, 61-11-508, or 61-11-509, the department shall require the requester to complete and submit an application, in a form prescribed by the department, identifying the requester and specifying the statutorily recognized uses for which the personal information or highly restricted personal information is being sought. (2) The department shall require the requester to provide identification acceptable to the department. (3) (a) The department shall collect the appropriate fees paid by the requester and shall determine the amount of the fees in accordance with 61-3-101, 61-11-105, and this subsection (3), and as appropriate, in accordance with the terms of a contract between the department and the requester. (b) The department shall ensure that fees established by policy or contract: (i) recover the department's cost and expenses as provided in 2-6-1006 and 61-3-101; (ii) include an additional amount necessary to compensate the department for costs associated with developing and maintaining the database from which information is requested; and (iii) incorporate, when applicable, the convenience fee established under 2-17-1103. (c) Except as provided in 61-11-105(5)(b) and subsection (3)(d) of this section, the department shall charge a fee to any person, including a representative of a federal, state, or local government entity or member of the news media who requests information under this section. (d) The department may not charge a fee for information requested by the governor's office of budget and program planning, the Montana tax appeal board, the department of revenue, any legislative branch agency or committee, or any criminal justice agency, as defined in 44-5-103. History: En. Sec. 8, Ch. 363, L. 2001; amd. Sec. 6, Ch. 533, L. 2003; amd. Sec. 57, Ch. 348, L. 2015; amd. Sec. 47, Ch. 142, L. 2021; amd. Sec. 2, Ch. 627, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-511. through 61-11-514 reserved

61-11-511 through 61-11-514 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 11. Records and Reports of Convictions Part 5. Montana Driver Privacy Protection Act 61-11-515. Sale or disclosure of personal information by recipient

61-11-515. Sale or disclosure of personal information by recipient. (1) A requester who receives personal information or highly restricted personal information pursuant to 61-11-507, 61-11-508, 61-11-509, or 61-11-510 may not sell or disclose the information, except for a use that is specifically permitted in 61-11-507, 61-11-508, or 61-11-509. (2) A requester who sells or discloses personal information or highly restricted personal information to a third party under this section shall create and maintain records for a period of not less than 5 years from the date of the sale or disclosure. The records must show the name, address, telephone number, and any other identifying information required by the department of the third party who bought or received the information and must document the permitted use for which the information was obtained. The records must be produced or made available for inspection at the request of the department. History: En. Sec. 9, Ch. 363, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 1. Powers of Local Authorities 61-12-101. Powers of local authorities to regulate traffic

61-12-101. Powers of local authorities to regulate traffic. (1) The provisions of chapters 8 and 9 do not prevent local authorities with respect to sidewalks, streets, and highways under their jurisdiction and within the reasonable exercise of the police power from: (a) regulating the standing or parking of vehicles; (b) regulating the traffic by means of police officers or traffic control devices; (c) regulating or prohibiting processions or assemblages on the highways; (d) designating particular highways as one-way highways and requiring that all vehicles on those highways be moved in one specific direction; (e) regulating the speed of vehicles in public parks; (f) designating any highway as a through highway, as defined in 61-8-341, and requiring that all vehicles stop before entering or crossing a through highway and designating any intersection, as defined in 61-8-102, as a stop intersection and requiring all vehicles to stop at one or more entrances to stop intersections; (g) restricting the use of highways as authorized in 61-10-128(2); (h) regulating the operation of bicycles or mopeds, as defined in 61-8-102, and requiring the registration and licensing of bicycles or mopeds, including requiring a registration fee; (i) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections; (j) altering the speed limits as authorized in Title 7, chapter 14, and Title 61, chapter 8; (k) regulating the operating of a vehicle by a person who is a habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree that renders the person incapable of safely operating a vehicle within the incorporated limits of any city or town; (l) regulating or prohibiting a person who is under the influence of intoxicating liquor from operating or being in actual physical control

of a vehicle within the incorporated limits of a city or town; (m) regulating or prohibiting the operation of a vehicle by a person in willful or wanton disregard for the safety of persons or property within the incorporated limits of a city or town; (n) enacting as ordinances any provisions of chapter 8 or 9 and any other law regulating traffic, pedestrians, vehicles, and operators of vehicles that are not in conflict with state law or federal regulations and enforcing the ordinances; (o) regulating the operation of motorized nonstandard vehicles on sidewalks, streets, and highways; and (p) regulating the operation of golf carts on streets and highways. (2) The powers of a local authority to regulate traffic do not include the power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local authority. History: En. Sec. 28, Ch. 263, L. 1955; amd. Sec. 2, Ch. 201, L. 1957; amd. Sec. 1, Ch. 240, L. 1959; R.C.M. 1947, 32-2131; amd. Secs. 9, 11, Ch. 468, L. 2005; amd. Sec. 232, Ch. 542, L. 2005; amd. Sec. 9, Ch. 247, L. 2011; amd. Sec. 7, Ch. 173, L. 2015; amd. Sec. 14, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 1. Powers of Local Authorities 61-12-102. Private parking services -- parking citations -- definitions

61-12-102. Private parking services -- parking citations -- definitions. (1) As used in this section, the following definitions apply: (a) "Local government" means a municipality, if the private parking service operates parking services within a municipality, or a county, if the services are not operated within a municipality. (b) "Private parking service" means the service of providing areas for parking motor vehicles by the general public for compensation and includes those services conducted: (i) on private property; or (ii) on public property under contract or agreement with the local government. (2) A local government may by ordinance allow a private parking service to impound a motor vehicle. A motor vehicle may not be impounded by attaching a device that makes the motor vehicle immobile. (3) A private parking service may enter into an agreement with the local government to authorize employees of the private parking service to issue citations for parking violations as defined by state, municipal, or county laws, that occur within the boundaries of the private parking service's parking areas. All citations must be considered within the jurisdiction of the local government and must be handled in the same manner as citations issued by peace officers of the local government. History: En. Sec. 1, Ch. 215, L. 1987; amd. Sec. 233, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 10. Recorded Data 61-12-1001. Definitions

61-12-1001. Definitions. As used in this part, the following definitions apply: (1) "Event data recorder" has the meaning provided in 49 CFR 563.5 as in effect on October 1, 2011. (2) "Owner" means a person: (a) in whose name a motor vehicle is registered or titled; (b) who leases a motor vehicle for at least 3 months; (c) who is entitled to possession of a motor vehicle as the purchaser under a security agreement; or (d) who is the attorney-in-fact, conservator, or personal representative for a person described in subsections (2)(a) through (2)(c). History: En. Sec. 1, Ch. 272, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 10. Recorded Data 61-12-1002. Ownership of recorded data

61-12-1002. Ownership of recorded data. Except as provided in 61-12-1004, the data on a motor vehicle event data recorder is exclusively owned by the owner or owners of the motor vehicle and may not be retrieved or used by any person other than an owner of the motor vehicle without the written consent of an owner. History: En. Sec. 2, Ch. 272, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 10. Recorded Data 61-12-1003. Effect of vehicle ownership transfer on ownership of data -- prohibited insurer and lessor actions

61-12-1003. Effect of vehicle ownership transfer on ownership of data -- prohibited insurer and lessor actions. (1) Data on a motor vehicle event data recorder does not become the property of a lienholder or insurer solely because the lienholder or insurer succeeds in ownership of a motor vehicle as a result of an accident. (2) An insurer may not condition the payment or settlement of an owner's claim on the owner's consent to the retrieval or use of the data on a motor vehicle event data recorder. (3) An insurer or lessor of a motor vehicle may not require an owner to consent to the retrieval or use of the data on a motor vehicle event data recorder as a condition of providing the policy or lease. History: En. Sec. 3, Ch. 272, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 10. Recorded Data 61-12-1004. Retrieval or use of data -- exceptions

61-12-1004. Retrieval or use of data -- exceptions. (1) Data from a motor vehicle event data recorder may be retrieved or used without the consent of the owner: (a) if a court orders the production of the data pursuant to a valid search warrant; (b) to facilitate or determine the need for emergency medical care for the driver or passenger of a motor vehicle that is involved in a motor vehicle crash or other emergency, including the retrieval of data from a company that provides subscription services to the owner of a motor vehicle for in-vehicle safety and security communications systems; (c) by order of the district court provided that the owner has notice and 48 hours to object and request a hearing; or (d) for the purposes of improving motor vehicle safety, security, or traffic management and provided that the identity of the owner or driver is not disclosed in connection with that retrieved data. For purposes of this subsection (1)(d), the disclosure of the vehicle identification number with the last 6 digits deleted does not

constitute disclosure of the identity of the owner or driver. (2) This part does not apply to data that is stored or transmitted pursuant to a subscription service agreement for the use of a recording device to record a history of where a motor vehicle travels or for the transmission of data to a central communications system. History: En. Sec. 4, Ch. 272, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-201. Appointment of employees and out-of-state personnel as peace officers -- definition

61-12-201. Appointment of employees and out-of-state personnel as peace officers -- definition. (1) The director of transportation may appoint employees of the department as peace officers to carry out this part. The employees appointed may include only those employees of the department who are employed in the administration of the motor carrier services functions of the department and employees of other states. Out-of-state personnel may be appointed only for the purpose of enforcing gross vehicle weight laws at joint weigh station facilities. Each employee appointed must be issued a certificate of appointment and execute an oath of office, which must be entered into the records of the department. (2) The department may enter into joint weigh station agreements with other states. If the department enters into a joint weigh station agreement with another state, the department may not reduce staff levels in the motor carrier services division of the department as a result of the agreement but may reassign staff. However, this subsection does not apply to a reduction in force for the department as a whole. (3) As used in this part, "department" means the department of transportation. History: En. Sec. 1, Ch. 242, L. 1971; amd. Sec. 42, Ch. 316, L. 1974; R.C.M. 1947, 32-1632; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 19, Ch. 575, L. 1993; amd. Sec. 1, Ch. 360, L. 1995; amd. Sec. 256, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-202. Training of department peace officers -- rules

61-12-202. Training of department peace officers -- rules. (1) The department shall provide training as required to qualify employees to competently perform their duties under this part and shall adopt rules that are required and necessary for qualification of those employees as peace officers. (2) An employee may not make arrests until the employee has successfully completed the training as required by the department. History: En. Secs. 2, 3, Ch. 242, L. 1971; amd. Secs. 43, 44, Ch. 316, L. 1974; R.C.M. 1947, 32-1633, 32-1634; amd. Sec. 1967, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-203. Official attire required for making arrests and carrying firearms

61-12-203. Official attire required for making arrests and carrying firearms. Qualified employees may make arrests throughout the state only when dressed in official uniform and displaying the official badge authorized by the department. Authorized employees may not carry firearms unless officially attired. History: En. Sec. 4, Ch. 242, L. 1971; amd. Sec. 45, Ch. 316, L. 1974; R.C.M. 1947, 32-1635.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-204. Identification badge and uniform -- safety equipment

61-12-204. Identification badge and uniform -- safety equipment. (1) Employees of the department engaged in the enforcement of this part shall wear and prominently display an identification badge or device with the employee's name and title shown on the identification badge or device. The department may authorize uniform dress for department employees engaged in such enforcement. (2) The department may issue soft body armor to an employee engaged in the enforcement of this part upon request of the employee after the employee's appointment as a peace officer. History: En. Sec. 6, Ch. 242, L. 1971; amd. Sec. 47, Ch. 316, L. 1974; R.C.M. 1947, 32-1637; amd. Sec. 1, Ch. 333, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-205. Power to inspect vehicle registration, receipts, and other documents

61-12-205. Power to inspect vehicle registration, receipts, and other documents. Employees of the department designated or appointed as peace officers under 61-10-154 or 61-12-201 may when officially dressed make reasonable inspections of vehicle registration receipts, department receipts and registrations, special permits, and other documents required to be carried in or for a vehicle traveling on the public highways of Montana. History: En. Sec. 5, Ch. 242, L. 1971; amd. Sec. 46, Ch. 316, L. 1974; R.C.M. 1947, 32-1636; amd. Sec. 10, Ch. 366, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-206. Offenses for which arrest authorized

61-12-206. Offenses for which arrest authorized. Employees designated or appointed as peace officers under 61-10-154 or 61-12-201 may make arrests for violations of the following statutory provisions: (1) chapters 3 and 5 of this title, but only if the vehicle involved is subject to 61-10-141; (2) chapter 10 of this title; (3) part 3, chapter 4, of this title; (4) 15-24-201 through 15-24-205; (5) Title 15, chapter 70, part 4; (6) 61-10-154 and safety rules adopted under that section; and (7) Title 69, chapter 12. History: En. Sec. 8, Ch. 242, L. 1971; amd. Sec. 49, Ch. 316, L. 1974; R.C.M. 1947, 32-1639; amd. Sec. 5, Ch. 39, L. 1981; amd. Sec. 1, Ch. 100, L.

1991; amd. Sec. 20, Ch. 575, L. 1993; amd. Sec. 19, Ch. 10, Sp. L. November 1993; amd. Sec. 2, Ch. 360, L. 1995; amd. Sec. 4, Ch. 538, L. 1995; amd. Sec. 16, Ch. 125, L. 1997; amd. Sec. 11, Ch. 366, L. 2005; amd. Sec. 36, Ch. 220, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-207. Cooperation with other agencies

61-12-207. Cooperation with other agencies. Such employees of the department shall cooperate with other law enforcement agencies. History: En. Sec. 9, Ch. 242, L. 1971; amd. Sec. 50, Ch. 316, L. 1974; R.C.M. 1947, 32-1640.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 2. Enforcement by Department of Transportation Personnel 61-12-208. Duty upon making arrest -- power to fix and accept bail

61-12-208. Duty upon making arrest -- power to fix and accept bail. Employees designated or appointed as peace officers under 61-10-154 or 61-12-201, upon making an arrest, shall deliver to the offender a form of notice to appear, describing the nature of the offense, with instructions on the notice for the offender to report to the nearest justice of the peace. The employee may accept a deposit for appearance justifiable for the offense charged. The person who is arrested may be detained for a reasonable time for the purpose of issuing the notice or of awaiting the arrival of another peace officer who has been called to the scene, or the person may be transported, as provided in 46-7-101. If the employee accepts bail, the employee shall give a signed receipt to the offender, setting forth the amount received. The employee shall then deliver the bail money to the justice of the peace before whom the offender is to appear, and the justice of the peace shall give a receipt to the employee for the amount of bail money delivered. After the filing of the complaint and appearance of the defendant, the justice of the peace shall assume jurisdiction and may set and accept further appearance bail bond. History: En. Sec. 10, Ch. 242, L. 1971; amd. Sec. 51, Ch. 316, L. 1974; R.C.M. 1947, 32-1641; amd. Sec. 92, Ch. 421, L. 1979; amd. Sec. 3, Ch. 360, L. 1995; amd. Sec. 12, Ch. 366, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-301. Terms defined

61-12-301. Terms defined. As used in this part, unless the context requires otherwise, the following definitions apply: (1) "Agent" means a person who solicits the purchase of service contracts or transmits for another a service contract or application for a service contract to or from the company or who acts or aids in any manner in the delivery or negotiation of any service contract or of the renewal or continuance of a service contract. (2) "Bail bond service" means any act or acts by a company the purpose of which is to furnish or procure for any person accused of violation of any law of this state a cash deposit, bond, or other undertaking required by law in order that the accused might enjoy the accused's personal freedom pending trial. (3) "Buying and selling service" means any act or acts of a company whereby the holder of a service contract with the company is aided in any way in the purchase or sale of an automobile. (4) "Commissioner" means the commissioner of insurance of the state of Montana or the commissioner's assistants or deputies or other persons authorized to act for the commissioner. (5) "Company" means any person, firm, partnership, company, association, or corporation engaged in selling, furnishing, or procuring, either as principal or agent, for a consideration, motor club service. (6) "Discount service" means any act or acts by a company resulting in the giving of special discounts, rebates, or reductions of price on gasoline, oil, repairs, insurance, parts, accessories, or service for motor vehicles to holders of service contracts with the company. (7) "Emergency road service" means any act or acts by a company consisting of the adjustment, repair, or replacement of the equipment, tires, or mechanical parts of any automobile so as to permit it to be operated under its own power. (8) "Financial service" means any act or acts by a company whereby loans or other advances of money, with or without security, are made to holders of service contracts with the company. (9) "Legal service" means any act or acts by a company consisting of the hiring, retaining, engaging, or appointing of an attorney or other person to give professional advice to or represent holders of service contracts with the company in court as the result of liability incurred by the right of action accruing to the holder of a service contract as a result of the ownership, operation, use, or maintenance of a motor vehicle. (10) "Map service" means any act or acts by a company by which road maps are furnished without cost to holders of service contracts with the company. (11) "Motor club service" means the rendering, furnishing, or procuring of towing service, emergency road service, insurance service, bail bond service, legal service, discount service, financial service, buying and selling service, theft service, map service, and touring service, or any three or more enumerated services to any person or persons in connection with the ownership, operation, use, or maintenance of a motor vehicle by the other person or persons in consideration of the other person or persons being or becoming a member or members of any company rendering, procuring, or furnishing the services, being or becoming in any manner affiliated with the company, or being or becoming entitled to receive membership or other motor club service from the company by virtue of any agreement or understanding with the company. (12) "Service contract" means any agreement or understanding whereby any company for a consideration promises to render, furnish, or procure for any other person or persons, whether they be members of the company or otherwise, motor club service. (13) "Theft service" means any act or acts by a company the purpose of which is to locate, identify, or recover a motor vehicle owned or controlled by the holder of a service contract with the company that has been or may be stolen or to detect or apprehend the person guilty of the theft. (14) "Touring service" means any act or acts by a company by which touring information is furnished without cost to holders of service contracts with the company. (15) "Towing service" means any act or acts by a company consisting of the drafting or moving of a motor vehicle from one place to another under other than its own power. History: En. Sec. 1, Ch. 131, L. 1931; re-en. Sec. 4211.1, R.C.M. 1935; R.C.M. 1947, 66-1101; amd. Sec. 1968, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-302. Companies and agents to be licensed

61-12-302. Companies and agents to be licensed. No company or any agent, as herein defined, doing business in this state shall execute, issue, or deliver any service contract to any person or persons owning or operating motor vehicles without first having obtained a license from the commissioner as provided for in this part, nor shall any such company or agent collect or receive from any person or persons in advance of the execution, issuance, or delivery of any such service contract any money or other thing of value upon any promise or agreement to execute, issue, or deliver any such service contract without first having obtained a license from said commissioner as provided for in this part. History: En. Sec. 2, Ch. 131, L. 1931; re-en. Sec. 4211.2, R.C.M. 1935; R.C.M. 1947, 66-1102.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-303. Requirements for license

61-12-303. Requirements for license. (1) The commissioner may not issue a license to a company until the company has filed the following: (a) a formal application in the form and detail that the commissioner may require, executed under oath by its president or other principal officer; (b) a copy of the form of its contract; (c) a certified copy of its charter or articles of incorporation and its bylaws, if any; (d) a financial statement in the form and detail that the commissioner may require, executed on oath by its president or other principal officer; (e) a certificate from the commissioner that it has complied with 61-12-304 in all cases in which a deposit of cash or a bond is required by this part; (f) if the company is a corporation, a certificate from the secretary of state that the company has complied with this state's corporate laws. (2) The commissioner may not issue a license to a company until the company has paid to the commissioner \$100 as an annual license fee or the pro rata portion of the \$100 necessary to be paid to the end of the current calendar year from the date of the application for the license. (3) The commissioner may not issue a license to a company until the company has satisfied by an examination and evidence that the commissioner may require that the company has complied with the laws of the state, that its management is trustworthy and competent, and that the company is financially responsible. History: En. Sec. 3, Ch. 131, L. 1931; re-en. Sec. 4211.3, R.C.M. 1935; R.C.M. 1947, 66-1103; amd. Sec. 19, Ch. 798, L. 1991; amd. Sec. 63, Ch. 472, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-304. Deposits required

61-12-304. Deposits required. The commissioner may not grant a license to a company until it has deposited with the commissioner the sum of \$25,000 in cash or in lieu thereof a bond in a form prescribed by the commissioner payable to the state of Montana in the sum of \$25,000, with surety approved by the commissioner, conditioned upon the faithful performance of its service contracts and payment of any fines or penalties levied against it for failure to comply with this part. However, when any company proves to the commissioner that it has been in continuous, active operation in the state for a period of more than the preceding 5 years and has a paid membership of more than 5,000 members within the state or that there are more than 5,000 holders of its service contracts within the state and that it is being properly managed, is rendering to its members the services promised to them, and is financially responsible, the commissioner may not require a cash deposit or bond while the company remains in that condition. The cash deposit or bond is not a penalty but is for the protection of the public only. History: En. Sec. 4, Ch. 131, L. 1931; re-en. Sec. 4211.4, R.C.M. 1935; R.C.M. 1947, 66-1104; amd. Sec. 20, Ch. 798, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-305. Continuance of license

61-12-305. Continuance of license. Subject to payment by January 1 of each year of the annual license fee required under 61-12-303, each license continues in force as long as the company is entitled to the license under this part or until the license is revoked, suspended, or otherwise terminated. History: En. Sec. 5, Ch. 131, L. 1931; re-en. Sec. 4211.5, R.C.M. 1935; R.C.M. 1947, 66-1105; amd. Sec. 21, Ch. 798, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-306. Revocation of license

61-12-306. Revocation of license. If the commissioner at any time for cause shown and after a hearing determines that a company has violated any provision of this part, that it is insolvent or that its assets are less than its liabilities, that it or its officers refuse to submit to an examination, that it is transacting business fraudulently, or that its management or business methods are improper or hazardous to the holders of its service contracts, the commissioner shall revoke or suspend its license and shall give notice of the suspension or revocation to the public in a manner that the commissioner considers proper. History: En. Sec. 6, Ch. 131, L. 1931; re-en. Sec. 4211.6, R.C.M. 1935; R.C.M. 1947, 66-1106; amd. Sec. 1969, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-307. Financial statement to be filed

61-12-307. Financial statement to be filed. A company shall annually, on or before February 1 of each year, file with the

commissioner a financial statement in the form and detail that the commissioner may prescribe, executed on oath by its president or other principal officer, showing its financial condition on December 31 of the preceding year. History: En. Sec. 7, Ch. 131, L. 1931; re-en. Sec. 4211.7, R.C.M. 1935; R.C.M. 1947, 66-1107; amd. Sec. 1970, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-308. Service contract to be filed with commissioner

61-12-308. Service contract to be filed with commissioner. A service contract may not be executed, issued, or delivered in this state until a copy of the form of the contract has been on file for 30 days with the commissioner, unless before the expiration of 30 days the commissioner has approved the form in writing. A service contract may not be executed, issued, or delivered at any time in this state if the commissioner notified the company in writing within the 30-day period that in the commissioner's opinion the form of the contract does not comply with the laws of this state, specifying the reasons for the opinion. History: En. Sec. 8, Ch. 131, L. 1931; re-en. Sec. 4211.8, R.C.M. 1935; R.C.M. 1947, 66-1108; amd. Sec. 1971, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-309. Contracts to be in duplicate

61-12-309. Contracts to be in duplicate. Every service contract executed, issued, or delivered in this state shall be made in duplicate, and shall be signed by the company issuing the same, or by its duly authorized agent, and by the party purchasing the same, and one copy thereof shall be kept by said company, and the other copy shall be delivered to the party purchasing the same. History: En. Sec. 9, Ch. 131, L. 1931; re-en. Sec. 4211.9, R.C.M. 1935; R.C.M. 1947, 66-1109.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-310. Form of contract

61-12-310. Form of contract. A motor club service contract may not be executed, issued, or delivered in this state unless it contains the following: (1) the name of the motor club service company; (2) the location of its home office, giving street number, city, and state; (3) a provision that the contract may be canceled at any time by either the company or the holder and that the holder is, if the holder has actually paid the consideration, entitled to the unused portion of the consideration paid for the contract, calculated on a pro rata basis without any deductions; (4) a provision plainly specifying the services promised and that the holder is not required to pay any sum for any services specified in the contract in addition to the amount specified in the contract and further specifying the territory where the services are to be rendered and the date when the service commences. History: En. Sec. 10, Ch. 131, L. 1931; re-en. Sec. 4211.10, R.C.M. 1935; R.C.M. 1947, 66-1110; amd. Sec. 71, Ch. 227, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-311. Companies to be licensed

61-12-311. Companies to be licensed. No person shall solicit or aid in the solicitation of another person to purchase a service contract issued by a company not duly licensed under this part. History: En. Sec. 11, Ch. 131, L. 1931; re-en. Sec. 4211.11, R.C.M. 1935; R.C.M. 1947, 66-1111.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-312. Contract not to be misrepresented

61-12-312. Contract not to be misrepresented. No company and no officer or agent thereof shall orally or in writing misrepresent the terms, benefits, or privileges of any service contract issued or to be issued by it. History: En. Sec. 12, Ch. 131, L. 1931; re-en. Sec. 4211.12, R.C.M. 1935; R.C.M. 1947, 66-1112.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-313. Contracts binding on company although not complying with part

61-12-313. Contracts binding on company although not complying with part. Any service contract made, issued, or delivered contrary to any provision of this part shall nevertheless be valid and binding on the company. History: En. Sec. 13, Ch. 131, L. 1931; re-en. Sec. 4211.13, R.C.M. 1935; R.C.M. 1947, 66-1113.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service Companies 61-12-314. Applicability

61-12-314. Applicability. This part does not apply to: (1) a duly authorized attorney at law acting in the usual course of the profession; (2) an insurance company, bonding company, or surety company licensed and doing business as the licensed company under the laws of the state; or (3) a company or agent that contracts with a motor club service company licensed under this part to provide emergency road service or towing service to the company's or agent's customers. History: En. Sec. 14, Ch. 131, L. 1931; re-en. Sec. 4211.14, R.C.M. 1935; R.C.M. 1947, 66-1114; amd. Sec. 1972, Ch. 56, L. 2009; amd. Sec. 1, Ch. 103, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 3. Motor Club Service

Companies61-12-315. Penalty for violation

61-12-315. Penalty for violation.A person violating the provisions of this part is liable pursuant to 33-1-317. History: En. Sec. 15, Ch. 131, L. 1931; re-en. Sec. 4211.15, R.C.M. 1935; R.C.M. 1947, 66-1115; amd. Sec. 72, Ch. 227, L. 2001.

2024 Montana Code AnnotatedTitle 61. Motor VehiclesChapter 12. Miscellaneous ProvisionsPart 4. Removal and Sale of Abandoned Vehicles61-12-401. Taking vehicle into custody

61-12-401. Taking vehicle into custody.(1) The following law enforcement agencies and department of fish, wildlife, and parks personnel may take into custody any vehicle found abandoned for a period of 48 hours or more on a public highway or for a period of 5 days or more on a city street, public property, or private property: (a) the Montana highway patrol if the vehicle is on the right-of-way of any public highway other than a county road; (b) the sheriff of the county if the vehicle is on the right-of-way of any county road; (c) the city police if the vehicle is on a city street; (d) a tribal law enforcement agency if the tribal government has entered into a cooperative agreement with the Montana highway patrol, the sheriff of a county, or the city police. When a cooperative agreement for law enforcement has been entered into, the tribal law enforcement agency has the same authority to take a vehicle into custody and is subject to the same requirements under this part as the applicable agency identified in subsections (1)(a) through (1)(c); (e) a game warden, as defined in 19-8-101, if the vehicle is on state land or land managed by the department of fish, wildlife, and parks. (2) The Montana highway patrol, sheriff of the county, city police, tribal law enforcement agency, or department of fish, wildlife, and parks may use their personnel, equipment, and facilities for the removal and storage of the vehicle or may hire other personnel, equipment, and facilities for those purposes. (3) If the Montana highway patrol, the sheriff of the county, the chief of police, the tribal law enforcement agency of the reservation, or the department of fish, wildlife, and parks has hired other personnel, equipment, and facilities to remove and store a vehicle, the Montana highway patrol, sheriff, chief of police, tribal law enforcement agency, or department of fish, wildlife, and parks shall: (a) pay the person hired to remove the vehicle an amount not to exceed the amount for a removal charge established by rules adopted by the department of environmental quality and may request reimbursement of the hired removal charge from the motor vehicle recycling and disposal program of the department of environmental quality in an amount and manner established by rules adopted by the department of environmental quality for this purpose; or (b) authorize the person hired to remove the vehicle to submit directly to the department of environmental quality a claim for payment to be made directly to the person hired to remove the vehicle. (4) (a) At the request of the owner or person in lawful possession or control of the private property, the sheriff of the county in which the vehicle is located, the city police of the city in which the vehicle is located, or the tribal law enforcement agency of the reservation in which the vehicle is located may remove and hold it in the manner and upon the conditions provided in subsections (1) and (2). (b) A private landowner owning property considered to be part of ways of this state open to the public, as defined in 61-8-101, who can demonstrate meeting the 5-day waiting period in subsection (1) by calling one of the law enforcement agencies listed in subsection (1) at the start of the 5-day period may remove the abandoned vehicle within the conditions provided for in subsections (1) and (2). History: En. Sec. 2, Ch. 288, L. 1967; amd. Sec. 2, Ch. 169, L. 1969; R.C.M. 1947, 53-902; amd. Sec. 1, Ch. 445, L. 1979; amd. Sec. 6, Ch. 88, L. 1987; amd. Sec. 1, Ch. 513, L. 1999; amd. Sec. 1, Ch. 461, L. 2007; amd. Sec. 1, Ch. 117, L. 2013; amd. Sec. 1, Ch. 102, L. 2019; amd. Sec. 1, Ch. 165, L. 2021; amd. Sec. 1, Ch. 552, L. 2021.

2024 Montana Code AnnotatedTitle 61. Motor VehiclesChapter 12. Miscellaneous ProvisionsPart 4. Removal and Sale of Abandoned Vehicles61-12-402. Notice to owner

61-12-402. Notice to owner.(1) Within 72 hours after a vehicle is removed and held by or at the direction of the Montana highway patrol, the highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle is being stored of where and when the vehicle was taken into custody and of where the vehicle is being stored. In addition, the Montana highway patrol shall furnish the sheriff or the chief of police: (a) a complete description of the vehicle, including year, make, model, serial number, and license number if available; (b) any costs incurred to that date in the removal, storage, and custody of the vehicle; and (c) any available information concerning the vehicle's ownership. (2) The highway patrol shall notify the sheriff of the county or the chief of police of the city in which the vehicle was taken into custody of the location at which the vehicle is being stored if the vehicle was removed to a different county. (3) The sheriff or the city police in the jurisdiction where the vehicle is being stored shall make reasonable efforts to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle taken into custody under 61-12-401. If a name and address are ascertained, the sheriff or the city police shall notify the owner, lienholder, or person of the location of the vehicle. (4) If the vehicle is registered in the office of the department, notice is considered to have been given when a certified letter addressed to the registered owner of the vehicle and lienholder, if any, at the latest address shown by the records in the office of the department, return receipt requested and postage prepaid, is mailed at least 30 days before the vehicle is sold as provided in 61-12-404(1)(a) or at least 60 days before the vehicle is sold as provided in 61-12-404(1)(b). (5) If the identity of the last-registered owner cannot be determined, if the registration does not contain an address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the county where the motor vehicle is being stored is sufficient to meet all requirements of notice pursuant to this part. The notice by publication may contain multiple listings of abandoned vehicles. The notice must be provided in the same manner as prescribed in 25-13-701(1)(b). (6) If the abandoned vehicle is in the possession of a motor vehicle wrecking facility licensed under 75-10-511, the wrecking facility may make the required search to ascertain the name and address of

the owner, lienholder, or person entitled to possession of the vehicle and shall give the notices required in subsections (3) through (5). The wrecking facility shall deliver to the sheriff or the city police a certificate describing the efforts made to ascertain the name and address of the owner, lienholder, or person entitled to possession of the vehicle and shall deliver to the sheriff or the city police proof of the notice given. (7) (a) (i) A vehicle found by law enforcement officials to be a junk vehicle, as defined in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal in accordance with the provisions of Title 75, chapter 10, part 5, upon a release given by the sheriff or the city police. The county representative designated to implement the county motor vehicle recycling and disposal program pursuant to 75-10-521 for the county where the vehicle is being stored shall determine the value of the vehicle. In the release, the sheriff or the city police shall include a description of the vehicle, including year, make, model, serial number, and license number if available. If the vehicle is being stored by a motor vehicle wrecking facility, the sheriff or the city police shall transmit the release to the motor vehicle wrecking facility and the facility shall consider the release to meet the requirements for records under 61-3-225 and 75-10-512. If the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or the city police shall transmit the release to the operator. Vehicles described in this section may be submitted for disposal without notice and without a required holding period. (ii) A junk nonmotorized vehicle, as defined in 75-10-501, may be submitted for disposal as provided in this subsection (7)(a) pursuant to the same provisions as a junk vehicle if the county has agreed to accept junk nonmotorized vehicles for disposal pursuant to 75-10-521(10). (b) A licensed vehicle that otherwise meets the definition of a junk vehicle, as defined in 75-10-501, and that has a value of \$500 or less may be directly submitted for disposal as provided in subsection (7)(a). History: En. Sec. 3, Ch. 288, L. 1967; amd. Sec. 1, Ch. 53, L. 1974; R.C.M. 1947, 53-903; amd. Sec. 1, Ch. 191, L. 1979; amd. Sec. 1, Ch. 355, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 7, Ch. 88, L. 1987; amd. Sec. 134, Ch. 27, Sp. L. November 1993; amd. Sec. 16, Ch. 283, L. 1995; amd. Sec. 38, Ch. 496, L. 1997; amd. Sec. 2, Ch. 513, L. 1999; amd. Sec. 1, Ch. 176, L. 2003; amd. Sec. 2, Ch. 53, L. 2007; amd. Sec. 1, Ch. 427, L. 2019; amd. Sec. 2, Ch. 165, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 4. Removal and Sale of Abandoned Vehicles 61-12-403. Reclaiming vehicle

61-12-403. Reclaiming vehicle. The owner, lienholder, or person entitled to possession of the vehicle may reclaim it at any time after it is taken into custody and before it is sold. The owner, lienholder, or person entitled to possession of the vehicle shall present to the sheriff of the county or the city police of the city where the vehicle is being stored satisfactory proof of ownership or right to possession and shall pay the costs and expenses incurred in the removal, storage, and custody of the vehicle. The person reclaiming the vehicle may not be required to pay storage charges for a period longer than 90 days. History: En. Sec. 4, Ch. 288, L. 1967; R.C.M. 1947, 53-904; amd. Sec. 2, Ch. 355, L. 1985; amd. Sec. 8, Ch. 88, L. 1987; amd. Sec. 3, Ch. 513, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 4. Removal and Sale of Abandoned Vehicles 61-12-404. Sale or release of vehicle if not reclaimed

61-12-404. Sale or release of vehicle if not reclaimed. (1) (a) Except as provided in subsection (1)(b), if a vehicle is not reclaimed, as provided in 61-12-403, within 30 days after notification by certified mail or prescribed publication, the sheriff of the county or the city police of the city in which the vehicle is being stored may sell it at public auction in the manner provided in 25-13-701 through 25-13-709. (b) When a vehicle is taken into custody as a result of the arrest of the driver of the vehicle, the owner, lienholder, or person entitled to possession of the vehicle has 60 days after notification by certified mail or prescribed publication to reclaim the vehicle as provided in 61-12-403. If the vehicle is not reclaimed within 60 days after notification, the vehicle may be considered abandoned and may be sold under the provisions of this section. (2) If the sheriff or city police elect not to sell a vehicle under subsection (1)(a) or (1)(b) and the vehicle is being stored by a qualified tow truck operator, as defined in 61-8-903, the sheriff or city police shall release the vehicle to the qualified tow truck operator. (3) After a vehicle has been sold pursuant to subsection (1)(a) or (1)(b) or released pursuant to subsection (2), the former owner or person entitled to possession has no further right, title, claim, or interest in or to the vehicle. History: En. Sec. 5, Ch. 288, L. 1967; R.C.M. 1947, 53-905; amd. Sec. 3, Ch. 355, L. 1985; amd. Sec. 4, Ch. 513, L. 1999; amd. Sec. 2, Ch. 176, L. 2003; amd. Sec. 3, Ch. 165, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 4. Removal and Sale of Abandoned Vehicles 61-12-405. Certificate of sale or release

61-12-405. Certificate of sale or release. (1) (a) If a vehicle is sold as provided in 61-12-404(1)(a) or (1)(b), the sheriff or the city police at the time of the payment of the purchase price shall execute a certificate of sale in duplicate and shall deliver the original certificate to the purchaser and retain the copy. (b) The certificate of sale must contain the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle, and a stipulation that no warranty is made as to the condition or title of the vehicle. (2) (a) If a vehicle is released as provided in 61-12-404(2), the sheriff or city police shall execute a certificate of release to the qualified tow truck operator in duplicate and shall deliver the original certificate to the operator and retain the copy. (b) The certificate of release must contain the name and address of the operator, the date of release, a description of the vehicle, including year, make, model, serial number, and license number if available, and a stipulation that no warranty is made as to the condition or title of the vehicle. History: En. Sec. 6, Ch. 288, L. 1967; R.C.M. 1947, 53-906; amd. Sec. 4, Ch. 355, L. 1985; amd. Sec. 3, Ch. 176, L. 2003; amd. Sec. 4, Ch. 165, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 4. Removal and Sale of Abandoned Vehicles 61-12-406. Issuing certificate of title

61-12-406. Issuing certificate of title. The department shall issue a certificate of title upon presentation by the purchaser of the certificate of sale or upon presentation by the operator of a certificate of release and payment of the fees required by law. History: En. Sec. 7, Ch. 288, L. 1967; R.C.M. 1947, 53-907; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 4, Ch. 176, L. 2003; amd. Sec. 78, Ch. 477, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 4. Removal and Sale of Abandoned Vehicles 61-12-407. Transmitting return of sale and balance of proceeds

61-12-407. Transmitting return of sale and balance of proceeds. (1) When any vehicle is sold as provided in 61-12-404, the sheriff or the city police shall transmit to the department and to the county treasurer or to the city treasurer, respectively, a return of sale setting forth a description of the vehicle, the purchase price, the name and address of the purchaser, the costs incurred in the sale, and the costs and expenses incurred in the removal, storage, and custody of the vehicle. (2) With the return of sale, the sheriff shall transmit to the county treasurer or the city police shall transmit to the city treasurer the balance of the proceeds of the sale after deducting the costs incurred in the sale and the costs and expenses incurred in the removal, storage, and custody of the vehicle. (3) Upon receipt of the return of sale and the balance from: (a) the county sheriff, the county treasurer shall file the return in the treasurer's office and deposit the balance in the county road fund on all vehicles seized by the sheriff or highway patrol; or (b) the city police, the city treasurer shall file the return in the treasurer's office and deposit the balance in the city street fund on all vehicles seized by the city police. History: En. Sec. 8, Ch. 288, L. 1967; R.C.M. 1947, 53-908; amd. Sec. 5, Ch. 355, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 9, Ch. 88, L. 1987; amd. Sec. 1973, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 4. Removal and Sale of Abandoned Vehicles 61-12-408. Penalty

61-12-408. Penalty. Any person or persons violating the provisions of this part shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$25 or more than \$300 or by imprisonment in the county jail for not less than 5 days or more than 90 days or by both fine and imprisonment. History: En. Sec. 9, Ch. 288, L. 1967; R.C.M. 1947, 53-909(part).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 5. Identification Cards 61-12-501. Authority of department to issue identification cards -- lawful presence verification

61-12-501. Authority of department to issue identification cards -- lawful presence verification. (1) The department may issue an identification card to any person who maintains a residence in this state and whose presence in the United States is authorized under federal law. (2) When an applicant who is not a citizen of the United States applies for an identification card, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program. (3) A person may only have one nonvoided driver's license or identification card issued by the department at any time. History: En. Sec. 1, Ch. 53, L. 1971; R.C.M. 1947, 31-170; amd. Sec. 1, Ch. 495, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 346, L. 1993; amd. Sec. 2, Ch. 207, L. 2011; amd. Sec. 5, Ch. 686, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 5. Identification Cards 61-12-502. Veteran designation

61-12-502. Veteran designation. The department shall include the word "veteran" on the face of an identification card if the requirements of 61-5-111(7) are met by the person applying for the identification card. History: En. Sec. 2, Ch. 53, L. 1971; R.C.M. 1947, 31-171; amd. Sec. 93, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 3, Ch. 207, L. 2011; amd. Sec. 4, Ch. 322, L. 2013; amd. Sec. 20, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 5. Identification Cards 61-12-504. Fees for identification cards -- expiration of cards

61-12-504. Fees for identification cards -- expiration of cards. (1) Upon application for an identification card issued pursuant to this part, a fee of \$16 must be collected and deposited in the general fund. (2) A person with a disability, as defined in 39-30-103, may obtain a free identification card. An individual discharged from any correctional facility must be furnished a free identification card upon release, discharge, or parole. (3) (a) An identification card expires on the anniversary of the cardholder's date of birth 8 years after the date of issue. (b) An identification card issued to a person whose presence in the United States is temporarily authorized under federal laws expires, as determined by the department, no later than the expiration date of the official document issued to the person by the United States citizenship and immigration services of the department of homeland security that authorizes the person's presence in the United States. History: En. Sec. 5, Ch. 53, L. 1971; R.C.M. 1947, 31-174; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 1, Ch. 503, L. 1985; amd. Secs. 4, 6, Ch. 5, Sp. L. January 1992; amd. Sec. 3, Ch. 346, L. 1993; amd. Sec. 74, Ch. 472, L. 1997; amd. Sec. 4, Ch. 207, L. 2011; amd. Sec. 1, Ch. 315, L. 2013; amd. Sec. 6, Ch. 686, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 7. Disposition of

Fines61-12-701. Disposition of fines and forfeitures

61-12-701. Disposition of fines and forfeitures. All fines and forfeitures collected in any court, except a justice's court, for violation of the laws and regulations relating to the use of state highways and the operation of vehicles on state highways, if the apprehension or arrest was by a highway patrol officer, must be paid to the department of revenue for credit to the state general fund or, if the apprehension or arrest was by a sheriff or deputy sheriff, must be paid to the county treasurer for deposit in the county general fund, except for that portion of the fines otherwise allocated by law, which must be paid into the appropriate accounts in the state special revenue fund. History: En. Sec. 14, Ch. 199, L. 1943; amd. Sec. 10, Ch. 226, L. 1965; amd. Sec. 9, Ch. 214, L. 1969; R.C.M. 1947, 31-114; amd. Sec. 94, Ch. 421, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 1, Ch. 327, L. 1985; amd. Sec. 1, Ch. 316, L. 1987; amd. Sec. 41, Ch. 557, L. 1987; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 34, Ch. 257, L. 2001; amd. Sec. 23, Ch. 13, Sp. L. August 2002.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 7. Disposition of Fines61-12-702. Court costs -- fees and expenses of counties

61-12-702. Court costs -- fees and expenses of counties. The court, after deducting all costs and fees, shall immediately transmit the balance of the fine to the state or county treasurer as provided by law. The expenses of the county, except fees of officers who are paid a regular salary, are a proper claim against the state or county and claims must be paid in the manner provided by law out of the funds appropriated for such purposes. History: En. Sec. 15, Ch. 199, L. 1943; R.C.M. 1947, 31-115; amd. Sec. 2, Ch. 327, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 8. Disclosure of Data From Rental Vehicles61-12-801. Disclosure of data from rental vehicle -- definitions

61-12-801. Disclosure of data from rental vehicle -- definitions. (1) (a) Except as provided in subsection (1)(b), a rental vehicle entity that rents a rental vehicle equipped with a global positioning system or a satellite navigation system to a person in this state shall disclose in the rental agreement or a written addendum to the rental agreement the presence and purpose of the system. (b) A rental vehicle entity that uses a global positioning system or a satellite navigation system only to track lost or stolen vehicles or provide navigational services is not required to provide the disclosure in subsection (1)(a). (2) As used in this section: (a) "rental agreement" means a written agreement setting forth the terms and conditions governing the use of a rental vehicle that is provided by a rental vehicle entity for the rental of a rental vehicle for a period of not more than 90 days; (b) "rental vehicle" means a light vehicle, a motorcycle, a motor-driven cycle, a quadricycle, or an off-highway vehicle that is used under a rental agreement by a person other than the owner of the rental vehicle; (c) "rental vehicle entity" means a business entity that provides rental vehicles to the public without a driver, pilot, or operator under a rental agreement for a fee. History: En. Sec. 1, Ch. 227, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 12. Miscellaneous Provisions Part 9. Licensure of Manufactured Home Dealers61-12-901. Manufactured home dealers -- licensure -- bond requirements -- rulemaking -- definition

61-12-901. Manufactured home dealers -- licensure -- bond requirements -- rulemaking -- definition. (1) (a) Except as provided in subsection (1)(b), a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a manufactured home that is not titled in the person's name unless the person is the holder of a manufactured home dealer's license issued by the department. (b) This section does not apply to a person buying, selling, exchanging, accepting on consignment, or acting as a broker of a used manufactured home that is not titled in the person's name. (2) (a) The department shall issue a manufactured home dealer's license to any person it determines is qualified to hold the license under the provisions of this section. The department may adopt rules establishing requirements for licensure. (b) A manufactured home dealer's license authorizes the licensee to: (i) sell any new manufactured home that is covered under a franchise agreement between the licensee and the manufacturer, importer, or distributor of the manufactured home; (ii) sell any used manufactured home; (iii) negotiate the purchase, sale, or exchange of a manufactured home from another licensed dealer or another person on behalf of a client when the licensee does not store, display, or take ownership of the manufactured home purchased, sold, or exchanged. (3) A license issued by the department is valid until: (a) voluntarily returned to the department for surrender and cancellation upon the cessation of the licensee's business operations; or (b) suspended or revoked for a violation of this section or any other laws relating to the sale of a manufactured home. (4) (a) An applicant for a manufactured home dealer's license shall submit a written application to the department. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department. The department shall by rule establish the requirements for the application. (b) After examining a license application and conducting any investigation necessary to verify the information contained in the application, if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this section and rules adopted pursuant to this section, the department shall issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department: (i) poses a threat to the effective regulation of manufactured home dealers; (ii) poses a threat to the public interest of the state; or (iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership. (5) The application provided to the department

must contain but is not limited to the following information: (a) the name under which the applicant intends to conduct business and the applicant's name, street address, and, if different, mailing address for the business; (b) the name, date of birth, and social security number of any person who: (i) possesses or will possess an ownership interest in the business for which the license is sought; (ii) is a corporate officer or the managing member of a business entity applying for the license; or (iii) is or will be designated by the applicant to manage or oversee the applicant's business; (c) the geographic location of the physical lot or lots upon which manufactured homes will be displayed for sale and of a permanent nonresidential building that will be maintained as an office to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of manufactured homes for which licensure is sought. The office may be a manufactured home or a site-built structure. The lot must be large enough to contain the office and have space to display a minimum of two double-wide units. An applicant may use more than one location to display manufactured homes for sale if the maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot and the building in which sales records are stored does not exceed 1,000 feet. (d) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business-permitting agency. (e) a diagram or plat showing the geographic location, lot dimensions, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department. A dealer shall display at the dealer's established place of business at least one sign stating the name of the business and indicating that manufactured homes are offered for sale, trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet. (6) If an applicant intends to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately. (7) Each application under this section must be accompanied by a \$50 fee. (8) (a) An applicant for a manufactured home dealer's license shall also file a bond of \$50,000 with each application. (b) All bonds must be conditioned upon the applicant conducting the business in accordance with the requirements of the law. All bonds must be approved by the department, filed with the department, and renewed annually. (9) (a) As used in this section, "manufactured home" means a residential dwelling built in a factory in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards. (b) The term does not include a mobile home or housetrailer as defined in 15-24-201. History: En. Sec. 1, Ch. 363, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 13. Seatbelts Part 1. Montana Seatbelt Use Act 61-13-101. Short title

61-13-101. Short title. This part may be cited as the "Montana Seatbelt Use Act". History: En. Sec. 1, Ch. 439, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 13. Seatbelts Part 1. Montana Seatbelt Use Act 61-13-102. Definitions

61-13-102. Definitions. As used in this part, the following definitions apply: (1) "Department" means the department of justice. (2) "Highway" means the entire width between the boundary lines of each publicly maintained way when any part thereof is open to public use for vehicular travel. (3) "Motor vehicle" means a vehicle propelled by its own power and designed primarily to transport persons or property upon the highways of the state. (4) "Occupants" means the driver and passengers in a motor vehicle. (5) "Seatbelt" means a system using a lap belt, a shoulder belt, or other belt or combination of belts installed in a motor vehicle to restrain occupants, which system conforms to federal motor vehicle safety standards. History: En. Sec. 2, Ch. 439, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 13. Seatbelts Part 1. Montana Seatbelt Use Act 61-13-103. Seatbelt use required -- exceptions

61-13-103. Seatbelt use required -- exceptions. (1) A driver may not operate a motor vehicle upon a highway of the state of Montana unless each occupant of a designated seating position is wearing a properly adjusted and fastened seatbelt or, if 61-9-420 applies, is properly restrained in a child safety restraint. (2) The provisions of this section do not apply to: (a) an occupant of a motor vehicle who possesses a written statement from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, that the occupant is unable to wear a seatbelt for medical reasons; (b) an occupant of a motor vehicle in which all seatbelts are being used by other occupants; (c) an operator of a motorcycle or a motor-driven cycle; (d) an occupant of a vehicle licensed as special mobile equipment; or (e) an occupant who makes frequent stops with a motor vehicle during official job duties and who may be exempted by the department. (3) The department or its agent may not require a driver who may be in violation of this section to stop except: (a) upon reasonable cause to believe that the driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law; or (b) if a person in the vehicle who is under 6 years of age and weighs less than 60 pounds is not properly restrained under 61-9-420 or this section. History: En. Sec. 3, Ch. 439, L. 1987; amd. Sec. 2, Ch. 407, L. 2003; amd. Sec. 234, Ch. 542, L. 2005; amd. Sec. 6, Ch. 242, L. 2007; amd. Sec. 3, Ch. 280, L. 2011; amd. Sec. 21, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 13. Seatbelts Part 1. Montana Seatbelt Use Act 61-13-104. Penalty -- no record permitted

61-13-104. Penalty -- no record permitted.(1) A driver who violates 61-13-103 shall be fined \$20, but the violation is not a misdemeanor pursuant to 45-2-101, 46-18-236, 61-8-104, or 61-8-711. A violation of 61-13-103 may not be counted as a moving violation for purposes of suspending a driver's license under 61-11-203(2)(m). Bond for this offense is \$20, and a jail sentence may not be imposed. (2) A violation of 61-13-103 may not be recorded or charged against the driver's record of a person violating 61-13-103. (3) An insurance company may not hold a violation of 61-13-103 against the insured or increase the insured's premiums due to a violation of 61-13-103. History: En. Sec. 4, Ch. 439, L. 1987; amd. Sec. 7, Ch. 365, L. 1993; amd. Sec. 5, Ch. 218, L. 2001; amd. Sec. 13, Ch. 556, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 13. Seatbelts Part 1. Montana Seatbelt Use Act 61-13-105. Education program

61-13-105. Education program.The highway traffic safety division of the department shall continue its program for public information and education concerning the benefits of wearing seatbelts and include within such program the requirements of 61-13-103 and the penalty specified in 61-13-104. History: En. Sec. 5, Ch. 439, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 13. Seatbelts Part 1. Montana Seatbelt Use Act 61-13-106. Evidence not admissible

61-13-106. Evidence not admissible.Evidence of compliance or failure to comply with 61-13-103 is not admissible in any civil action for personal injury or property damage resulting from the use or operation of a motor vehicle, and failure to comply with 61-13-103 does not constitute negligence. History: En. Sec. 6, Ch. 439, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 14. Rulemaking Part 1. Vehicle Services 61-14-101. Rulemaking authority -- vehicle services

61-14-101. Rulemaking authority -- vehicle services.(1) The department shall adopt rules for the registration of motor vehicles, including: (a) (i) simultaneous registration of multiple motor vehicles that have common ownership; (ii) defining the term "fleet" as used in 61-3-318 and 61-3-323; and (iii) the issuance of fleet series license plates provided for in 61-3-325; (b) verification of compliance with 61-6-301 before registering or renewing a registration of a vehicle or issuing new license plates required by 61-3-332(3); (c) devising a method to place license plates on the 5-year reissuance cycle to minimize production peaks and valleys; (d) early registration renewals when an owner of a motor vehicle presents extenuating circumstances; and (e) automated mailing of license plates by the department or its authorized agent, including an agent under contract with the department pursuant to 61-3-338. (2) The department shall adopt rules to procure compliance with all of the laws of the state regulating the issuance of motor vehicle, trailer, semitrailer, or pole trailer licenses relating to the use and operation of motor vehicles, trailers, semitrailers, or pole trailers before issuing the lettered license plates pursuant to 61-3-423. (3) The department may adopt rules to establish vehicle brands or carried-forward brands according to 61-3-202. (4) The department may adopt rules governing affidavit and bond for certificate of title pursuant to 61-3-208. (5) The department may adopt rules for the implementation and administration of temporary registration permits, pursuant to 61-3-224, including issuance to: (a) a Montana resident who acquires a new or used motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet or longer, snowmobile, or off-highway vehicle for operation of the vehicle or vessel prior to titling and registration of the vehicle or vessel under Title 61, chapter 3; (b) the owner of a salvage vehicle or a vehicle requiring a state-assigned vehicle identification number to move the vehicle to and from a designated inspection site prior to applying for a new certificate of title under 61-3-107 or 61-3-212; (c) the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered in this state for operation of the vehicle while awaiting production and receipt of special or duplicate license plates ordered for a vehicle under Title 61, chapter 3; (d) a nonresident of this state who acquires a motor vehicle, trailer, semitrailer, or pole trailer in this state for operation of the vehicle prior to its titling and registration under the laws of the nonresident's jurisdiction of residence; (e) a dealer licensed in another state who brings a motor vehicle or trailer designed and used to apply fertilizer to agricultural lands into the state for special demonstration in this state; (f) a financial institution located in Montana for a prospective purchaser to demonstrate a motor vehicle that the financial institution has obtained following repossession; (g) an insurer or its agent to move a motor vehicle or trailer to auction following acquisition of the vehicle by the insurer as a result of the settlement of an insurance claim; (h) a nonresident owner to temporarily operate a quadricycle or motorcycle designed for off-road recreational use on the highways of this state when the quadricycle or motorcycle designed for off-road recreational use is equipped for use on the highways as prescribed in Title 61, chapter 9, but the quadricycle or motorcycle designated for off-road recreational use is not registered or is only registered for off-road use in the nonresident's home state; or (i) a new owner of a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certification of title. (6) The department may adopt rules for the assessment and collection of registration fees on light vehicles under 61-3-321 and 61-3-562, including the proration of fees under 61-3-520 and criteria for determining the motor vehicle's age. (7) The department may adopt rules for imposing and collecting fees in lieu of tax, including: (a) the proration of fees in lieu of tax under 61-3-520 on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors; (b) criteria for determining the motor vehicle's age; and (c) criteria for determining the manufacturer's rated capacity. (8) The department may adopt rules, pursuant to Title 61, chapter 3, for the administration of fees for trailers, semitrailers, and pole trailers, including criteria for determining a trailer's age and weight. (9) The department shall adopt rules for generic specialty license plates issued pursuant to 61-3-472 through

61-3-481, including: (a) the minimum and maximum number of characters that a generic specialty license plate may display; (b) the general placement of the sponsor's name, identifying phrase, and graphic; and (c) any specifications or limitations on the use or choice of color or detail in the sponsor's graphic design. (10) The department may adopt rules governing dealers pursuant to the provisions of Title 61, chapter 4, including: (a) the application and issuance of dealer licenses, including the qualifications of dealers, and the staggering of expiration dates pursuant to 61-4-101; (b) the issuance of dealer, demonstrator, loaner, courtesy, and transit plates pursuant to 61-4-102, 61-4-128 through 61-4-130, 61-4-301, 61-4-307, and 61-4-308; (c) the application and process for renewing a dealer license pursuant to 61-4-124; and (d) governing the regulation of persons required to be licensed pursuant to Title 61, chapter 4, part 2. (11) The department may adopt rules for local option tax appeals pursuant to 15-15-201. (12) The department may adopt rules to implement any other provision of this title. History: En. Sec. 22, Ch. 335, L. 2019; amd. Sec. 18, Ch. 389, L. 2021; amd. Sec. 5, Ch. 407, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 14. Rulemaking Part 2. Driver's Licenses, Identification Cards, and Commercial Driver's Licenses 61-14-201. Rulemaking authority -- driver's licenses and identification cards

61-14-201. Rulemaking authority -- driver's licenses and identification cards. (1) The department may adopt rules to administer and enforce the provisions of Title 61, chapter 5. (2) 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) 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) 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) 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) 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) The department may adopt rules governing the requirements for a veteran designation on a driver's license or identification card. (15) The department may adopt rules governing the issuance of a replacement driver's license. (16) The department may adopt rules governing the certification process for cooperative driver testing program instructors. (17) 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) The department may adopt rules for determining moving violations. (20) 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) 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) (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), including but not limited to issuance requirements, specifications, security and privacy protections, and allowable uses associated with the digital driver's license. (24) The department may adopt rules to implement any other provision of this title. History: En. Sec. 23, Ch. 335, L. 2019; amd. Sec. 2, Ch. 381, L. 2021; amd. Sec. 2, Ch. 304, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 14. Rulemaking Part 2. Driver's Licenses, Identification Cards, and Commercial Driver's Licenses 61-14-202. Rulemaking authority -- commercial driver licensing

61-14-202. Rulemaking authority -- commercial driver licensing. (1) The department shall adopt rules governing the classification of commercial driver's licenses and related endorsements and the examination of commercial driver's license applicants and renewal applicants that the department considers necessary for the safety and welfare of the traveling public. The rules must: (a) subject to the department's functional and vision requirements, conform to the licensing standards and requirements of 49 CFR, part 383, the medical qualification of 49 CFR, part 391, and the security threat assessment provisions of 49 CFR, part 1572, unless a waiver from a licensing standard or requirement has been granted by the federal department of transportation; (b) allow for the issuance of an interstate commercial driver's license; (c) allow for the issuance of an intrastate-only commercial driver's license, including the establishment of medical qualification and visual acuity standards; [(d) upon receiving a waiver from the federal department of transportation, allow for the issuance of a school bus driver endorsement that waives the knowledge test or skills test based on comparable experience of the endorsement candidate, as established by the department;] (e) establish the requirement for the issuance of a seasonal commercial driver's license, including the waiver of the knowledge and skills test for a qualified person employed in a farm-related service industry; (f) establish the operational and seasonal restrictions for a seasonal commercial driver's license; (g) establish the requirements for the medical statement that must be submitted for a person to be qualified for a commercial driver's license; and (h) allow for and establish the requirements for the issuance of a commercial learner's permit. (2) The department shall adopt rules governing the minimum standards for certification of a third-party commercial driver testing program and any test waiver under 61-5-118 and governing the certification, operation, and monitoring of third-party skills testing programs. The rules must: (a) substantially comply with the licensing standards and requirements of 49 CFR, part 383, and the state compliance standards of 49 CFR, part 384, including: (i) issuance of a commercial driver's license skills testing certificate to a certified program upon execution of a third-party skills testing agreement; (ii) requiring that all third-party skills test examiners meet minimum qualifications, including passing background checks paid for by the third-party testing program and successfully completing a formal skills test examiner training course; (iii) providing examiner test limitations, minimum testing standards, and refresher training requirements; and (iv) requiring recordkeeping and a detailed audit program that includes overt and covert test monitoring and onsite audits by state and federal personnel; (b) specifically address the requirements for certifying third-party commercial driver testing programs, including place of business, appropriate bond and liability insurance, and facilities requirements; and (c) specify minimum technology requirements for recordkeeping, scheduling applicants for the skills test, conducting the skills test, and electronically transferring skills test results to the department. (3) The department shall adopt rules governing the waiver of knowledge and skills tests related to commercial vehicle operators with military experience as provided in 61-5-123. (4) The department shall adopt rules governing the administration of a commercial driver's license skills test for a nonexempt applicant for a class A or class B commercial driver's license, for upgrading a commercial driver's license from class B to class A, and for obtaining a passenger or school bus endorsement and the administration of a knowledge test for a hazardous materials endorsement. The rules must provide: (a) for the department conducting an electronic query to the entry-level driver training provider registry; (b) that the department may not conduct a skills test or hazardous materials endorsement knowledge test when the entry-level driver training provider registry does not validate that the nonexempt applicant completed the requisite entry-level driver training; and (c) that an examiner of school bus driver endorsement candidates has had a commercial driver's license issued in Montana in the last 10 years and preferably has at least 2 years of experience driving a school bus in Montana. (5) The department shall adopt rules that provide that prior to issuing, renewing, transferring, or upgrading a commercial driver's license or commercial learner's permit, the department shall conduct a check of the applicant's eligibility by electronically querying the commercial drug and alcohol clearinghouse. The rules must provide that the department may not issue, renew, transfer, or upgrade a commercial driver's license or commercial learner's permit when the result from the clearinghouse indicates the driver is prohibited from operating a commercial motor vehicle. (6) The department shall adopt rules that provide that upon receiving federal motor carrier safety administration notification that the commercial learner's permit or commercial driver's license holder is prohibited from operating a commercial motor vehicle, the department shall initiate established procedures for downgrading the commercial learner's permit or commercial driver's license. The rules must provide that downgrade must be completed and recorded on the commercial driver's license system driver record within 60 days of the notification. The rules must further provide that if, after the department completes and records the downgrade on the commercial driver's license system driver record, the department receives federal motor carrier safety administration notification that: (a) a driver is no longer prohibited from operating a commercial motor vehicle, the department shall make the driver eligible for reinstatement of the commercial learner's permit or commercial driver's

license privilege to the driver's license; and (b) the driver was erroneously identified as prohibited from operating a commercial motor vehicle, the department shall: (i) reinstate the commercial learner's permit or commercial driver's license privilege to the driver's license as expeditiously as possible; and (ii) expunge from the commercial driver's license system driver record and motor vehicle record any reference related the driver's erroneous prohibited status. (Subsection (1)(d) effective on occurrence of contingency--sec. 5, Ch. 646, L. 2023.) History: En. Sec. 24, Ch. 335, L. 2019; amd. Sec. 3, Ch. 646, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 14. Rulemaking Part 3. Other Rulemaking Authority 61-14-301. Other rulemaking authority

61-14-301. Other rulemaking authority. (1) The department shall adopt rules to identify the entity or entities that may qualify for grants under 61-3-415 and to establish criteria that an entity must meet to receive grant funds. (2) The department may adopt rules for the application, certification, and determination of the ability of a self-insurer to pay any judgment under 61-6-143. (3) The department may adopt rules for individuals who are exempt from wearing seatbelts under 61-13-103. (4) The department shall adopt rules governing sales, including sales of receipts by county treasurers and other authorized agents. (5) The department may adopt rules governing the cancellation of received services upon receipt of an insufficient funds check in payment for a service. (6) The department may adopt rules for the implementation of the Montana Driver Privacy Protection Act, including procedures for: (a) verifying the identity of a person requesting personal information; (b) maintaining records for release of personal information by the department or by any recipient under Title 61, chapter 11, part 5; and (c) providing for oversight of sale or disclosure of personal information to third parties. (7) The department may adopt rules for governing recordkeeping, including the destruction of records. History: En. Sec. 25, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-101. Purpose

61-2-101. Purpose. To promote public safety, health, and welfare and to reduce traffic deaths, injuries, and property losses resulting from traffic accidents, it is in the public interest to establish a highway traffic safety program and provide for its administration. It is in the public interest to implement, modernize, and improve the following traffic safety activities: driver performance, including but not limited to driver education, driver testing to determine proficiency to operate motor vehicles; driver examinations, both physical and mental; driver licensing; pedestrian performance; establish an effective accident record system, including traffic accident investigation to determine the probable cause of accidents, injuries, and deaths; improve and establish a system of vehicle registration, vehicle operation, and vehicle inspection; assist in the improving of highway design and maintenance, including lighting, markings, and surface treatment to improve safety; establish an effective traffic control system; promote the adoption of uniform vehicle laws; provide for surveillance of traffic for detection and correction of high or potentially high accident locations; establish emergency services, including but not limited to communications, medical or mechanical assistance, and ambulance service for injured persons; and establish an effective compilation and storage program of reports and records through electronic data processing. History: En. Sec. 1, Ch. 177, L. 1967; amd. Sec. 74, Ch. 348, L. 1974; R.C.M. 1947, 32-4601.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-102. Definitions

61-2-102. Definitions. Unless the context requires otherwise, in this part, the following definitions apply: (1) "Department" means the department of transportation. (2) "Highway traffic safety program" means a program designed to reduce traffic accidents, deaths, injuries to persons, and damage to property. The program must be in accordance with uniform guidelines established pursuant to 23 U.S.C. 402, as amended, and may include defensive driving programs administered by the entity designated by the governor in 61-2-103. Nothing in this part restricts or prohibits the establishment of standards that enlarge or implement the federal standards. (3) "Political subdivisions" means each county, incorporated city or town, and school district within the boundaries of the state. History: En. Sec. 2, Ch. 177, L. 1967; amd. Sec. 75, Ch. 348, L. 1974; amd. Sec. 34, Ch. 213, L. 1975; R.C.M. 1947, 32-4602; amd. Sec. 8, Ch. 274, L. 1981; amd. Sec. 2, Ch. 538, L. 1995; amd. Sec. 3, Ch. 576, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-103. Duties

61-2-103. Duties. (1) The governor is responsible for the administration of the highway traffic safety program. The governor may contract and do all other things necessary to secure the full benefits available to this state under the federal Highway Safety Act, 23 U.S.C. 401 through 403, and, in so doing, may cooperate with federal and state agencies, private and public organizations, and individuals to effectuate the purposes of that enactment and all amendments to it. The governor may appoint an administrator of the highway traffic safety program to carry out the governor's responsibilities under this part. For purposes of participation in the federal Highway Safety Act, 23 U.S.C. 401 through 403, the governor shall designate the superintendent of public instruction as the state agency responsible for all aspects of federally assisted driver education and safety programs in the public schools, including the approval of the programs, certification of teachers, and the acceptance, allocation, and expenditure of funds for driver education in accordance with applicable federal laws and regulations. Nothing in this part interferes with the provisions of Title 20, chapter 7, part 5, or 20-9-603. (2) The department shall: (a) advise and assist the governor in all matters of highway safety; (b) establish a

continuing and adequate research program designed to determine the causes of accidents and effect a program of prevention; and (c) cooperate with the office of public instruction to provide support and maintenance of driver training facilities that comply with the federal Highway Safety Act, 23 U.S.C. 401 through 403. (3) The department of justice shall: (a) establish a uniform system of driver licensing, including mental and physical standards; and (b) prescribe and establish safety regulations for motor vehicles and operators. History: En. Sec. 5, Ch. 177, L. 1967; amd. Sec. 76, Ch. 348, L. 1974; amd. Sec. 35, Ch. 213, L. 1975; R.C.M. 1947, 32-4605; amd. Sec. 8, Ch. 274, L. 1981; amd. Sec. 1, Ch. 126, L. 1991; amd. Sec. 3, Ch. 538, L. 1995; amd. Sec. 1, Ch. 8, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-104. Funds

61-2-104. Funds. The governor and the department may enter into contracts with the federal government to secure maximum federal appropriation. At least 40% of all federal funds received by the state shall be spent by the political subdivisions of the state in carrying out local approved highway traffic safety programs. Except as provided in this part, the governor may accept all gifts, money, and funds to implement the purposes of this part. The expenditure of funds, exclusive of the federal appropriation, shall be maintained at a level which shall not fall below the average level of the expenditures for the last 2 full fiscal years preceding July 1, 1966, as determined by the expenditures of state and political subdivisions. History: En. Sec. 6, Ch. 177, L. 1967; amd. Sec. 77, Ch. 348, L. 1974; R.C.M. 1947, 32-4606.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-105. Local programs

61-2-105. Local programs. Except as provided in this part, all highway traffic safety programs of political subdivisions must be approved by the governor and funds may not be spent unless the governor's approval is obtained. All local and state officials shall cooperate with the governor and department to accomplish the purposes of this part. The governor shall administer the highway traffic safety programs of this state and its political subdivisions in accordance with this part and federal rules. History: En. Sec. 7, Ch. 177, L. 1967; amd. Sec. 78, Ch. 348, L. 1974; R.C.M. 1947, 32-4607; amd. Sec. 1935, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-106. County drinking and driving prevention program

61-2-106. County drinking and driving prevention program. (1) The governing body of a county may appoint a task force to study the problem of alcohol-related traffic accidents and recommend a program designed to: (a) prevent driving while under the influence of alcohol; (b) reduce alcohol-related traffic accidents; and (c) educate the public on the dangers of driving after consuming alcoholic beverages or other chemical substances that impair judgment or motor functions. (2) A task force appointed under subsection (1) shall conduct its study and submit its recommendations within 6 months from the date it was appointed. Task force meetings are open to the public. The task force shall give notice by publication in the community meeting announcement section of a newspaper of general circulation in the county. (3) The county governing body may by resolution adopt the recommendations of the task force appointed under subsection (1). The proposed program must be approved by the governor as provided in 61-2-105. (4) The presiding officer of the task force shall submit to the county governing body: (a) a budget and a financial report for each fiscal year; and (b) an annual report containing but not limited to: (i) an evaluation of the effectiveness of the program; (ii) the number of arrests and convictions in the county for driving under the influence of alcohol and the sentences imposed for these convictions; (iii) the number of alcohol-related traffic accidents in the county; and (iv) any other information requested by the county governing body or considered appropriate by the task force. (5) A copy of the annual report may be submitted to the department. History: En. Sec. 1, Ch. 643, L. 1987; amd. Sec. 2, Ch. 751, L. 1991; amd. Sec. 1, Ch. 436, L. 1993; amd. Sec. 1936, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-107. License reinstatement fee to fund county drinking and driving prevention programs

61-2-107. License reinstatement fee to fund county drinking and driving prevention programs. (1) Notwithstanding the provisions of any other law of the state, a driver's license that has been suspended or revoked under 61-5-205 or 61-8-1016 must remain suspended or revoked until the driver has paid to the department a fee of \$200 in addition to any other fines, forfeitures, and penalties assessed as a result of conviction for a violation of the traffic laws of the state. (2) The department shall deposit one-half of the fees collected under subsection (1) in the general fund and the other half in an account in the state special revenue fund to be used for funding county drinking and driving prevention programs as provided in 61-2-108. History: En. Sec. 2, Ch. 643, L. 1987; amd. Sec. 1, Ch. 55, L. 1989; amd. Sec. 1, Ch. 751, L. 1991; amd. Sec. 1, Ch. 5, Sp. L. January 1992; amd. Sec. 1, Ch. 492, L. 1993; amd. Sec. 1, Ch. 2, Sp. L. November 1993; amd. Sec. 63, Ch. 18, L. 1995; amd. Sec. 53, Ch. 509, L. 1995; amd. Sec. 1, Ch. 442, L. 2003; amd. Sec. 30, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-108. Funding allocation for programs to prevent or reduce drinking and driving

61-2-108. Funding allocation for programs to prevent or reduce drinking and driving. (1) If the county in which the violation or violations occurred has initiated and maintained a drinking and driving prevention program as provided in 61-2-106, the department

shall transmit the county portion of the proceeds of the license reinstatement fees collected in that county to the county treasurer, as provided in 61-2-107(2), at the end of each quarter. (2) Funds deposited in the state special revenue fund pursuant to 61-2-107(2) for violations occurring in a county that has not initiated and maintained a drinking and driving prevention program as provided in 61-2-106 must be distributed July 1 of each year, on an equal basis, to those counties that have an approved program under 61-2-106. History: En. Sec. 3, Ch. 643, L. 1987; amd. Sec. 3, Ch. 751, L. 1991; amd. Sec. 2, Ch. 5, Sp. L. January 1992; amd. Sec. 245, Ch. 42, L. 1997; amd. Sec. 1, Ch. 141, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 1. Traffic Safety Program 61-2-109. Emergency medical services grants

61-2-109. Emergency medical services grants. The department of transportation shall report to the governor and the legislative fiscal analyst no later than November 1 of the year preceding a regular session of the legislature regarding emergency medical services grants that are awarded during each biennium. The report must be provided in an electronic format and include a listing of all grant requests and a listing of grants awarded, including a summary of the use of grant funds. The department shall provide a copy of the report to the legislature in accordance with 5-11-210. History: En. Sec. 25, Ch. 486, L. 2009; amd. Sec. 17, Ch. 120, L. 2013; amd. Sec. 95, Ch. 261, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-201. Vehicle Equipment Safety Compact

61-2-201. Vehicle Equipment Safety Compact. This part shall be known and may be cited as the "Vehicle Equipment Safety Compact". Article I. Findings and Purposes (1) The party states find that: (a) accidents and deaths on their streets and highways present a very serious human and economic problem with a major deleterious effect on the public welfare; (b) there is a vital need for the development of greater interjurisdictional cooperation to achieve the necessary uniformity in the laws, rules, regulations, and codes relating to vehicle equipment, and to accomplish this by such means as will minimize the time between the development of demonstrably and scientifically sound safety features and their incorporation into vehicles. (2) The purposes of this compact are to: (a) promote uniformity in regulation of and standards for equipment; (b) secure uniformity of law and administrative practice in vehicular regulation and related safety standards to permit incorporation of desirable equipment changes in vehicles in the interest of greater traffic safety; (c) provide means for the encouragement and utilization of research which will facilitate the achievement of the foregoing purposes, with due regard for the findings set forth in subsection (1) of this article. (3) It is the intent of this compact to emphasize performance requirements and not to determine the specific detail of engineering in the manufacture of vehicles or equipment except to the extent necessary for the meeting of such performance requirements. Article II. Definitions As used in this compact: (1) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks. (2) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. (3) "Equipment" means any part of a vehicle or any accessory for use thereon which affects the safety of operation of such vehicle or the safety of the occupants. Article III. The Commission (1) There is hereby created an agency of the party states to be known as the "Vehicle Equipment Safety Commission", hereinafter called the commission. The commission shall be composed of one commissioner from each party state who shall be appointed, serve, and be subject to removal in accordance with the laws of the state which the commissioner represents. If authorized by the laws of the commissioner's party state, a commissioner may provide for the discharge of the commissioner's duties and the performance of the commissioner's functions on the commission, either for the duration of the commissioner's membership or for any lesser period of time, by an alternate. No such alternate shall be entitled to serve unless notification of the alternate's identity and appointment shall have been given to the commission in such form as the commission may require. Each commissioner, and each alternate when serving in the place and stead of a commissioner, shall be entitled to be reimbursed by the commission for expenses actually incurred in attending commission meetings or while engaged in the business of the commission. (2) The commissioners shall be entitled to one vote each on the commission. No action of the commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the commission are cast in favor thereof. Action of the commission shall be only at a meeting at which a majority of the commissioners, or their alternates, are present. (3) The commission shall have a seal. (4) The commission shall elect annually, from among its members, a presiding officer, a vice presiding officer, and a treasurer. The commission may appoint an executive director and fix the director's duties and compensation. Such executive director shall serve at the pleasure of the commission, and together with the treasurer shall be bonded in such amount as the commission shall determine. The executive director also shall serve as secretary. If there be no executive director, the commission shall elect a secretary in addition to the other officers provided by this subdivision. (5) Irrespective of the civil service, personnel, or other merit system laws of any of the party states, the executive director with the approval of the commission, or the commission if there be no executive director, shall appoint, remove, or discharge such personnel as may be necessary for the performance of the commission's functions, and shall fix the duties and compensation of such personnel. (6) The commission may establish and maintain independently or in conjunction with any one or more of the party states a suitable retirement system for its full time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivor's insurance provided that the commission takes such steps as may be necessary pursuant to the laws of the United States to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate. (7) The commission may borrow, accept, or contract for the

services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party states or their subdivisions. (8) The commission may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any other governmental agency and may receive, utilize, and dispose of the same. (9) The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein. (10) The commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the commissioners of all commission meetings and hearings and the business to be transacted at such meetings or hearings. Such notice shall also be given to such agencies or officers of each party state as the laws of such party state may provide. (11) The commission annually shall make to the governor and legislature of each party state a report covering the activities of the commission for the preceding year, and embodying such recommendations as may have been issued by the commission. The commission may make such additional reports as it may deem desirable.

Article IV. Research and Testing The commission shall have power to: (1) collect, correlate, analyze, and evaluate information resulting or derivable from research and testing activities in equipment and related fields; (2) recommend and encourage the undertaking of research and testing in any aspect of equipment or related matters when, in its judgment, appropriate or sufficient research or testing has not been undertaken; (3) contract for such equipment research and testing as one or more governmental agencies may agree to have contracted for by the commission, provided that such governmental agency or agencies shall make available the funds necessary for such research and testing; (4) recommend to the party states changes in law or policy with emphasis on uniformity of laws and administrative rules, regulations, or codes which would promote effective governmental action or coordination in the prevention of equipment-related highway accidents or the mitigation of equipment-related highway safety problems.

Article V. Vehicular Equipment (1) In the interest of vehicular and public safety, the commission may study the need for or desirability of the establishment of or changes in performance requirements or restrictions for any item of equipment. As a result of such study, the commission may publish a report relating to any item or items of equipment, and the issuance of such a report shall be a condition precedent to any proceedings or other action provided or authorized by this article. No less than 60 days after the publication of a report containing the results of such study, the commission upon due notice shall hold a hearing or hearings at such place or places as it may determine. (2) Following the hearing or hearings provided for in subsection (1) of this article, and with due regard for standards recommended by appropriate professional and technical associations and agencies, the commission may issue rules, regulations, or codes embodying performance requirements or restrictions for any item or items of equipment covered in the report, which in the opinion of the commission will be fair and equitable and effectuate the purposes of this compact. (3) Each party state obligates itself to give due consideration to any and all rules, regulations, and codes issued by the commission and hereby declares its policy and intent to be the promotion of uniformity in the laws of the several party states relating to equipment. (4) The commission shall send prompt notice of its action in issuing any rule, regulation, or code pursuant to this article to the appropriate motor vehicle agency of each party state and such notice shall contain the complete text of the rule, regulation, or code. (5) If the constitution of a party state requires, or if its statutes provide, the approval of the legislature by appropriate resolution or act may be made a condition precedent to the taking effect in such party state of any rule, regulation, or code. In such event, the commissioner of such party state shall submit any commission rule, regulation, or code to the legislature as promptly as may be in lieu of administrative acceptance or rejection thereof by the party state. (6) Except as otherwise specifically provided in or pursuant to subsections (5) and (7) of this article, the appropriate motor vehicle agency of a party state shall in accordance with its constitution or procedural laws adopt the rule, regulation, or code within 6 months of the sending of the notice and, upon such adoption, the rule, regulation, or code shall have the force and effect of law therein. (7) The appropriate motor vehicle agency of a party state may decline to adopt a rule, regulation, or code issued by the commission pursuant to this article if such agency specifically finds, after public hearing on due notice, that a variation from the commission's rule, regulation, or code is necessary to the public safety, and incorporates in such finding the reasons upon which it is based. Any such finding shall be subject to review by such procedure for review of administrative determinations as may be applicable pursuant to the laws of the party state. Upon request, the commission shall be furnished with a copy of the transcript of any hearings held pursuant to this subsection.

Article VI. Finance (1) The commission shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that party state for presentation to the legislature thereof. (2) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: one-third in equal shares and the remainder in proportion to the number of motor vehicles registered in each party state. In determining the number of such registrations, the commission may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the source or sources used in obtaining information concerning vehicular registrations. (3) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under Article III(8) of this compact, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under Article III(8) hereof, the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same. (4) The commission shall keep accurate accounts of all receipts

and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual reports of the commission. (5) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission. (6) Nothing contained herein shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission. Article VII. Conflict of Interest (1) The commission shall adopt rules and regulations with respect to conflict of interest for the commissioners of the party states, and their alternates, if any, and for the staff of the commission and contractors with the commission to the end that no member or employee or contractor shall have a pecuniary or other incompatible interest in the manufacture, sale, or distribution of motor vehicles or vehicular equipment or in any facility or enterprise employed by the commission or on its behalf for testing, conduct of investigations, or research. In addition to any penalty for violation of such rules and regulations as may be applicable under the laws of the violator's jurisdiction of residence, employment, or business, any violation of a commission rule or regulation adopted pursuant to this article shall require the immediate discharge of any violating employee and the immediate vacating of membership, or relinquishing of status as a member on the commission by any commissioner or alternate. In the case of a contractor, any violation of any such rule or regulation shall make any contract of the violator with the commission subject to cancellation by the commission. (2) Nothing contained in this article shall be deemed to prevent a contractor for the commission from using any facilities subject to the contractor's control in the performance of the contract even though such facilities are not devoted solely to work of or done on behalf of the commission, or to prevent such a contractor from receiving remuneration or profit from the use of such facilities. Article VIII. Advisory and Technical Committees The commission may establish such advisory and technical committees as it may deem necessary, membership on which may include private citizens and public officials, and may cooperate with and use the services of any such committees and the organizations which the members represent in furthering any of its activities. Article IX. Entry Into Force and Withdrawal (1) This compact shall enter into force when enacted into law by any six or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. (2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 1 year after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal. Article X. Construction and Severability This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. History: En. Sec. 1, Ch. 109, L. 1965; R.C.M. 1947, 32-21-166; amd. Sec. 1937, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-202. Legislative findings on equipment safety

61-2-202. Legislative findings on equipment safety. The legislature finds that: (1) the public safety necessitates the continuous development, modernization, and implementation of standards and requirements of law relating to vehicle equipment, in accordance with expert knowledge and opinion; (2) the public safety further requires that such standards and requirements be uniform from jurisdiction to jurisdiction, except to the extent that specific and compelling evidence supports variation; (3) the department, acting upon recommendations of the vehicle equipment safety commission and pursuant to the Vehicle Equipment Safety Compact, provides a just, equitable, and orderly means of promoting the public safety in the manner and within the scope contemplated by this part. History: En. Sec. 2, Ch. 109, L. 1965; R.C.M. 1947, 32-21-167; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-203. Equipment requirements continued in force

61-2-203. Equipment requirements continued in force. Provisions of chapter 9 of this title shall continue to be in effect. The approval of the legislature is a condition precedent to the taking effect of any rule, regulation, or code that may be adopted by the commission. History: En. Sec. 3, Ch. 109, L. 1965; R.C.M. 1947, 32-21-168; amd. Sec. 24, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-204. State commissioner on vehicle equipment safety commission

61-2-204. State commissioner on vehicle equipment safety commission. Notwithstanding section 1, Chapter 272, Laws of 1971, the commissioner of this state on the vehicle equipment safety commission is the highway patrol chief who shall serve during the continuance as highway patrol chief. The commissioner appointed pursuant to this section may designate an alternate from among the officers and employees of the highway patrol to serve in the commissioner's place on the vehicle equipment safety commission. Subject to the provisions of the compact and bylaws of the vehicle equipment safety commission, the authority and responsibilities of the alternate are as determined by the commissioner. History: En. Sec. 4, Ch. 109, L. 1965; R.C.M. 1947, 32-21-169; amd. Sec.

25, Ch. 421, L. 1979; amd. Sec. 1938, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-205. Retirement of equipment safety commission employees

61-2-205. Retirement of equipment safety commission employees. The public employees retirement board of Montana may make an agreement with the vehicle equipment safety commission for the coverage of said commission's employees pursuant to Article III(6) of the compact. Any such agreement, as nearly as may be, shall provide for arrangements similar to those available to the employees of this state and shall be subject to amendment or termination in accordance with its terms. History: En. Sec. 5, Ch. 109, L. 1965; R.C.M. 1947, 32-21-170.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-206. Governmental agencies to cooperate with equipment safety commission

61-2-206. Governmental agencies to cooperate with equipment safety commission. Within appropriations available therefor, the departments, agencies, and officers of the government of this state may cooperate with and assist the vehicle equipment safety commission within the scope contemplated by Article III(8) of the compact. The departments, agencies, and officers of the government of this state are authorized generally to cooperate with said commission. History: En. Sec. 6, Ch. 109, L. 1965; R.C.M. 1947, 32-21-171.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-207. Documents filed and notices given by equipment safety commission

61-2-207. Documents filed and notices given by equipment safety commission. Filing of documents as required by Article III(10) of the compact must be with the department. All notices required by commission bylaws to be given pursuant to Article III(10) of the compact must be given to the commissioner of this state and the commissioner's alternate. History: En. Sec. 7, Ch. 109, L. 1965; R.C.M. 1947, 32-21-172; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1939, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-208. Equipment safety commission funds

61-2-208. Equipment safety commission funds. (1) Pursuant to Article VI(1) of the compact, the vehicle equipment safety commission shall submit its budgets to the state budget director. (2) Pursuant to Article VI(5) of the compact, the department of administration may inspect the accounts of the vehicle equipment safety commission. History: En. Secs. 5, 9, Ch. 109, L. 1965; R.C.M. 1947, 32-21-173, 32-21-174; amd. Sec. 7, Ch. 274, L. 1981; amd. Sec. 1, Ch. 287, L. 1983; amd. Sec. 194, Ch. 483, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 2. Vehicle Equipment Safety 61-2-209. Governor as executive head for compact purposes

61-2-209. Governor as executive head for compact purposes. The term "executive head" as used in Article IX(2) of the compact shall, with reference to this state, mean the governor. History: En. Sec. 11, Ch. 109, L. 1965; R.C.M. 1947, 32-21-175.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 3. Driver Improvement Program 61-2-301. Purpose

61-2-301. Purpose. The toll of accidents, personal injuries, and deaths resulting from the operation of motor vehicles remains a matter of great concern to the legislature. The failure to apply proper driving techniques in the operation of vehicles and improper driving attitudes and habits on the part of operators constitute major factors in a substantial portion of both fatal and nonfatal automobile accidents. Current efforts to improve driver skills, responsibilities, attitudes, and habits have not proved adequate to stem the accident, injury, and death toll. The public interest in the cause of highway safety will be well served by additional methods of driver rehabilitation and improvement and the establishment of programs of rehabilitative instruction, driver improvement, and direction for drivers with poor driving records. History: En. 31-191 by Sec. 1, Ch. 526, L. 1977; R.C.M. 1947, 31-191.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 3. Driver Improvement Program 61-2-302. Establishment of driver rehabilitation and improvement program -- participation by offending drivers

61-2-302. Establishment of driver rehabilitation and improvement program -- participation by offending drivers. (1) The department may establish by administrative rule a driver rehabilitation and improvement program or programs. The programs may consist of electronic or classroom instruction in rules of the road, driving techniques, defensive driving, driver attitudes and habits, actual on-the-road driver's training, and other subjects or tasks designed to contribute to proper driving attitudes, habits, and techniques and must include the requirements for obtaining a restricted probationary driver's license. (2) Except when otherwise provided or restricted by statute, a person whose driver's license is suspended or revoked by the department, unless the suspension or revocation was for an offense under 61-8-1002(1)(a), (1)(b), (1)(c), (1)(d), or (1)(e), may participate in any driver rehabilitation and improvement program established under this section if the person's license is: (a) suspended as a result of a violation of the traffic

laws of this state, unless the suspension was imposed under the authority provided in Title 61, chapter 8, part 8; or (b) revoked and the person has: (i) completed at least 3 months of a 1-year revocation; or (ii) completed 1 year of a 3-year revocation; and (iii) met the requirements for reobtaining a Montana driver's license. (3) Notwithstanding any provision of this part inconsistent with any other law of the state of Montana, the enforcement of any suspension or revocation order that constitutes the basis for any person's participation in the driver rehabilitation and improvement program provided for in this section may be stayed if that person complies with the requirements established for the driver rehabilitation and improvement program and meets the eligibility requirements of subsection (2). (4) If a person's driver's license has been surrendered before the person's selection for participation in the driver rehabilitation and improvement program, the license may be returned upon receipt of the person's agreement to participate in the program. (5) The stay of enforcement of any suspension or revocation action must be terminated and the suspension or revocation action must be reinstated if a person declines to participate in the driver rehabilitation and improvement program or fails to meet the attendance or other requirements established for participation in the program. (6) This part does not create a right to be included in any program established under this part. (7) The department may establish a schedule of fees that may be charged to those persons participating in the driver improvement and rehabilitation program. The fees must be used to help defray costs of maintaining the program. (8) A person may be referred to this program by a driver improvement analyst, city judge, justice of the peace, youth court judge, or judge of a district court of the state. (9) (a) Except as provided in subsection (9)(b), the department may issue a restricted probationary license to any person who enrolls and participates in the driver rehabilitation and improvement program. Upon issuance of a probationary license under this section, the licensee is subject to the restrictions set forth on the license. (b) The department may not issue a restricted probationary license that would permit an individual to drive a commercial motor vehicle during a period in which: (i) the individual is disqualified from operating a commercial motor vehicle under state or federal law; or (ii) the individual's driver's license or driving privilege is revoked, suspended, or cancelled. (10) It is a misdemeanor for a person to operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license issued to the person under this section. History: En. 31-192 by Sec. 2, Ch. 526, L. 1977; R.C.M. 1947, 31-192; amd. Sec. 1, Ch. 297, L. 1979; amd. Sec. 1, Ch. 444, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 7, Ch. 481, L. 1995; amd. Sec. 4, Ch. 107, L. 1997; amd. Sec. 1, Ch. 258, L. 1999; amd. Sec. 2, Ch. 64, L. 2001; amd. Sec. 3, Ch. 207, L. 2001; amd. Sec. 1, Ch. 218, L. 2001; amd. Sec. 1, Ch. 556, L. 2003; amd. Sec. 2, Ch. 611, L. 2003; amd. Sec. 2, Ch. 149, L. 2011; amd. Sec. 7, Ch. 153, L. 2013; amd. Sec. 2, Ch. 445, L. 2019; amd. Sec. 31, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 5. Emergency Medical Service Providers Grant Program 61-2-501. Legislative findings -- purpose

61-2-501. Legislative findings -- purpose. The legislature finds that the provision of prehospital emergency medical service is a critical component of Montana's health care system because these prehospital services can improve the medical outcomes for people suffering medical emergencies and may improve the safety of motorists on Montana roads by providing emergency response to vehicle crashes. The legislature further finds that emergency medical service providers in many of Montana's rural areas have difficulty in continuing their operations because of demographic and economic circumstances. It is the purpose of this part to establish a grant program that will support emergency medical service providers by creating a source of funds to cover the costs of buying and maintaining the equipment that an emergency medical service needs in order to be ready to respond to calls. History: En. Sec. 1, Ch. 437, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 5. Emergency Medical Service Providers Grant Program 61-2-502. Definitions

61-2-502. Definitions. As used in this part, the following definitions apply: (1) "Aircraft" has the meaning provided in 67-1-101. The term includes any fixed-wing airplane or helicopter. (2) (a) "Ambulance" means a privately or publicly owned motor vehicle or aircraft that is maintained and used for the transportation of patients. (b) The term does not include: (i) a motor vehicle or aircraft owned by or operated under the direct control of the United States; or (ii) air transportation services, such as charter or fixed-based operators, that are regulated by the federal aviation administration and that offer no special medical services or provide only transportation to patients or persons at the direction or under the supervision of an independent physician. (3) "Board" means the Montana state board of medical examiners provided for in 2-15-1731. (4) "Department" means the department of transportation provided for in 2-15-2501. (5) "Emergency care provider" means a person licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic. An emergency care provider with an endorsement may provide community-integrated health care. (6) "Emergency medical service" means an out-of-hospital treatment service or interfacility emergency medical transportation provided by an ambulance or nontransporting medical unit. (7) (a) "Emergency response vehicle" means a vehicle used for the dedicated purpose of responding to emergency medical calls. (b) The term does not include a vehicle used for an individual's personal purposes. (8) "Nontransporting medical unit" means an aggregate of persons who are organized to respond to a call for emergency medical service and to treat a patient until the arrival of an ambulance. Nontransporting medical units provide any one of varying types and levels of service defined by department of public health and human services rule but may not transport patients. (9) (a) "Patient" means an individual who is sick, injured, wounded, or otherwise incapacitated or helpless. (b) Unless otherwise defined by rule for community-integrated health care, the term does not include an individual who is nonambulatory and who needs transportation assistance solely because that individual is confined to a wheelchair as the individual's usual means of mobility. (10) "Person" means an individual, firm,

partnership, association, corporation, company, group of individuals acting together for a common purpose, or organization of any kind, including a governmental agency other than the United States. (11) "Volunteer emergency care provider" means an individual who is licensed pursuant to Title 50, chapter 6, part 2, and provides out-of-hospital, emergency medical, or community-integrated health care or interfacility transport: (a) on the days and the times of the day chosen by the individual; and (b) for an emergency medical service other than: (i) a private ambulance company, unless the care is provided without compensation and outside of the individual's regular work schedule; or (ii) a private business or a public agency, as defined in 7-1-4121, that employs the individual on a regular basis with a regular, hourly wage to provide emergency medical or community-integrated health care as part of the individual's job duties. History: En. Sec. 2, Ch. 437, L. 2009; amd. Sec. 28, Ch. 220, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 5. Emergency Medical Service Providers Grant Program 61-2-503. Emergency medical services grant program -- eligibility -- matching funds

61-2-503. Emergency medical services grant program -- eligibility -- matching funds. (1) The department shall provide competitive grants to emergency medical service providers for acquiring or leasing ambulances or emergency response vehicles or for purchasing equipment, other than routine medical supplies, for any of the following purposes: (a) training; (b) communications; or (c) providing medical care to a patient. (2) A licensed emergency medical service may apply for a grant if: (a) it has been in operation at least 12 months; (b) it bills for services at a level that is at least equivalent to the Medicare billing level; and (c) a majority of its active emergency care providers are volunteer emergency care providers. (3) An emergency medical service is ineligible for grant funding if it is either a private business or a public agency, as defined in 7-1-4121, and employs the majority of its emergency care providers on a regular basis with a regular, hourly wage. (4) An eligible emergency medical service applying for a grant under this section shall provide a 10% match for any grant funds received. (5) The department shall award grants on an annual basis using the criteria contained in 61-2-504. (6) Up to 5% of the annual appropriation for the program may be distributed for emergency purposes each year as provided in 61-2-507. History: En. Sec. 3, Ch. 437, L. 2009; amd. Sec. 29, Ch. 220, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 5. Emergency Medical Service Providers Grant Program 61-2-504. Grant review criteria

61-2-504. Grant review criteria. When evaluating grant applications, the department shall consider the following factors: (1) demonstrated need; (2) size of the geographic area covered by the emergency medical service; (3) distance from other emergency medical service providers in the geographic region; (4) distance from the closest hospital; (5) number of calls in the previous calendar year; and (6) number of volunteer emergency care providers on the active call roster. History: En. Sec. 4, Ch. 437, L. 2009; amd. Sec. 30, Ch. 220, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 5. Emergency Medical Service Providers Grant Program 61-2-505. Grant awards -- appeals

61-2-505. Grant awards -- appeals. (1) If the department denies an application for a grant, the applicant may appeal the decision in writing to the director of the department. (2) After considering the emergency medical service provider's appeal and the rules in place for reviewing and awarding grants, the director shall affirm or deny the appeal in writing. (3) There is no further appeal if the director denies the appeal. History: En. Sec. 5, Ch. 437, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 5. Emergency Medical Service Providers Grant Program 61-2-506. Rulemaking authority

61-2-506. Rulemaking authority. (1) The department shall adopt rules necessary for the administration of this part. (2) The rules must include but are not limited to: (a) the weighting of the criteria listed in 61-2-504 for scoring purposes; (b) allowable reasons for not awarding a grant; (c) the appeal process for an emergency medical service provider that does not receive a grant; and (d) reporting requirements for grant recipients. History: En. Sec. 6, Ch. 437, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 2. Highway Safety Part 5. Emergency Medical Service Providers Grant Program 61-2-507. Emergency grant appropriations

61-2-507. Emergency grant appropriations. (1) In a documented situation that the department considers to be an emergency for which an eligible emergency medical service provider cannot pay, the department may provide funding to repair or replace a vehicle or equipment that has been damaged or destroyed. (2) Emergency funding may be provided only for vehicles or equipment eligible for grant funding, as provided in 61-2-503. (3) Normal replacement of an ambulance or equipment may not be considered an emergency. History: En. Sec. 7, Ch. 437, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-101. Duties of department -- records

61-3-101. Duties of department -- records. (1) (a) The department shall create and maintain a central registry of electronic files that includes an electronic record of title as specified in this section for motor vehicles, trailers, semitrailers, pole trailers, travel trailers, campers, motorboats, personal watercraft, sailboats, snowmobiles, and off-highway vehicles for which: (i) an application for a

certificate of title has been received by the department, its authorized agent, or a county treasurer; (ii) a certificate of title has been issued by the department; or (iii) a registration, security interest, or lien transaction has been recorded by the department. (b) The central registry of electronic files described in subsection (1) must include an electronic record of registration for each motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, and off-highway vehicle registered in this state: (i) for which the certificate of title was issued by another jurisdiction and that was registered in another jurisdiction; or (ii) for which a certificate of title has not been issued or is not required. (2) The electronic record of title for a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle must contain the following information: (a) the owner's name, Montana residence and, if different, mailing address, and customer identification number; (b) a description of the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, including, as pertinent to the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle: (i) the manufacturer of the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle; (ii) the manufacturer's designation of the style of the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle; (iii) the identifying number; (iv) the manufacturer's designated model year of manufacture and the odometer reading, if applicable, at the time of the transfer of ownership; (v) the character of the motive power and the shipping weight of the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle as shown by the manufacturer; (vi) the distinctive license number assigned to the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, if any; (vii) the gross vehicle weight and gross vehicle weight rating, as determined by the manufacturer, or, for a trailer operating interstate, the declared weight; (viii) the unique transaction record number, when available and assigned by the department, for each transaction pertaining to the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle and the date of each transaction; (ix) any brand required under state law or any brand carried forward from a certificate of title surrendered from another jurisdiction; (x) if the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle has been or is currently registered in this state, the distinctive license plate number or certificate number assigned to the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle and a record of all fees and local option taxes, if applicable, paid for the current and preceding registration periods; and (xi) other information that may be required for registration or may from time to time be found desirable. (3) The electronic record of registration for a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle must contain, at a minimum, the following information: (a) the owner's name, Montana residence and, if different, mailing address, and the customer identification number; (b) the same data that is required under subsection (2)(b) for the electronic record of title; and (c) any other data considered to be pertinent by the department. (4) In order to prevent an accumulation of unneeded records and files, regardless of any other statutory requirements, the department may destroy all records and files that relate to motor vehicles, trailers, semitrailers, pole trailers, travel trailers, campers, motorboats, personal watercraft, sailboats, snowmobiles, or off-highway vehicles that have not been registered within the preceding 4 years and that do not have an active lien. (5) Subject to the provisions of Title 61, chapter 11, part 5, motor vehicle records maintained by the department must be open to inspection during reasonable business hours, and the department shall furnish any information from the records, except personal information and highly restricted personal information, as defined in 61-11-503, upon payment by the applicant of the cost of the information requested. Prior to providing the information, the department shall require the applicant to provide identification. The department may not disclose personal information or highly restricted personal information except as permitted or required under 61-11-507, 61-11-508, or 61-11-509. History: En. Sec. 1, Ch. 75, L. 1917; re-en. Sec. 1755, R.C.M. 1921; amd. Sec. 1, Ch. 177, L. 1925; amd. Sec. 1, Ch. 129, L. 1927; amd. Sec. 1, Ch. 181, L. 1929; amd. Sec. 1, Ch. 159, L. 1933; re-en. Sec. 1755, R.C.M. 1935; amd. Secs. 1, 2, Ch. 62, L. 1943; amd. Sec. 1, Ch. 208, L. 1957; amd. Sec. 22, Ch. 177, L. 1965; amd. Sec. 1, Ch. 256, L. 1965; amd. Sec. 1, Ch. 74, L. 1967; amd. Sec. 1, Ch. 115, L. 1969; amd. Sec. 1, Ch. 207, L. 1969; amd. Sec. 1, Ch. 214, L. 1971; amd. Sec. 7, Ch. 343, L. 1977; R.C.M. 1947, 53-101; amd. Sec. 26, Ch. 421, L. 1979; amd. Sec. 1, Ch. 15, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 555, L. 1985; amd. Sec. 1, Ch. 236, L. 1991; amd. Sec. 2, Ch. 604, L. 1991; amd. Sec. 2, Ch. 724, L. 1991; amd. Sec. 18, Ch. 496, L. 1997; amd. Sec. 12, Ch. 409, L. 1999; amd. Sec. 15, Ch. 416, L. 1999; amd. Sec. 22, Ch. 515, L. 1999; amd. Sec. 13, Ch. 363, L. 2001; amd. Sec. 43, Ch. 477, L. 2003; amd. Sec. 42, Ch. 542, L. 2005; amd. Sec. 126, Ch. 596, L. 2005; amd. Sec. 51, Ch. 44, L. 2007; amd. Sec. 8, Ch. 180, L. 2007; amd. Sec. 17, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-103. Filing of security interests -- perfection -- rights -- procedure -- fees

61-3-103. Filing of security interests -- perfection -- rights -- procedure -- fees. (1) (a) Except as provided in subsection (2), the department, its authorized agent, or a county treasurer shall, upon payment of the fee required by subsection (8), enter a voluntary security interest or lien against the electronic record of title for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile upon receipt of a written acknowledgment of a voluntary security interest or lien by the owner of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile on a form prescribed by the department. (b) After the voluntary security interest or lien has been entered on the electronic record of title for the

motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the department, its authorized agent, or a county treasurer shall issue a transaction summary receipt to the owner and, if requested, to the secured party or lienholder, showing the date that the security interest or lien was perfected. (c) A voluntary security interest or lien is perfected on the date that the department, its authorized agent, or a county treasurer receives the written acknowledgment of the voluntary security interest or lien from the owner of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. (d) Except as provided in subsection (3), when a person applying for a certificate of title requests issuance of a certificate of title under 61-3-201, the department shall record the voluntary security interest or lien on the face of a certificate of title. (2) A security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile held as inventory by a dealer licensed under Title 23, chapter 2, part 5, 6, or 8, or chapter 4 of this title must be perfected in accordance with Title 30, chapter 9A. (3) Whenever a security interest or lien is filed against the electronic record of title for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is subject to two security interests previously perfected under this section and the applicant has requested issuance of a certificate of title under 61-3-201, the department shall endorse on the face of the certificate of title, "NOTICE. This vehicle is subject to additional security interests on file with the Department of Justice." Other information regarding the additional security interests is not required to be endorsed on the certificate. (4) Upon default under a chattel mortgage or conditional sales contract covering a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the mortgagee or vendor has the same remedies as in the case of other personal property. In case of attachment of motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles, all the provisions of 27-18-413, 27-18-414, and 27-18-804 are applicable except that deposits must be made with the department. (5) A secured party or lienholder who has a perfected security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and who fails to file a satisfaction of the security interest or lien within 21 days after receiving final payment is required to pay the department \$25 for each day that the secured party or lienholder fails to file the satisfaction. (6) Within 24 hours after receiving notice of any involuntary liens or attachments against the record of any motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile registered in this state, the department shall mail to the owner or any secured party or lienholder of record a notice showing the name and address of the lien claimant, the amount of the lien, the date of execution of the lien, and, in the case of attachment, the full title of the court and the action and the names of the attorneys for the plaintiff and attaching creditor. (7) (a) This section does not prevent a secured party or lienholder from assigning the secured party's or lienholder's interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, for which a certificate of title is issued under this chapter, to any other person without the consent of and without affecting the interest of the holder of the certificate of title. (b) If a secured party assigns all or part of the party's interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile for which a certificate of title is issued under this chapter, the secured party assigning the interest shall file a copy of the assignment with the department and the department shall record the assignment in the department's records. (8) (a) A fee must be paid to the department to file any security interest or other lien against a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. The fee covers the cost of entering and, upon the subsequent satisfaction or release, of removing the security interest or lien from the electronic record of title. (b) The fee to file a lien is \$8. Of the \$8 fee, \$4 must be deposited in the state general fund in accordance with 15-1-504. The remaining \$4 must be forwarded to the state for deposit in the motor vehicle information technology system account provided for in 61-3-550. (9) (a) Until June 30, 2034, a fee of \$10 must be paid to the department by a vehicle owner if, following satisfaction or release of a security interest and its removal from the department's records, the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner requests issuance of a new certificate of title without the security interest or lien shown on the face of the title. Beginning July 1, 2034, the fee for a new certificate of title under this subsection is \$5. (b) Until June 30, 2034, the fee must be deposited in the motor vehicle information technology system account provided for in 61-3-550. (c) Beginning July 1, 2034, the \$5 fee must be deposited in the state general fund. History: En. Subd. 4, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.3, R.C.M. 1935; amd. Sec. 7, Ch. 72, L. 1937; amd. Sec. 3, Ch. 148, L. 1943; amd. Sec. 3, Ch. 63, L. 1945; amd. Sec. 11-143, Ch. 264, L. 1963; amd. Sec. 26, Ch. 121, L. 1965; R.C.M. 1947, 53-110; amd. Sec. 2, Ch. 189, L. 1979; amd. Sec. 1, Ch. 502, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 2, Ch. 341, L. 1985; amd. Sec. 1, Ch. 358, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 361, L. 1987; amd. Sec. 3, Ch. 378, L. 1987; amd. Sec. 7, Ch. 398, L. 1989; amd. Sec. 1, Ch. 463, L. 1991; amd. Sec. 7, Ch. 482, L. 1993; amd. Sec. 2, Ch. 90, L. 1997; amd. Sec. 13, Ch. 409, L. 1999; amd. Sec. 3, Ch. 394, L. 2001; amd. Sec. 113, Ch. 114, L. 2003; amd. Secs. 44, 83(1)(b), Ch. 477, L. 2003; amd. Sec. 6, Ch. 562, L. 2003; amd. Sec. 43, Ch. 542, L. 2005; amd. Sec. 3, Ch. 50, L. 2007; amd. Sec. 1, Ch. 41, L. 2009; amd. Sec. 1, Ch. 398, L. 2015; amd. Sec. 14, Ch. 566, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-106. Report of stolen and recovered motor vehicles -- accessibility -- insurance fraud and theft reporting -- immunity -- definitions

61-3-106. Report of stolen and recovered motor vehicles -- accessibility -- insurance fraud and theft reporting -- immunity -- definitions. (1) It is the duty of the sheriff of each county of the state and of the chief of police or commissioner of police of each city to make an immediate entry regarding each theft or recovery of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile into the state automated stolen motor vehicle file maintained by the department on the

state's criminal justice information system. Failure on the part of any officer to make the immediate entry is considered malfeasance in office and constitutes grounds for removal. Upon entry of the information, the state's criminal justice information system and the national crime information center must be allowed immediate access to the state automated stolen motor vehicle file. The department shall file reports of stolen and recovered motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles reported to it from other states. (2) The state automated stolen motor vehicle file must be made available to the secretary of state or other proper official in each state of the United States through access to the national crime information center. (3) Upon written request to an insurer by an authorized governmental agency or upon an insurer's own initiative to notify a specific lienholder, an insurer or an agent authorized by an insurer to act on its behalf shall release to the requesting agency or lienholder relevant information in the insurer's possession relating to any specific motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile theft or motor vehicle insurance fraud. (4) (a) Except as otherwise provided by law, information furnished pursuant to this section is privileged and may not become part of a public record. The evidence or information is not subject to a subpoena duces tecum in a civil or criminal proceeding unless the court determines after reasonable notice to the parties listed in subsection (4)(b) and a hearing that the public interest and any ongoing investigation by the parties listed in subsection (4)(b) will not be jeopardized by compliance with the subpoena duces tecum. (b) The notice required by subsection (4)(a) must be sent to an insurer, an agent authorized by an insurer to act on its behalf, an authorized governmental agency that has an interest in the information, and a specific lienholder. (5) An authorized governmental agency provided with information pursuant to this section may release or provide the information to any other authorized governmental agency. (6) An insurer, an agent authorized by an insurer to act on its behalf, or an employee of an insurer or agent is not subject to civil or criminal liability in any cause of action for releasing or receiving information under this section. (7) As used in this section, the following definitions apply: (a) "Authorized governmental agency" means: (i) any constituted criminal investigative department or agency of the United States; (ii) the state department of justice; (iii) the state auditor's office; (iv) a peace officer of the state or a political subdivision of the state; or (v) a prosecuting attorney of any state, of any political subdivision of any state, or of the United States or any district of the United States. (b) "Relevant information" includes but is not limited to: (i) insurance policy information related to any motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile theft or motor vehicle insurance fraud under investigation, including an application for a policy; (ii) available policy premium payment records; (iii) the history of previous claims made by the insured; and (iv) information relating to the investigation of any motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile theft or motor vehicle insurance fraud, including statements of any person, proof of loss and notice of loss, and any information that an insurer knows or reasonably believes reveals or may reveal the identity of a person who it has reason to believe committed a criminal or fraudulent act relating to a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile theft or motor vehicle insurance claim or has knowledge of an act that has not been reported to an authorized governmental agency. (c) "Specific lienholder" means a person or firm that holds a security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile involved in a specific motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile theft or motor vehicle insurance fraud. History: En. Sec. 13, Ch. 113, L. 1925; re-en. Sec. 1763.5, R.C.M. 1935; R.C.M. 1947, 53-137; amd. Sec. 28, Ch. 421, L. 1979; amd. Sec. 1, Ch. 233, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 272, L. 1991; amd. Sec. 46, Ch. 477, L. 2003; amd. Sec. 44, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-107. Identification number for trailers, campers, and other motor vehicles

61-3-107. Identification number for trailers, campers, and other motor vehicles. (1) A trailer, semitrailer, pole trailer, or camper that does not have a manufacturer's or other identifying number on the trailer, semitrailer, pole trailer, or camper must be assigned an identification number by the department. (2) The department may not issue a certificate of title or reissue a certificate of title covering a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile on which the identification number has been altered, removed, obliterated, defaced, omitted, or is otherwise absent unless the owner or other person lawfully in possession of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile files an application with the department, accompanied by a fee of \$5. The application must be on a form provided by the department and must contain information required by the department for the assignment of a special identification number for a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. Upon receipt of the application and if the department is satisfied that the applicant is entitled to the assignment of an identification number, the department shall designate a special identification number for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. The department shall note the special identification number on the application and on records to be kept by the department. This assigned identification number must be stamped or securely attached in a conspicuous position on the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile in the manner and form prescribed by the department. (3) If the true identity of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile can be established by restoring the original manufacturer's serial number or other distinguishing numbers or identification marks, the department may not assign a special identification number and shall replace the motor vehicle's, trailer's, semitrailer's, pole trailer's, camper's, motorboat's, personal watercraft's, sailboat's, or snowmobile's identification mark by duplicating the manufacturer's full numeric or alphanumeric identification sequence. The

department may replace an identification mark only after conducting an inquiry to determine that ownership of the motor vehicle bearing a restored identification mark has been lawfully transferred to the applicant. The applicant shall apply for and the department shall replace the identification mark on the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile as required under subsection (2). (4) Upon receipt by the department of a certificate of inspection completed by a peace officer or authorized member of the department verifying that the identification number has been stamped or securely attached in a conspicuous position upon the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, accompanied by an application for a certificate of title and the required fee, the department shall use the number as the numeric or alphanumeric identification mark for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile in any certificate of title that may be issued. History: En. Sec. 4, Ch. 75, L. 1917; re-en. Sec. 1758, R.C.M. 1921; amd. Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758, R.C.M. 1935; amd. Sec. 5, Ch. 72, L. 1937; amd. Sec. 1, Ch. 148, L. 1943; amd. Sec. 1, Ch. 63, L. 1945; amd. Sec. 1, Ch. 115, L. 1953; amd. Sec. 1, Ch. 200, L. 1955; amd. Sec. 1, Ch. 139, L. 1961; amd. Sec. 7, Ch. 127, L. 1969; amd. Sec. 1, Ch. 179, L. 1971; amd. Sec. 1, Ch. 104, L. 1975; R.C.M. 1947, 53-107(part); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 272, L. 1991; amd. Sec. 3, Ch. 715, L. 1991; amd. Sec. 47, Ch. 477, L. 2003; amd. Sec. 45, Ch. 542, L. 2005; amd. Sec. 39, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-108. Disposition of fees

61-3-108. Disposition of fees. All fees payable to the department under this title, unless otherwise provided, shall be deposited in the general fund. History: En. Sec. 34, Ch. 421, L. 1979; En. Sec. 3, Ch. 654, L. 1979; amd. Sec. 1, Ch. 268, L. 1983; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 12, Ch. 503, L. 1985; amd. Sec. 8, Ch. 398, L. 1989.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-109. Electronic title, lien filing, and registration

61-3-109. Electronic title, lien filing, and registration. (1) The department shall develop and implement a pilot program to allow: (a) electronic transmission of data by an authorized agent, a county treasurer, or a person to or from the department in lieu of the transmission of paper documents; (b) substantiation of electronic record transactions performed by the department, an authorized agent, a county treasurer, or a person; (c) the production and certification by a court or an authorized agent of a motor vehicle record generated from electronic records of title and registration maintained by the department; (d) electronic filing, perfection, and release of security interests or liens of record; (e) certification and audit by the department of its authorized agents; and (f) expedited title services for customers with exceptional needs who are willing to pay an optional fee prescribed by the department by rule. (2) Money collected from the fee imposed under subsection (1)(f) must be deposited in the motor vehicle information technology system account provided for in 61-3-550. History: En. Sec. 1, Ch. 90, L. 1997; amd. Sec. 1, Ch. 260, L. 1999; amd. Sec. 48, Ch. 477, L. 2003; amd. Sec. 40, Ch. 596, L. 2005; amd. Sec. 1, Ch. 358, L. 2013; amd. Sec. 15, Ch. 566, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-110. Contract rental price adjustment -- not sale or security interest

61-3-110. Contract rental price adjustment -- not sale or security interest. In the case of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, a transaction does not create a sale or security interest solely because it permits or requires that the rental price be adjusted either upward or downward under the agreement by reference to the amount realized upon the sale or other disposition of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. To the extent that a conflict exists, this section supersedes any other provision of law. History: En. Sec. 1, Ch. 279, L. 2003; amd. Sec. 46, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-111. Motor vehicle division administrative fees

61-3-111. Motor vehicle division administrative fees. The motor vehicle division of the department shall charge, impose, and collect a 3% administrative fee on all fees and donations charged under 23-2-809, 23-2-617, and this title to be deposited into the motor vehicle division administration account established in 61-3-112. History: En. Sec. 3, Ch. 384, L. 2017; amd. Sec. 26, Ch. 384, L. 2017; amd. Sec. 1, Ch. 295, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-112. Motor vehicle division administration state special revenue account

61-3-112. Motor vehicle division administration state special revenue account. (1) There is an account in the state special revenue fund established by 17-2-102 to be known as the motor vehicle division administration account. (2) Administrative fees collected on behalf of the motor vehicle division pursuant to 61-3-111 must be deposited in the account. (3) Fees collected pursuant to 61-3-321(2) and (7) are deposited in this account. History: En. Sec. 4, Ch. 384, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-113. and 61-3-114 reserved

61-3-113 and 61-3-114 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-115. Customer service accounts -- electronic updates or changes to motor vehicle, driver, or dealer licensing records

61-3-115. Customer service accounts -- electronic updates or changes to motor vehicle, driver, or dealer licensing records. (1) The department may provide secure electronic applications to permit a person, for specific purposes and as determined by the department, to access or update: (a) an electronic record of title or registration for any vehicle registered to that person; (b) an electronic individual Montana driving record for that person; or (c) an electronic record pertaining to a license issued by the department under chapter 4 of this title. (2) Purposes for which a person may access or update an electronic record of title or registration for a vehicle registered to or acquired by the person may include but are not limited to: (a) issuing a temporary registration permit for a newly acquired vehicle; (b) renewing vehicle registration on an annual or periodic basis; (c) updating or changing personal information, including residence or mailing addresses; and (d) changing the anniversary date and registration period for a vehicle registered to the person. (3) Purposes for which a person may access or update an electronic individual Montana driving record for that person may include but are not limited to the following: (a) updating or changing personal information, including residence or mailing addresses; (b) obtaining a copy of the person's individual Montana driving record; (c) paying a reinstatement fee owed to the department; and (d) applying for a replacement driver's license. History: En. Sec. 1, Ch. 596, L. 2005; amd. Sec. 18, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-116. Services that may be performed by authorized agent

61-3-116. Services that may be performed by authorized agent. (1) The department may authorize a person to perform, on the department's behalf, specific motor vehicle titling, registration, or driver licensing functions assigned to or administered by the department under this title. The authorization must be evidenced by an authorized agent agreement. (2) An authorized agent must meet all of the requirements established by the department. (3) An authorized agent shall, within the time period prescribed in the authorized agent agreement, submit to the department or its designee all statutorily prescribed fees, taxes, or penalties the authorized agent collects. (4) (a) Except when specifically prohibited by statute or the authorized agent agreement, in addition to statutorily prescribed fees, taxes, and penalties, an authorized agent may collect and retain a reasonable convenience fee for services provided. (b) If an authorized agent is a municipal or county officer, the convenience fee may be charged and collected as permitted under 7-5-2133 or 7-5-4125. (5) The department may provide an automated mechanism to ensure that any statutorily prescribed fee, tax, or penalty collected by an authorized agent or a county treasurer in a county other than the county where the owner of the vehicle is domiciled is transferred to the county treasurer of the county where the owner of a vehicle is domiciled. History: En. Sec. 3, Ch. 596, L. 2005; amd. Sec. 52, Ch. 44, L. 2007; amd. Sec. 19, Ch. 329, L. 2007; amd. Sec. 1, Ch. 196, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-117. Payment of fees by credit card or other commercially acceptable means

61-3-117. Payment of fees by credit card or other commercially acceptable means. (1) The department may accept payment of any fee, tax, or penalty that the department administers by credit card, debit card, electronic funds transfer, or other commercially acceptable means. (2) (a) If the payment is made by credit card, debit card, charge card, or similar method, the liability is not discharged and the person has not paid the tax, fee, or penalty until the department, its authorized agent, or the county treasurer receives payment or credit from the financial institution or credit card company responsible for making the payment or credit and as long as the payment or credit is not subsequently charged back to the state by the financial institution or credit card company. Upon receipt of the payment or credit, the amount is considered paid on the date on which the charge was made by the person unless the payment or credit is subsequently charged back to the department, its authorized agent, or the county treasurer by the financial institution or credit card company. (b) Upon notice of nonpayment, the department may charge the person who attempted the payment of the fee, tax, or penalty an additional fee not to exceed the costs of processing the claim for payment of the fee, tax, or penalty. The amount of the additional fee must be added to the fee, tax, or penalty due and must be collected in the same manner as the fee, tax, or penalty due. (3) A person making a payment pursuant to this section shall pay any fee required by a financial institution or credit card company for the payment method used. History: En. Sec. 4, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-118. Motor vehicle electronic commerce operating account

61-3-118. Motor vehicle electronic commerce operating account. (1) There is a motor vehicle electronic commerce operating account of the enterprise fund type as provided in 17-2-102. (2) A portion of the fees imposed for issuance of a temporary registration permit under 61-3-224 must be deposited in the account. (3) The money in the motor vehicle electronic commerce operating account must be used by the department to pay costs directly incurred in the operation, maintenance, and enhancement of electronic commerce applications, including but not limited to payments to third-party vendors who provide services to support the applications. History: En. Sec. 5, Ch. 596, L. 2005; amd. Sec. 17, Ch. 384, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 1. General Provisions 61-3-119. Address of record -- basis for change -- acknowledgment of current address and service -- national change of address program

61-3-119. Address of record -- basis for change -- acknowledgment of current address and service -- national change of address program. (1) (a) Whenever a person completes and submits a department-prescribed form, application, or similar document to the department, an authorized agent, or a county treasurer under Title 23 or this title or whenever a person is issued a notice to appear for a violation of a statute or a municipal ordinance regulating the operation of motor vehicles on highways, the person shall provide the person's current address on the form, application, or similar document or to the peace officer issuing the notice to appear. (b) By manually or digitally signing the prescribed form, application, or similar document authorizing the electronic submission of the document to the department or providing the information to a peace officer, the person acknowledges that: (i) the address is correct; (ii) subject to the provisions of subsection (2)(b), any official notice from the department, including an order of suspension or revocation or mail renewal notice, must be sent by prepaid first-class mail to the most recent address on: (A) the signed form, application, or similar document; or (B) if a conviction or bond forfeiture resulting from the notice to appear that was issued, the notice to appear; and (iii) subject to the provisions of subsection (2)(b), the notice from the department must be considered to have been accepted by the person at that address. (2) (a) The department may contract with the United States postal service or an authorized agent to use the national change of address system for the purpose of obtaining current address information for a person whose name appears in a motor vehicle or driver record maintained by the department. (b) If the department receives information from the national change of address system that indicates that a person whose name appears in a record has moved to another address, the department may update its records to include the new address and, after that date or until the person notifies the department, use the new address to correspond with or notify the person by first-class mail. History: En. Sec. 6, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-201. Certificate of title required -- nonresident title -- exclusions

61-3-201. Certificate of title required -- nonresident title -- exclusions. (1) Except as provided in subsection (3), the owner of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is in this state and for which a certificate of title has not been issued by or an electronic record of title has not been created by the department shall apply to the department, its authorized agent, or a county treasurer for a certificate of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. (2) The department may determine requirements for nonresident businesses to apply for a title in this state and the department: (a) may produce a title for nonresident business applicants; (b) may enter a voluntary security interest or lien on the title in accordance with 61-3-103; (c) is authorized to establish an application fee and title fee for nonresident applicants; (d) shall require an applicant to submit a penalty bond of no less than \$250,000 payable to the motor vehicle division, conditioned that the applicant will not commit fraud against any purchaser, seller, financial institution, the state, or any other state by using this section. (3) The following motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles are exempt from the requirements of this part: (a) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owned by the United States, unless the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile is registered in this state; (b) except as required in 61-4-111, a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is: (i) owned by a manufacturer, a dealer, a wholesaler, or an auto auction; and (ii) held for sale, even though incidentally moved on the highway, used for purposes of testing or demonstration, or used solely by a manufacturer for testing; (c) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owned by a nonresident or a nonresident who has an interest in real property in Montana who chooses not to register a motor vehicle in this state as provided in 61-3-303; (d) a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile regularly engaged in the interstate transportation of persons or property and: (i) for which a currently effective certificate of title has been issued in another state or jurisdiction; or (ii) that is properly registered under the provisions of Title 61, chapter 3, part 7; (e) a vehicle moved solely by human or animal power; (f) an implement of husbandry; (g) special mobile equipment or a motor vehicle or trailer designed and used to apply fertilizer to agricultural land; (h) a self-propelled wheelchair or tricycle used by a person with a disability; (i) a dolly or converter gear; (j) a mobile home or house trailer; (k) a manufactured home declared to be an improvement to real property under 15-1-116; or (l) a golf cart unless it is operated by a person with a low-speed restricted driver's license. History: (1) thru (6) En. Subd. 3, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.2, R.C.M. 1935; amd. Sec. 6, Ch. 72, L. 1937; amd. Sec. 2, Ch. 148, L. 1943; amd. Sec. 2, Ch. 63, L. 1945; amd. Sec. 1, Ch. 191, L. 1967; amd. Sec. 1, Ch. 213, L. 1969; amd. Sec. 2, Ch. 138, L. 1971; amd. Sec. 1, Ch. 399, L. 1977; Sec. 53-109, R.C.M. 1947; (7) En. Subd. 2, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.1, R.C.M. 1935; amd. Sec. 1, Ch. 244, L. 1955; amd. Sec. 1, Ch. 146, L. 1957; amd. Sec. 1, Ch. 100, L. 1959; amd. Sec. 25, Ch. 121, L. 1965; amd. Sec. 1, Ch. 116, L. 1969; amd. Sec. 8, Ch. 127, L. 1969; amd. Sec. 1, Ch. 138, L. 1971; amd. Sec. 2, Ch. 214, L. 1971; amd. Sec. 11, Ch. 74, L. 1975; Sec. 53-108, R.C.M. 1947; R.C.M. 1947, 53-108(part), 53-109; amd. Sec. 1, Ch. 203, L. 1979; amd. Sec. 29, Ch. 421, L. 1979; amd. Sec. 1, Ch. 324, L. 1985; amd. Sec. 2, Ch. 358, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 104, L. 1989; amd. Sec. 3, Ch. 363, L. 1989; amd. Sec. 3, Ch. 604, L. 1991; amd. Sec. 3, Ch. 724, L. 1991; amd. Sec. 16, Ch. 13, Sp. L. August 2002; amd. Sec. 49, Ch. 477, L. 2003; amd. Sec. 47, Ch. 542, L. 2005; amd. Sec. 41, Ch. 596, L. 2005; amd. Sec. 6, Ch. 209, L. 2011; amd. Sec. 1, Ch. 370, L. 2013; amd. Sec.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-202. Certificate of title -- issuance -- contents -- joint ownership

61-3-202. Certificate of title -- issuance -- contents -- joint ownership. (1) A certificate of title issued by the department must contain: (a) the date issued; (b) the name and address of the owner; (c) the mileage disclosed by the transferor when ownership of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile was transferred, including a notation that the record mileage is actual, not actual, or exceeds mechanical limits; (d) the name and address of each secured party and lienholder, in the order of priority and perfection or, if the application was based on a surrendered certificate of title, in the order that the names and addresses are shown on the certificate of title; (e) the title number assigned to the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile; (f) the name of the jurisdiction in which the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner resides, the words "certificate of title", the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile identification number, the manufacturer's designated model year of manufacture, make, and model of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, and any required or carried-forward brands; (g) the unique transaction record number, if available and assigned by the department; and (h) any other data that the department prescribes. (2) A certificate of title issued by the department is valid until cancelled by the department upon: (a) a transfer, in the electronic record, of title of any ownership interest shown in the certificate of title; (b) notice received by the department of the surrender of the certificate of title to a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile to a title-issuing agency of another jurisdiction for an issuance of a title in that jurisdiction; (c) the issuance of a duplicate certificate of title; or (d) a determination by the department that the certificate of title contains a substantial error or that the person who requested issuance of the certificate of title paid the required fees and taxes with an insufficient funds check. (3) (a) Whenever the conditions described in subsection (2)(d) occur, the department shall: (i) give prompt written notice of the cancellation of the certificate of title to any owner, secured party, or lienholder of record; and (ii) stop any change to the electronic record of title. (b) The action taken by the department under subsection (3)(a) prevents the transfer of any ownership interest until the error is corrected or the fees and taxes have been paid. (4) If the names and addresses of more than one owner are listed on the certificate of title, joint ownership with right of survivorship, and not as tenants in common and not as transfer on death, is presumed. History: En. Sec. 4, Ch. 75, L. 1917; re-en. Sec. 1758, R.C.M. 1921; amd. Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758, R.C.M. 1935; amd. Sec. 5, Ch. 72, L. 1937; amd. Sec. 1, Ch. 148, L. 1943; amd. Sec. 1, Ch. 63, L. 1945; amd. Sec. 1, Ch. 115, L. 1953; amd. Sec. 1, Ch. 200, L. 1955; amd. Sec. 1, Ch. 139, L. 1961; amd. Sec. 7, Ch. 127, L. 1969; amd. Sec. 1, Ch. 179, L. 1971; amd. Sec. 1, Ch. 104, L. 1975; R.C.M. 1947, 53-107(part); amd. Sec. 30, Ch. 421, L. 1979; amd. Sec. 3, Ch. 502, L. 1979; amd. Sec. 3, Ch. 341, L. 1985; amd. Sec. 3, Ch. 358, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 4, Ch. 604, L. 1991; amd. Sec. 2, Ch. 725, L. 1991; amd. Sec. 50, Ch. 477, L. 2003; amd. Sec. 48, Ch. 542, L. 2005; amd. Sec. 2, Ch. 130, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-203. Fee for original certificate of title -- disposition

61-3-203. Fee for original certificate of title -- disposition. (1) Until June 30, 2028, a person applying for a certificate of title shall pay the department, its authorized agent, or a county treasurer a fee of: (a) \$10 if the vehicle for which a certificate of title is sought is not a light vehicle or a truck or bus that weighs 1 ton or less; or (b) \$12 if the vehicle for which application is made is a light vehicle or a truck or bus that weighs 1 ton or less. (2) The amount of \$5 of the fee imposed pursuant to subsection (1) must be forwarded to the department for deposit in the motor vehicle information technology system account provided for in 61-3-550, and the remaining amount must be deposited in the state general fund. (3) For expedited certificates of title, which may be issued only by the Montana motor vehicle division, the entirety of the fee imposed pursuant to subsection (1) must be deposited into the motor vehicle information technology system account provided for in 61-3-550. (4) Beginning July 1, 2028, the fee imposed in subsection (1)(a) is \$5 and the fee imposed in subsection (1)(b) is \$7 and all fees paid pursuant to this section must be deposited in the state general fund. History: En. Subd. 5, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.4, R.C.M. 1935; amd. Sec. 8, Ch. 72, L. 1937; amd. Sec. 27, Ch. 121, L. 1965; amd. Sec. 2, Ch. 41, L. 1975; R.C.M. 1947, 53-112; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 361, L. 1987; amd. Sec. 1, Ch. 378, L. 1987; amd. Sec. 7, Ch. 535, L. 1989; amd. Sec. 1, Ch. 342, L. 1995; amd. Sec. 162, Ch. 574, L. 2001; amd. Secs. 51, 83(1)(c), Ch. 477, L. 2003; amd. Sec. 42, Ch. 596, L. 2005; amd. Sec. 4, Ch. 50, L. 2007; amd. Sec. 2, Ch. 398, L. 2015; amd. Sec. 3, Ch. 323, L. 2017; amd. Sec. 16, Ch. 566, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-204. Replacement certificate of title -- application

61-3-204. Replacement certificate of title -- application. (1) (a) If a certificate of title is lost, stolen, destroyed, mutilated, or becomes illegible or if the owner wants to update personal information on the electronic record of title or have a replacement certificate of title issued with updated information, the owner, as shown on the electronic record of title, may apply for and request the department to issue a replacement certificate of title. The application must include satisfactory evidence of the facts requiring the replacement certificate of title and be accompanied by a fee of \$10. (b) The amount of \$5 of the fee must be deposited in the state general fund in accordance with 15-1-504, and the remaining \$5 must be deposited in the motor vehicle information technology system account

provided for in 61-3-550. (c) Beginning July 1, 2026, the fee for a replacement certificate of title is \$5 and the entire fee must be deposited in the state general fund. (2) Each replacement certificate of title issued by the department must contain the following statement: "This replacement voids any previously issued title." History: En. Subd. 6, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.5, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1953; amd. Sec. 28, Ch. 121, L. 1965; R.C.M. 1947, 53-113(part); amd. Sec. 1, Ch. 654, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 2, Ch. 378, L. 1987; amd. Sec. 9, Ch. 398, L. 1989; amd. Secs. 52, 83(1)(d), Ch. 477, L. 2003; amd. Sec. 8, Ch. 562, L. 2003; amd. Sec. 49, Ch. 542, L. 2005; amd. Sec. 5, Ch. 50, L. 2007; amd. Sec. 3, Ch. 398, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-205. Transfer of ownership of vehicles by insurance company

61-3-205. Transfer of ownership of vehicles by insurance company. (1) (a) Except as provided in subsection (2), an insurance company or its adjuster that has taken possession of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile as a result of settling an insurance claim and that transfers ownership of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile shall deliver an assigned certificate of title by the registered owner or owners to the transferee at the time of transfer. (b) If the certificate of title names one or more holders of a perfected security interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile, the insurance company or its adjuster shall also secure and deliver to the transferee a release from the secured party of the security interest. (2) (a) The registered owner or owners may use an electronic signature pursuant to Title 30, chapter 18, part 1, on the certificate of title or on a limited power of attorney to assign ownership of a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. The department may prescribe the form of the limited power of attorney to be used for this purpose. A power of attorney executed under authority of this subsection (2)(a) does not require notarization. (b) A secured party may release a perfected security interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile under this section by electronic signature pursuant to Title 30, chapter 18, part 1. (3) The department may adopt rules for the transfer of vehicles in this section. History: En. Sec. 1, Ch. 12, L. 1981; amd. Sec. 4, Ch. 363, L. 1989; amd. Sec. 4, Ch. 724, L. 1991; amd. Sec. 53, Ch. 477, L. 2003; amd. Sec. 50, Ch. 542, L. 2005; amd. Sec. 1, Ch. 74, L. 2011; amd. Sec. 2, Ch. 196, L. 2013; amd. Sec. 1, Ch. 197, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-206. Odometer disclosure requirements on transfer of vehicle -- dealer to preserve record

61-3-206. Odometer disclosure requirements on transfer of vehicle -- dealer to preserve record. (1) Except as provided in subsection (4), before executing any transfer of ownership document relating to a motor vehicle, each seller of a motor vehicle shall record on the certificate of title the odometer reading at the time of transfer or, if the certificate of title does not provide for the recording of the odometer reading, furnish to the purchaser a written statement, to be signed by the seller, that contains the following information: (a) the odometer reading at the time of transfer; (b) the date of transfer; (c) the seller's name and current address; (d) the purchaser's name and current address; (e) the motor vehicle year, make, model, body style, and identification number; (f) one of the following statements or certification: (i) a certification by the seller that, to the best of the seller's knowledge, the odometer reading reflects the actual miles or kilometers the vehicle has been driven; (ii) if the seller knows that the odometer reading reflects the amount of mileage in excess of the designed mechanical odometer limit of 99,999 miles or kilometers, the seller shall include a statement to that effect; or (iii) if the seller knows that the odometer reading differs from the number of miles or kilometers the motor vehicle has actually traveled and that the difference is greater than that caused by odometer calibration error, the seller shall include a statement that the odometer reading is not the actual mileage and should not be relied upon. (2) The purchaser shall acknowledge receipt of the disclosure statement by signing it. (3) For the purposes of this section, an odometer disclosure statement may be executed in electronic form and used with an electronic signature pursuant to Title 30, chapter 18, part 1. (4) The seller of the following types of motor vehicles need not disclose the odometer reading of the vehicle as required in subsection (1): (a) a motor vehicle with a 2010 model year or earlier; (b) a motor vehicle with a 2011 model year or later that is 20 years old or older; (c) a vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, or sailboat that is not self-propelled; (d) a new motor vehicle transferred between dealers or wholesalers prior to its first retail sale, unless the motor vehicle has been used as a demonstrator; (e) a motor vehicle having a gross weight rating of more than 16,000 pounds; or (f) a motor vehicle sold directly by the manufacturer to an agency of the United States. (5) A dealer, an auto auction, or a wholesaler licensed under chapter 4 of this title shall create a record of the information required in subsection (1) and shall maintain and preserve that record for at least 5 years after the date of sale of the motor vehicle to which the information pertains. History: En. Sec. 2, Ch. 324, L. 1985; amd. Sec. 1, Ch. 23, L. 1989; amd. Sec. 12, Ch. 383, L. 1991; amd. Sec. 5, Ch. 724, L. 1991; amd. Sec. 14, Ch. 409, L. 1999; amd. Sec. 54, Ch. 477, L. 2003; amd. Sec. 51, Ch. 542, L. 2005; amd. Sec. 20, Ch. 329, L. 2007; amd. Sec. 1, Ch. 231, L. 2015; amd. Sec. 3, Ch. 109, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-208. Affidavit and bond for certificate of title

61-3-208. Affidavit and bond for certificate of title. (1) If an applicant for a certificate of title cannot provide the department with the certificate of title that assigns the prior owner's interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat,

personal watercraft, sailboat, or snowmobile to the applicant, the department may issue a certificate of title if subsection (2) is complied with. (2) (a) The applicant shall submit an affidavit in a form prescribed by the department that must be signed and sworn to before an officer authorized to administer oaths and affirmations. The affidavit must accompany the application for the certificate of title and must: (i) include the facts and circumstances through which the applicant acquired ownership and possession of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile; (ii) disclose security interests, liens, or encumbrances that are known to the applicant and that are outstanding against the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile; (iii) state that the applicant has the right to have a certificate of title issued. (b) The application must satisfy one of the following conditions: (i) The vehicle for which the application is being made must be a camper, off-highway vehicle, motorboat, personal watercraft, sailboat 12 feet in length or longer, or snowmobile, and the loss of the certificate of title must be established by the applicant to the department's satisfaction. (ii) If application is being made for a certificate of title to a motor vehicle, trailer, semitrailer, or pole trailer that is 30 years old or older or with a value of \$1,000 or less, the applicant shall establish the loss of the certificate of title to the department's satisfaction and either provide evidence of the value of the motor vehicle, trailer, semitrailer, or pole trailer based on the vehicle condition as determined by the applicable national appraisal guide for the vehicle as of January 1 for the year in which the application is made or, if a national appraisal guide is not available for a motor vehicle, trailer, semitrailer, or pole trailer, the applicant shall certify the value of the motor vehicle, trailer, semitrailer, or pole trailer by providing the bill of sale and a notarized document from the applicant attesting to the value. (iii) If application is being made for a motor vehicle, trailer, semitrailer, or pole trailer that is less than 30 years old with a value that exceeds \$1,000, the applicant shall provide a bond, in a form prescribed by the department, issued by a surety company authorized to do business in this state, in an amount equal to the value of the motor vehicle, trailer, semitrailer, or pole trailer for which the application is being made as determined by the applicant, based on the vehicle condition as determined by the applicable national appraisal guide for the motor vehicle, trailer, semitrailer, or pole trailer as of January 1 for the year in which the application is made or, if a national appraisal guide is not available for a motor vehicle, trailer, semitrailer, or pole trailer, the applicant shall certify the value of the motor vehicle, trailer, semitrailer, or pole trailer by providing the bill of sale and a notarized document from the applicant attesting to the value. The bond is conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of the motor vehicle, trailer, semitrailer, or pole trailer and any respective successors in interest against expenses, losses, or damages, including reasonable attorney fees, caused by the issuance of the certificate of title or by a defect in or undisclosed security interest upon the right, title, and interest of the applicant in the motor vehicle, trailer, semitrailer, or pole trailer. (iv) If the application is being made for a motor vehicle sold without a manufacturer's certificate of origin, the applicant shall: (A) purchase and install all equipment required for the motor vehicle pursuant to Title 61, chapter 9, part 2; (B) obtain an inspection by a law enforcement agent to verify that all required equipment is present and operational; (C) provide a bond, in a form prescribed by the department, issued by a surety company authorized to do business in this state, in an amount equal to the full retail price of the motor vehicle for which the application is being made. The bond is conditioned to indemnify a prior owner, lienholder, subsequent purchaser, secured creditor, or encumbrancer of the motor vehicle and any respective successors in interest against expenses, losses, or damages, including reasonable attorney fees, caused by the issuance of the certificate of title or by a defect in or undisclosed security interest upon the right, title, and interest of the applicant in the motor vehicle. (3) Any interested person has a right of action to recover on the bond furnished under this section for a breach of its conditions, but the aggregate liability of the surety to all persons may not exceed the amount of the bond. (4) Unless the department has been notified of a pending action to recover the bond furnished under this section, the department shall return the bond at the earlier of: (a) 3 years from the date of issuance of the certificate of title; or (b) the date of surrender of the valid certificate of title to the department if the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile is no longer required to have a certificate of title in this state. History: En. Sec. 1, Ch. 578, L. 1989; amd. Sec. 8, Ch. 482, L. 1993; amd. Sec. 19, Ch. 496, L. 1997; amd. Sec. 56, Ch. 477, L. 2003; amd. Sec. 1, Ch. 171, L. 2005; amd. Secs. 52, 243, Ch. 542, L. 2005; amd. Sec. 127, Ch. 596, L. 2005; amd. Sec. 1, Ch. 235, L. 2009; amd. Sec. 1, Ch. 296, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-210. Definitions

61-3-210. Definitions. As used in this part, the following definitions apply: (1) "Cab" means the passenger compartment of a truck or pickup truck. It is a unit of construction that includes the top or roof and the cowl and may or may not include glass, instrumentation, the steering column, and a seat or seats. (2) "Center structure" includes the section of either a unibody or frame-type passenger motor vehicle that consists of a unit of sheet metal that extends from the firewall to the back of the rear seat or the centerline of the rear wheels. The structure may comprise the roof, side and rear window posts, cowl panel, dash panel, floor pans, doors, and rocker panels if two or more of these parts are assembled together as one unit. (3) "Component part" means the front-end assembly, center structure, or tail section of an automobile, the cab of a truck, the bed of a 1-ton or lighter truck, the frame of a motor vehicle, or any part of a motor vehicle that contains a vehicle identification number or a derivative of a vehicle identification number. (4) "Frame" means the structure that supports the automobile body and other external component parts. (5) "Front-end assembly" includes the hood, right front and left front fenders, grill, bumper, and radiator supports if two or more of these parts are assembled together as one unit forward of the firewall. (6) "Salvage certificate" means a certificate of title issued by the department for a salvage vehicle that may be used to retitle the motor vehicle. (7) "Salvage vehicle" means a motor vehicle damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that the owner, an insurer, or another person

acting on behalf of the owner determines that the cost of parts and labor makes it uneconomical to repair the vehicle. (8) "Salvage vehicle purchaser" means a person, other than an insurer, who purchases or otherwise obtains possession of a salvage vehicle. (9) "Tail section" includes the floor pan, right rear and left rear quarter panels, deck lid, upper rear and lower rear panels, and rear bumper if two or more of these parts are assembled together as one unit. History: En. Sec. 1, Ch. 725, L. 1991; amd. Sec. 57, Ch. 477, L. 2003; amd. Sec. 53, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-211. Surrender of certificate of title -- issuance of salvage certificate -- salvage retitling requirements -- insurer or owner unable to supply title to auto auction dealer

61-3-211. Surrender of certificate of title -- issuance of salvage certificate -- salvage retitling requirements -- insurer or owner unable to supply title to auto auction dealer. (1) When an insurer acquires ownership of a motor vehicle that is less than 15 years old and that has been determined to be a salvage vehicle, the insurer shall apply for a salvage certificate on a form prescribed by the department. The application must be accompanied by a certificate of title assigned to the insurer unless the application indicates that the insurer was unable to obtain the certificate of title after making at least two attempts to do so following oral or written acceptance by the owner of the salvage vehicle of the settlement offer for the salvage vehicle. If the certificate of title or electronic record of title maintained by the department names one or more holders of a perfected security interest in the motor vehicle, the insurer shall secure and deliver to the department or an authorized agent a release from each secured party of the secured interest. (2) The department shall issue a salvage certificate to the insurer within 5 working days of the date of receipt of the application. Upon receipt of a salvage certificate issued by the department, an insurer may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. The salvage certificate is prima facie evidence of ownership of a salvage vehicle. (3) If the insurer elects to sell a salvage vehicle before a salvage certificate is obtained under subsections (1) and (2), the insurer shall complete a salvage receipt on a form prescribed by the department. The insurer shall deliver the original salvage receipt to the salvage vehicle purchaser only after a release has been obtained from each secured party of any security interest in the salvage vehicle. The insurer shall then deliver to the department or an authorized agent a copy of the salvage receipt, any security releases, and a certificate of title assigned to the insurer unless the insurer was unable to obtain the certificate of title after making at least two attempts to do so following oral or written acceptance by the owner of the salvage vehicle of the settlement offer for the salvage vehicle. Upon submission of the original salvage receipt by the salvage vehicle purchaser, the department shall issue a salvage certificate to the salvage vehicle purchaser that is prima facie evidence of ownership. A salvage certificate must be obtained before the salvage vehicle purchaser disposes of the salvage vehicle. (4) If an insurer determines that a salvage vehicle will remain with the owner after an agreed settlement, the insurer shall notify the department or an authorized agent of the settlement on a form prescribed by the department. Upon receipt of the notice, the department may require the owner to surrender the certificate of title in compliance with this part, regardless of whether ownership of the salvage vehicle was obtained in a jurisdiction not requiring the surrender of the certificate of title or a comparable ownership document. (5) At the time of surrender of a certificate of title for a salvage vehicle not acquired by an insurer, the department shall issue a salvage certificate to the owner. Upon receipt of a salvage certificate issued by the department to a noninsurer, the owner may possess, retain, transport, sell, transfer, or otherwise dispose of the salvage vehicle. A salvage certificate is prima facie evidence of ownership of a salvage vehicle. (6) A fee of \$5 must be paid to the department for the issuance of a salvage certificate. (7) A salvage vehicle owned by or in the inventory of a motor vehicle wrecking facility on October 1, 1991, is exempt from the provisions of this section if the owner of the facility has complied with the provisions of 61-3-225. (8) (a) When an auto auction dealer is in possession of a salvage vehicle that was subject to an insurance claim and the insurer did not obtain a salvage certificate or certificate of title as a result of the insurance claim, the insurer shall provide a claim release statement to the auto auction dealer. (b) Upon receiving a claim release statement from an insurer, the auto auction dealer shall send notice to the owner and any lienholder of the vehicle. The notice shall inform the owner and any lienholder of outstanding charges owed to the auto auction and the requirement to pay applicable charges and pick up the vehicle within 30 days after the date of the notice. Notice under this subsection (8) must be sent by certified mail to the owner and lienholder address on record with the department. (c) The owner, lienholder, or insurance provider of the vehicle may not reclaim the vehicle until the owner, the lienholder, or the owner's or lienholder's insurance provider has paid the costs incurred by the auto auction dealer in removing and storing the vehicle. (d) If the removal and storage costs are not paid within 30 days after the notice in subsection (8)(b) was postmarked, the auto auction dealer may, on a form prescribed by the department, request that a salvage certificate or certificate of title be issued. The request must certify that the notice required in subsection (8)(b) was sent and that the owner or lienholder has not made payment as required in subsection (8)(b). (e) Upon receipt of a valid request as provided in subsection (8)(d), the department shall cancel the vehicle's certificate of title, remove any perfected security interest, and issue to the auto auction dealer a salvage certificate for vehicles less than 15 years old or a certificate of title for vehicles 15 years old or older. After the department has issued a salvage certificate or certificate of title under this section, the former owner or lienholder or insurance provider has no further right, title, claim, or interest in or to the vehicle. History: En. Sec. 3, Ch. 725, L. 1991; amd. Sec. 58, Ch. 477, L. 2003; amd. Sec. 54, Ch. 542, L. 2005; amd. Sec. 1, Ch. 53, L. 2007; amd. Sec. 1, Ch. 78, L. 2011; amd. Sec. 1, Ch. 116, L. 2013; amd. Sec. 3, Ch. 196, L. 2013; amd. Sec. 1, Ch. 42, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-212. Retitling salvage vehicles -- penalty

61-3-212. Retitling salvage vehicles -- penalty.(1) Prior to operating a salvage vehicle on the roads and highways of this state, the owner shall present the motor vehicle and the salvage certificate, if one has been issued, or the certificate of title, the appropriate receipts or bills of sale establishing ownership, and the source of component parts used to rebuild the motor vehicle to a department employee or designated peace officer for inspection, as provided in 61-3-223. An owner may obtain a temporary registration permit under 61-3-224 for the purpose of moving a salvage vehicle to and from the designated inspection site. (2) (a) The inspector shall inspect the motor vehicle to verify the identity of the motor vehicle. (b) The inspector shall verify that the component parts used to rebuild the motor vehicle are evidenced by traceable receipts or bills of sale and that there are no indications that the motor vehicle or any of its parts are stolen. Documentation provided by the owner or employee of a wrecking facility licensed under the provisions of Title 75, chapter 10, part 5, is prima facie evidence of the facts stated in the documentation. (3) Following inspection and prior to operating the motor vehicle on the roads and highways of this state, the owner shall apply for a new certificate of title by submitting the application, the salvage certificate, receipts or bills of sale, and a copy of the inspection report to the department. (4) Upon receipt of the application, required documentation, and payment of the fee required in 61-3-203, the department shall issue a new certificate of title with the words "rebuilt salvage" on the face of the certificate of title. (5) A person failing to comply with the provisions of this part is guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed \$500. The salvage vehicle purchaser shall produce the salvage certificate upon request of a public official legally entitled to request the certificate. A person may not operate or use a salvage vehicle on the roads or highways of this state except when a temporary registration permit has been issued as provided in subsection (1). History: En. Sec. 4, Ch. 725, L. 1991; amd. Sec. 1, Ch. 188, L. 1995; amd. Sec. 59, Ch. 477, L. 2003; amd. Sec. 55, Ch. 542, L. 2005; amd. Sec. 43, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-213. Certificate of title -- custom vehicle, street rod, kit vehicle, or specially constructed vehicle

61-3-213. Certificate of title -- custom vehicle, street rod, kit vehicle, or specially constructed vehicle.(1) When a person applies for a certificate of title for a custom vehicle or street rod and a certificate of title is issued or an electronic record of title is created pursuant to this chapter, the certificate of title or electronic record of title must provide: (a) the model year and year of manufacture of the body of the vehicle that the custom vehicle or street rod resembles as the model year and year of manufacture for the custom vehicle or street rod; (b) a vehicle description of the custom vehicle or street rod if the vehicle is a custom vehicle built to resemble a vehicle manufactured after 1948 and at least 25 years before the current calendar year or a street rod built to resemble a vehicle manufactured before 1949; and (c) if there is no manufacturer's certificate of origin for the custom vehicle or street rod, the vehicle identification number from the chassis or frame of the custom vehicle or street rod or a state-assigned vehicle identification number. (2) When a person applies for a certificate of title for a kit vehicle, excluding a kit vehicle that qualifies as a custom vehicle or street rod, and a certificate of title is issued or an electronic record of title is created pursuant to this chapter, the certificate of title or electronic record of title must list: (a) the model year and year of manufacture as contained on the manufacturer's certificate of origin for the kit vehicle or, if a manufacturer's certificate of origin does not exist, the calendar year in which application for title was made; (b) a vehicle description of the kit vehicle; and (c) in the absence of a manufacturer's certificate of origin for the kit vehicle, the vehicle identification number from the chassis or frame of the donor vehicle or a state-assigned vehicle identification number. (3) When a person applies for a certificate of title for a specially constructed vehicle and a certificate of title is issued or an electronic record of title is created pursuant to this chapter, the certificate of title or electronic record of title must list: (a) the model year and year of manufacture as the calendar year in which application for title was made; (b) a vehicle description, as determined by the department, of the assembled or custom-built vehicle; and (c) the vehicle identification number, if any, from the chassis or frame of the vehicle or a state-assigned vehicle identification number. (4) Prior to assignment of a state-assigned vehicle identification number or to confirm a vehicle identification number from the chassis or frame of a custom vehicle, street rod, or specially constructed vehicle, the department may require a vehicle inspection. History: En. Sec. 2, Ch. 458, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-214. Certificate of title -- custom-built motorcycle

61-3-214. Certificate of title -- custom-built motorcycle.(1) When a person applies for a certificate of title for a custom-built motorcycle and a certificate of title or an electronic record of title is created pursuant to this chapter, the certificate of title or electronic record of title must include: (a) the make, style, year of manufacture, serial number or identification number of the motorcycle's engine, and year of manufacture for the motorcycle, which is the year that the engine was manufactured or the year that the engine was manufactured to resemble; and (b) the make and vehicle identification number for the frame of the motorcycle. (2) If the application for a certificate of title is not accompanied by a previously issued certificate of title that includes the required information or a certificate from the manufacturer of the motorcycle's engine or frame, the department may require a vehicle inspection to confirm the make, year of manufacture, and serial or identification number of the motorcycle's engine, the frame, or both, and, if applicable, to assign a special identification number under 61-3-107. History: En. Sec. 1, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-215. reserved

61-3-215 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-216. Certificates of title -- application -- contents -- issuance

61-3-216. Certificates of title -- application -- contents -- issuance. (1) The owner of a motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle shall apply for a certificate of title on a form prescribed by the department or, if authorized by the department, in an electronic record provided by the department and made available to an authorized agent of the department or a county treasurer. (2) The application for a certificate of title, upon completion, must include: (a) the owner's name, Montana residence and, if different, mailing address, and customer identification number; (b) a description of the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, including, as available and pertinent to the vehicle: (i) the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle make, model, manufacturer's designated model year of manufacture, vehicle identification number, and type of body and a description of motive power; (ii) the odometer reading, if applicable, at the time of transfer of ownership; (iii) the gross vehicle weight rating, gross vehicle weight, or shipping weight, if applicable, as determined by the manufacturer; (iv) whether the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was new or used at the time of transfer; and (v) for a trailer operating intrastate, its declared weight; (c) the date on which the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was purchased by or was transferred to the applicant, the name and address of the person from whom the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was acquired, and the names and addresses of any secured parties or lienholders for whom the applicant is acknowledging a voluntary security interest; (d) any other information that the department requires to identify the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle and to enable the department to determine whether the owner is entitled to a certificate of title and to determine the existence of security interests in the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle; (e) if applicable, an odometer statement containing the information required in 61-3-206 or, if the title does not contain a space for the information, a separate document approved by the department that provides the same information that is required in 61-3-206; and (f) a section that gives the applicant the option to direct the department, upon examination and review of the records and completion of the application process, to: (i) issue a certificate of title as soon as possible; or (ii) update the electronic record of title for the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, issue a transaction summary receipt, and postpone the issuance of a certificate of title until the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle owner submits a separate request for issuance of the certificate of title. (3) The department may require a manufacturer's certificate of origin to be submitted with an application for a certificate of title to a new motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle. (4) Except as provided in 61-3-208 or subsection (4)(b) of this section, if the application is for a certificate of title to a used motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle, the application must be: (a) accompanied by a certificate of title that is properly assigned by the prior owner to the applicant; or (b) acknowledged by the prior owner if the prior owner's interest in the motor vehicle, trailer, semitrailer, pole trailer, travel trailer, camper, motorboat, personal watercraft, sailboat, snowmobile, or off-highway vehicle was assigned to the applicant by means of a transfer on the electronic record of title entered by an authorized agent of the department or a county treasurer. (5) If the application is for a certificate of title to a camper and if a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale or a conditional sales contract. (6) If the application is for a certificate of title to a motorboat, a personal watercraft, a sailboat that is 12 feet in length or longer, or a snowmobile and a certificate of title properly assigned by the prior owner is not available, the application must be accompanied by a notarized bill of sale, an invoice, the current registration receipt for the motorboat, personal watercraft, sailboat, or snowmobile, or a certificate of number showing the transfer of ownership, which may be used to show the transfer of ownership for a motorboat, personal watercraft, sailboat, or snowmobile from the immediate prior owner to the applicant. History: En. Sec. 5, Ch. 477, L. 2003; amd. Sec. 56, Ch. 542, L. 2005; amd. Sec. 9, Ch. 180, L. 2007; amd. Sec. 21, Ch. 329, L. 2007; amd. Sec. 2, Ch. 231, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-217. Certificate of title -- duties -- examination of application -- records check -- incomplete application

61-3-217. Certificate of title -- duties -- examination of application -- records check -- incomplete application. (1) (a) Upon receipt of an application for a certificate of title and any supporting documents, an authorized agent of the department or a county treasurer shall: (i) review the application and documents; (ii) complete the records check required in subsection (2); and (iii) if an authorized agent of the department or the county treasurer is satisfied as to the genuineness and regularity of the application and satisfied that the applicant is entitled to the issuance of a certificate of title, enter the transfer of interest on the electronic record of title. (b) If an authorized agent of the department or the county treasurer is not satisfied as to the genuineness and regularity of the application or is not satisfied that the applicant is entitled to the issuance of a certificate of title, the authorized agent or the county treasurer may not

enter the transfer of interest on the electronic record of title. (c) If an authorized agent of the department or the county treasurer enters the transfer of interest on the electronic record of title, an authorized agent or the county treasurer shall: (i) issue a transaction summary receipt to the applicant and, if requested, to any secured party or lienholder with a perfected security interest; and (ii) as prescribed by the department, forward to the department the application, the assigned certificate of title, and any other documents provided in support of the application. (2) The department, its authorized agent, or a county treasurer who first receives an application for a certificate of title shall check the vehicle identification number shown on the application against: (a) the records of motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles maintained by the department under 61-3-101; (b) the reported stolen motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile databases maintained on the state's criminal justice information network and by the national crime information center; and (c) any other records or databases prescribed by the department. (3) (a) Upon receipt of an application for a certificate of title and supporting documents that have been processed by an authorized agent of the department or a county treasurer, the department shall review the documents to determine if the application is complete. If the department determines that the application is incomplete, the department shall enter the incomplete status of the application on the electronic record of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and return to the applicant, by first-class mail, the application and all supporting documents. The department shall provide a statement with a specific description of the additional information or documents that must be supplied by the applicant to complete the application process. (b) The department may not complete the application process, remove the incomplete status notation on the electronic record of title, or issue a certificate of title until the applicant returns the completed application, including any supporting additional information or documents, to the department. History: En. Sec. 6, Ch. 477, L. 2003; amd. Sec. 57, Ch. 542, L. 2005; amd. Sec. 44, Ch. 596, L. 2005; amd. Sec. 53, Ch. 44, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-218. Certificate of title -- issuance -- delivery

61-3-218. Certificate of title -- issuance -- delivery. (1) Except as provided in subsection (2), if a person who applied for a certificate of title also requested the issuance of the certificate of title as provided in 61-3-216(2)(f)(i), upon receipt of the application and all supporting documents and after an examination and determination that the application is complete and regular, the department shall issue a certificate of title of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and shall mail the certificate of title to the owner. (2) If a person to whom a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile was transferred has not satisfied the titling and registration provisions of this chapter or, if applicable, the registration provisions of Title 23, chapter 2, part 5 or 6, within the 40-day period provided in 61-3-220(3) and the secured party or lienholder pays the title fee required in 61-3-203, the department may mail a certificate of title to the secured party or lienholder upon request of the secured party or lienholder. (3) (a) A motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile owner who requested the delayed issuance of a certificate of title under 61-3-216(2)(f)(ii), in the initial application for a certificate of title, may submit a request for the issuance of the certificate of title to the department, its authorized agent, or a county treasurer in a manner prescribed by the department. Upon receipt, the department shall issue a certificate of title for the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile and mail the certificate of title to the owner. (b) A title fee may not be demanded from the owner or collected by the department, its authorized agent, or a county treasurer for a certificate of title requested or issued under subsection (3)(a). History: En. Sec. 7, Ch. 477, L. 2003; amd. Sec. 58, Ch. 542, L. 2005; amd. Sec. 45, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-219. Refusal to issue certificate of title

61-3-219. Refusal to issue certificate of title. The department may refuse to issue a certificate of title if any required fee is not paid or if the department has reasonable grounds to believe that: (1) the applicant is not the owner of the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile; (2) the application contains a false or fraudulent statement; (3) the applicant failed to furnish any information or document required by the department; or (4) based on the check performed under 61-3-217(2), the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile has been reported as stolen. History: En. Sec. 8, Ch. 477, L. 2003; amd. Sec. 59, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-220. Certificate of title -- voluntary transfer -- duties

61-3-220. Certificate of title -- voluntary transfer -- duties. (1) Upon the voluntary transfer of any interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile for which a certificate of title was issued under the provisions of this chapter, the owner whose interest is to be transferred shall: (a) authorize, in writing and on a form prescribed by the department, an authorized agent, or a county treasurer, to enter the transfer of the owner's interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile to the transferee on the electronic record of title maintained under 61-3-101; or (b) execute a transfer in the appropriate space provided on the certificate of title issued to the owner and deliver the assigned certificate of title to: (i) the transferee at the time of delivery of the motor vehicle,

trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile; or (ii) the department, its authorized agent, or a county treasurer if an application for a certificate of title has been completed by the transferee and accompanies the assigned certificate of title. (2) When transfer occurs between individuals, the transferor's signature on the certificate of title, or the form authorizing transfer of interest upon the electronic record of title, must be acknowledged before the county treasurer, a deputy county treasurer, an elected official authorized to acknowledge signatures, an employee or authorized agent of the department, or a notary public. (3) Except as provided in 61-4-111, the person to whom an interest in a motor vehicle has been transferred shall: (a) execute an application for a certificate of title in the space provided on the assigned certificate of title or as prescribed by the department; (b) request the return of the original title for vehicles 30 years or older, or whose certificates of title were removed from department records pursuant to 61-3-227, on a form prescribed by the department; and (c) within 40 days after the interest in the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile was transferred to the person, either: (i) apply for a certificate of title under 61-3-216 and register the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile under 61-3-303; or (ii) subject to the limitations of 61-3-312, register the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile without the surrender of a previously assigned certificate of title and application for certificate of title under 61-3-303. (4) If the person to whom an interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile has been transferred fails to comply with the requirements described in subsection (3) within the 40-day grace period, a late penalty of \$10 must be imposed against the transferee. The penalty must be paid before the transferee registers the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile in this state, with or without the surrender of an assigned certificate of title. The penalty is in addition to the fees otherwise provided by law. (5) If the transferee does not comply with the requirements of subsection (3) within the 40-day grace period, a secured party or lienholder of record may pay the fees for the transfer of title and for filing a voluntary security interest or lien. The secured party or lienholder is not liable for the late penalty imposed in subsection (4) or for registration fees, taxes, or fees in lieu of tax on the motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile. (6) The department may adopt rules for the transfer of vehicles in this section. History: En. Sec. 9, Ch. 477, L. 2003; amd. Sec. 60, Ch. 542, L. 2005; amd. Sec. 46, Ch. 596, L. 2005; amd. Sec. 2, Ch. 197, L. 2019; amd. Sec. 2, Ch. 397, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-221. Involuntary transfer

61-3-221. Involuntary transfer. (1) (a) An involuntary transfer of title to or any interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile may occur by operation of law through inheritance, devise, bequest, order in bankruptcy or insolvency, execution sale, or repossession upon default in the performance of the terms of a lease, executory sales contract, or security agreement or in any other manner other than by voluntary act of the person whose title or interest is transferred. Upon the involuntary transfer, the executor, administrator, receiver, trustee, sheriff, secured party, or other representative or successor in interest of the person whose interest is transferred shall send to the department: (i) an application for a certificate of title; and (ii) a verified or certified statement of the transfer of interest or a transfer statement, as defined in 30-9A-619. (b) The statement of transfer of interest must state the reason for the involuntary transfer, the interest transferred, the name of the person to whom the interest is to be transferred, the process or procedure creating the transfer, and other information requested by the department. A transfer statement submitted under this section must meet the requirements of 30-9A-619. Evidence and instruments that are required by law in order to effect a transfer of legal or equitable title to or an interest in chattels must be submitted with the statement. (c) Except as provided in subsection (2), if the department determines that the transfer is regular and that all legal requirements have been complied with, the department shall send notice of the intended transfer to the owner, conditional sales vendor, lessor, mortgagee, and other lienholder, as shown in the department's records. Deposit in the U.S. mail of the notice, postage prepaid, addressed to the person at the respective address shown in the department's records satisfies the notice required by this section. Not less than 5 days after sending the notice, the department shall issue a new certificate of title to the transferee. (2) (a) Except as provided in subsection (2)(b), if an interest in a motor vehicle, trailer, semitrailer, pole trailer, camper, motorboat, personal watercraft, sailboat, or snowmobile that is not registered in this state is involuntarily transferred to a person in this state, the person to whom the interest is transferred shall follow the procedure provided in subsection (1). (b) In lieu of the statement required in subsection (1), the department may accept an affidavit of repossession as executed by the person seeking the involuntary transfer. (3) The department is not required to send notice for a transfer of interest occurring under subsection (2). History: En. Sec. 10, Ch. 477, L. 2003; amd. Sec. 61, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-222. Surviving spouse or heir -- small estates

61-3-222. Surviving spouse or heir -- small estates. (1) Subject to the requirements of Title 72, chapter 3, part 11, the surviving spouse or other heir may secure transfer of a decedent's ownership interests in one or more motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, or snowmobiles for which a certificate of title was issued under this chapter if: (a) the value of the entire estate, including any vehicles, vessels, or snowmobiles for which transfer of ownership is sought, less liens and encumbrances, does not exceed the limit set forth in 72-3-1101; (b) the decedent did not leave other property that requires the procuring of letters of administration or letters testamentary; and (c) the decedent did not by execution of a will

otherwise bequeath the property. (2) The person seeking transfer of the decedent's interests under this section shall file an affidavit with the department setting forth the fact of survivorship, the name and address of any other heirs, and any other facts determined necessary to entitle the person to the transfer. (3) If the department determines that the transfer is regular and that all legal requirements have been met, the department shall issue a certificate of title, subject to any security interests shown by the department's records, to the surviving spouse or other heir. History: En. Sec. 11, Ch. 477, L. 2003; amd. Sec. 62, Ch. 542, L. 2005; amd. Sec. 22, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-223. Salvage vehicles

61-3-223. Salvage vehicles. (1) A salvage vehicle for which a certificate of title is sought must be inspected for the vehicle identification number to authenticate the identity of the motor vehicle before an electronic record of title can be created or a certificate of title can be issued. The inspection does not attest to the roadworthiness or safety condition of the motor vehicle and must be performed by an authorized employee or an authorized agent of the department or by a peace officer designated by the department. (2) The department may contract with a person or entity for use of a facility as a regional inspection site for salvage vehicles. (3) The department shall collect an inspection fee of \$18.50 from the person requesting the inspection for each salvage vehicle inspected. The fee collected under this section must be deposited in the state general fund. (4) (a) A person authorized to inspect salvage vehicles may seize and hold a vehicle: (i) if the person has probable cause to believe that the motor vehicle has been stolen; (ii) on which a motor number or vehicle identification number has been defaced, altered, removed, covered, destroyed, or obliterated; or (iii) that has a vehicle identification number that does not conform with the vehicle identification number on the certificate of title. (b) A seized motor vehicle must be held until the identity of the motor vehicle is established and arrangements are made for its lawful disposition. A person authorized to inspect salvage vehicles may use any means necessary to identify a motor vehicle by its vehicle identification number or numbers. (5) The department may not create an electronic record of title or issue a certificate of title for a salvage vehicle until the identity of the motor vehicle is established. (6) The department may adopt rules for the inspection of salvage vehicles. History: En. Sec. 12, Ch. 477, L. 2003; amd. Sec. 63, Ch. 542, L. 2005; amd. Sec. 2, Ch. 41, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-224. Temporary registration permit -- issuance -- placement -- fees

61-3-224. Temporary registration permit -- issuance -- placement -- fees. (1) (a) The department, an authorized agent, or a county treasurer may issue a temporary registration permit for any purpose authorized under the rules adopted by the department. (b) An authorized agent or a county treasurer may issue a temporary registration permit without use of the department-approved electronic interface only if authorized by the department. (2) A person, using a department-approved electronic interface, may issue a temporary registration permit for any purpose authorized under the rules adopted by the department. (3) A temporary registration permit issued under this section must contain the following information: (a) a temporary plate number as prescribed by the department; (b) the expiration date of the temporary registration permit; and (c) if required by the department, a description of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile, including year, make, model, and vehicle identification number, the name of the person from whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile was transferred, the name, mailing address, and residence address of the person to whom ownership of the motor vehicle, trailer, semitrailer, pole trailer, motorboat, personal watercraft, sailboat, or snowmobile has been transferred, and the date of issuance. (4) A temporary registration permit for: (a) a motor vehicle, trailer, semitrailer, or pole trailer must be plainly visible and firmly attached to the rear exterior of the vehicle where a license plate is required to be displayed; and (b) a motorboat, a sailboat that is 12 feet in length or longer, a snowmobile, or an off-highway vehicle must be plainly visible and firmly attached to the vehicle or vessel. (5) (a) Except as provided in 61-3-431 and subsections (5)(b) and (5)(c) of this section, a \$19.50 fee is imposed upon issuance of a temporary registration permit by the department, an authorized agent, or a county treasurer. The fee must be paid by the owner of the vehicle or vessel and collected by the department, the authorized agent, or a county treasurer when the vehicle is registered. (b) Except as provided in 61-3-431, a fee of \$24.50 is imposed and must be paid upon issuance of a temporary registration permit by: (i) the department, an authorized agent, or a county treasurer to a nonresident of this state who acquires a vehicle or vessel in this state or who registers for temporary use in this state a quadricycle or motorcycle designed for off-road recreational use; or (ii) a person who issued a temporary registration permit using a department-approved electronic interface. (c) A fee of \$24 is imposed and must be paid upon issuance of a temporary registration permit for a 90-day temporary registration permit as provided in 61-3-303(4)(b). (6) The fees imposed under this section, upon collection, must be forwarded to the state and deposited as follows: (a) \$16.50 from each permit fee collected pursuant to subsection (5) in the state special revenue account established in 44-10-204; and (b) the remainder in the motor vehicle electronic commerce operating account provided for in 61-3-118. (7) If a temporary registration permit is issued under this section to a person to whom ownership of a vehicle or vessel has been transferred, the permitholder shall title and register the vehicle or vessel in this or another jurisdiction before the ownership of the vehicle or vessel may be transferred to another person. History: En. Sec. 13, Ch. 477, L. 2003; amd. Secs. 47, 138, Ch. 596, L. 2005; amd. Sec. 54, Ch. 44, L. 2007; amd. Sec. 23, Ch. 329, L. 2007; amd. Sec. 3, Ch. 41, L. 2009; amd. Sec. 2, Ch. 120, L. 2015; amd. Sec. 18, Ch. 384, L. 2017; amd. Sec. 2, Ch. 435, L. 2017; amd. Sec. 1, Ch. 143, L. 2019; amd. Sec. 2, Ch. 335, L. 2019; amd. Sec. 6, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-225. Motor vehicle wrecking facility quarterly reports

61-3-225. Motor vehicle wrecking facility quarterly reports. Quarterly, the owner or operator of a motor vehicle wrecking facility, as defined in 75-10-501, shall deliver to the department or an authorized agent, on a form approved by the department, a list of all junk vehicles, as defined in 75-10-501, received by the owner or operator of the motor vehicle wrecking facility during the quarter, stating the year, make, and complete identification number of each vehicle. If the owner or operator of a motor vehicle wrecking facility received a certificate of title when the owner or operator of the facility received a junk vehicle on the list, that certificate of title must accompany the list. The department shall issue a receipt for the certificate of title if requested by the owner or operator of the facility, and the receipt may serve as an instrument for reclaiming the certificate of title if the vehicle is rebuilt. History: En. Sec. 5, Ch. 53, L. 2007; amd. Sec. 4, Ch. 196, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-226. Certificate of title -- transfer on death

61-3-226. Certificate of title -- transfer on death. (1) The owner or joint owners of a vehicle or vessel may arrange for nonprobate transfer of the vehicle's or vessel's title at the time of death of the owner or last surviving joint owner by completing the beneficiary designation on the application for certificate of title prescribed by the department. (2) The beneficiary designation must include fields for the following information: (a) the make, model, year, and vehicle identification number of the vehicle or vessel; (b) the name and signature of the owner or every joint owner of the vehicle or vessel, signed under penalty of unsworn falsification as provided in 45-7-203; and (c) the name of the beneficiary or the names of the beneficiaries of the vehicle or vessel. (3) (a) A beneficiary designation is perfected when it is submitted to the department with an application for certificate of title and if it provides the information and signatures required in subsection (2). (b) An instrument for the testamentary transfer of a vehicle or vessel does not invalidate a perfected beneficiary designation. (4) The owner or joint owners of a vehicle or vessel may revoke a perfected beneficiary designation by: (a) transferring the vehicle or vessel to the beneficiary or a third party before death; or (b) submitting a new beneficiary designation with an application for certificate of title. (5) (a) After the death of the owner or last surviving joint owner of a vehicle or vessel subject to a perfected beneficiary designation, the beneficiary may present the proof of death of the owner or joint owners of the vehicle or vessel listed as a beneficiary and identification of the beneficiary to the department, to the county treasurer's office, or to an authorized agent and: (i) request a replacement title for the vehicle or vessel; or (ii) effect transfer of the title of the vehicle or vessel as required by 61-3-220. (b) The beneficiary does not acquire any use, ownership, economic, or other interest in the vehicle or vessel until the beneficiary has filed the documents required by subsection (4) and the department, the county treasurer's office, or an authorized agent has either issued a replacement title or effected the transfer of the title. (6) This section does not limit the rights of a lienholder whose lien attached to the vehicle or vessel prior to the death of the owner or last surviving joint owner named on the beneficiary designation. (7) As used in this section, the following definitions apply: (a) "vehicle" means a vehicle or camper as those terms are defined by 61-1-101, manufactured home as defined by 15-24-201, mobile home as defined by 15-24-201, or other item for which a certificate of title is issued by the department and that have not been considered or declared an improvement to real property pursuant to 15-1-116; (b) "vessel" means a vessel as defined by 61-1-101. History: En. Sec. 1, Ch. 130, L. 2021; amd. Sec. 1, Ch. 320, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 2. Certificates of Title 61-3-227. Replacement certificate of title -- data removed by department -- application requirements

61-3-227. Replacement certificate of title -- data removed by department -- application requirements. (1) Vehicles removed from the department's records because of the department's data retention procedures may be reentered into the system at the request of the last owner of record. The department may issue a certificate of title if the applicant complies with the requirements of subsection (2). (2) The applicant shall submit an affidavit in a form prescribed by the department. The affidavit must accompany the application for a replacement certificate of title provided for in 61-3-204 and is subject to the fees within that section. The affidavit must also include the last title or registration issued to the owner. History: En. Sec. 1, Ch. 397, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-301. Registration -- license plate required -- display

61-3-301. Registration -- license plate required -- display. (1) (a) A person may not operate a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer upon the public highways of Montana unless the motor vehicle, trailer, semitrailer, pole trailer, or travel trailer is properly registered and has the proper license plates conspicuously displayed on the motor vehicle, trailer, semitrailer, pole trailer, or travel trailer. A license plate must be securely fastened to prevent it from swinging and may not be obstructed from plain view. (b) (i) Except as provided in 61-4-120, 61-4-129, and subsections (1)(b)(ii) through (1)(b)(iv) of this section, all motor vehicles must have one license plate displayed horizontally on the front and one license plate displayed horizontally on the rear of the motor vehicle. (ii) A motorcycle, quadricycle, trailer, semitrailer, pole trailer, or travel trailer must have a single license plate displayed on the rear of the vehicle, which may be displayed horizontally or vertically if available space does not permit horizontal display. (iii) A custom vehicle or a street rod registered under 61-3-320(1)(b) or (1)(c)(iii) may display a single license plate firmly

attached to the rear exterior of the custom vehicle or street rod. (iv) If a person is not able to comply with the requirement that a front license plate be displayed because of the body construction of the motor vehicle, the person may submit to the highway patrol an application for a waiver along with a \$25 inspection fee. A certificate of waiver must be issued upon inspection of the vehicle by a highway patrol officer. The certificate must at all times be carried in the motor vehicle and must be displayed upon demand of a peace officer. Money collected from the inspection fee must be deposited in a highway revenue account in the state special revenue fund to the credit of the department of transportation. (c) A person may not display on a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer at the same time a number assigned to it under any motor vehicle law except as provided in this chapter. (d) A low-speed electric vehicle or a golf cart operated by a person with a low-speed restricted driver's license must have special license plates, as provided in 61-3-332(9), displayed on the front and rear of the vehicle. (2) A person may not purchase or display on a motor vehicle, trailer, semitrailer, pole trailer, or travel trailer a license plate bearing the number assigned to any county, as provided in 61-3-332, other than the county where the vehicle is domiciled or the county where the trailer, semitrailer, pole trailer, or travel trailer is domiciled at the time of application for registration. (3) It is unlawful to: (a) display license plates issued to one motor vehicle, trailer, semitrailer, pole trailer, or travel trailer on any other motor vehicle, trailer, semitrailer, pole trailer, or travel trailer unless legally transferred as provided by statute; (b) repaint old license plates to resemble current license plates; or (c) invert or reverse a license plate. License plates displayed horizontally must be readable from left to right. License plates displayed vertically must be readable from top to bottom. (4) For the purposes of this section, "conspicuously displayed" means that the required license plates are obviously visible and firmly attached by two separate fasteners to: (a) the front bumper and the rear bumper of a motor vehicle that is subject to subsection (1)(b)(i) and is equipped with front and rear bumpers; or (b) a clearly visible location on the rear of a trailer, semitrailer, pole trailer, travel trailer, or motor vehicle that is subject to subsections (1)(b)(ii) through (1)(b)(iv). History: En. Subd. 6, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.5, R.C.M. 1935; amd. Sec. 1, Ch. 154, L. 1937; amd. Sec. 1, Ch. 73, L. 1941; amd. Sec. 10, Ch. 127, L. 1969; amd. Sec. 1, Ch. 18, L. 1974; R.C.M. 1947, 53-119; amd. Sec. 31, Ch. 421, L. 1979; amd. Sec. 15, Ch. 516, L. 1985; amd. Sec. 1, Ch. 148, L. 1989; amd. Sec. 4, Ch. 525, L. 1989; amd. Sec. 15, Ch. 409, L. 1999; amd. Sec. 23, Ch. 515, L. 1999; amd. Sec. 1, Ch. 280, L. 2003; amd. Sec. 4, Ch. 458, L. 2005; amd. Sec. 65, Ch. 542, L. 2005; amd. Sec. 48, Ch. 596, L. 2005; amd. Sec. 55, Ch. 44, L. 2007; amd. Sec. 24, Ch. 329, L. 2007; amd. Sec. 7, Ch. 413, L. 2009; amd. Sec. 7, Ch. 209, L. 2011; amd. Sec. 1, Ch. 231, L. 2011; amd. Sec. 1, Ch. 110, L. 2017; amd. Sec. 1, Ch. 118, L. 2021; amd. Sec. 1, Ch. 464, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-302. Residents operating motor vehicles under licenses issued by any state other than Montana forbidden -- vehicles exempt from registration -- exceptions

61-3-302. Residents operating motor vehicles under licenses issued by any state other than Montana forbidden -- vehicles exempt from registration -- exceptions. (1) (a) A resident of the state of Montana who owns a motor vehicle, trailer, semitrailer, or pole trailer may not operate the motor vehicle, trailer, semitrailer, or pole trailer with license plates issued by any other state than Montana. (b) (i) A person who has resided in Montana for more than 60 consecutive days is considered to be a resident for the purpose of vehicle titling and registration laws, and a motor vehicle, trailer, semitrailer, or pole trailer owned by the person must be titled and registered under the laws of Montana prior to operation in this state after the 60-day period. (ii) A person serving or retired from serving aboard the USS Montana is considered, at the election of the person, a resident for the purpose of motor vehicle titling and registration laws and may apply for a USS Montana specialty license plate pursuant to 61-3-479(1)(a)(ii). Residency is not conferred for any other purpose. (2) A motor vehicle, trailer, semitrailer, or pole trailer driven or moved upon a highway in this state and owned by a nonresident of this state is exempt from registration under this chapter if: (a) the vehicle is properly registered in and displays valid license plates of the jurisdiction in which the nonresident owner resides; and (b) (i) the vehicle is not used for the transportation of persons or property for hire, compensation, or profit; (ii) the nonresident owner is not employed or engaged in a commercial or business enterprise in this state; or (iii) the vehicle is used for the exclusive purpose of filming motion pictures or television commercials and does not remain in the state for a period in excess of 180 consecutive days in a calendar year. (3) A motor vehicle, trailer, semitrailer, or pole trailer that is owned by a manufacturer, a dealer, a wholesaler, or an auto auction and that is held for sale is exempt from registration under this part even though the motor vehicle, trailer, semitrailer, or pole trailer is incidentally moved on the highway and is used for purposes of testing or demonstration or is used by a manufacturer solely for testing. (4) A junk vehicle, as defined in Title 75, chapter 10, part 5, being driven to an auto wrecking graveyard for disposal is exempt from the provisions of this chapter. History: En. Subd. 8, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.6, R.C.M. 1935; amd. Sec. 2, Ch. 195, L. 1953; amd. Sec. 1, Ch. 247, L. 1957; R.C.M. 1947, 53-121; amd. Sec. 66, Ch. 542, L. 2005; amd. Secs. 49, 140, Ch. 596, L. 2005; amd. Sec. 2, Ch. 663, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-303. Original registration -- process -- fees

61-3-303. Original registration -- process -- fees. (1) Except as provided in 61-3-324, a Montana resident who is an owner of a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state shall register the motor vehicle, trailer, semitrailer, or pole trailer in the county where the registering owner is domiciled. A nonresident who has an interest in real property in Montana may register in the county where the real property is located a motor vehicle, trailer, semitrailer, or pole trailer operated or driven upon the public highways of this state. A person serving or retired from serving aboard the USS Montana may register by mail in Lewis and Clark County using forms prescribed by the department. (2) A Montana resident who is an owner of a

motor vehicle, trailer, semitrailer, or pole trailer with co-owners, one or more of whom are not Montana residents, may register the vehicle regardless of the fact that one or more of the co-owners would otherwise not qualify to register the vehicle under subsection (1) if the registering Montana resident is: (a) an individual human being; and (b) the principal operator of, and in whom is vested the right of possession and control of, the vehicle. (3) Except as provided in subsection (4), the county treasurer or an authorized agent shall register any vehicle for which: (a) as of the date that the motor vehicle, trailer, semitrailer, or pole trailer is to be registered, an owner delivers an application for a certificate of title to the department, an authorized agent, or a county treasurer; or (b) the county treasurer or an authorized agent confirms that the department has an electronic record of title for the motor vehicle, trailer, semitrailer, or pole trailer as provided under 61-3-101. (4) (a) A county treasurer or an authorized agent may register a motor vehicle, trailer, semitrailer, or pole trailer for which a certificate of title and registration were issued in another jurisdiction and for which registration is required under 61-3-701 after the county treasurer or the authorized agent examines the current out-of-jurisdiction registration certificate or receipt and receives payment of the fees required in 61-3-701. The county treasurer or an authorized agent may ask the motor vehicle, trailer, semitrailer, or pole trailer owner to provide additional information, prescribed by the department, to ensure that the electronic record of registration maintained by the department is complete. (b) A county treasurer or an authorized agent shall collect fees pursuant to 61-3-203 and 61-3-220(4) and issue a 90-day temporary registration permit pursuant to 61-3-224 for a motor vehicle, trailer, semitrailer, pole trailer, motorboat, sailboat that is 12 feet in length or longer, snowmobile, or off-highway vehicle for which the new owner cannot, due to circumstances beyond the new owner's control, surrender a previously assigned certificate of title. The new owner shall request the 90-day temporary registration permit from the authorized agent or county treasurer that originally issued the temporary registration permit. (c) A person serving or retired from serving aboard the USS Montana shall include in an application for a certificate of title, in a manner prescribed by the department, proof that the person has current orders to serve or has previously served aboard the USS Montana. (5) Upon registering a motor vehicle, trailer, semitrailer, or pole trailer for the first time in this state, the county treasurer or an authorized agent shall: (a) update the electronic record of title, if any, maintained for the vehicle by the department under 61-3-101; (b) assign a registration period for the vehicle under 61-3-311; (c) determine the vehicle's age, if required, under 61-3-501; (d) determine the amount of fees, including local option taxes or fees, to be paid under subsection (6); and (e) assign and issue license plates for the vehicle under 61-3-331. (6) Unless otherwise provided by law, a person registering a motor vehicle shall pay to the county treasurer or an authorized agent: (a) the fees in lieu of tax or registration fees as required for: (i) a light vehicle under 61-3-321 or 61-3-562, in addition to, if applicable, any local option tax or fee under 61-3-537 or 61-3-570; (ii) a motor home under 61-3-321; (iii) a travel trailer under 61-3-321; (iv) a motorcycle or quadricycle under 61-3-321; (v) a bus, a truck having a manufacturer's rated capacity of more than 1 ton, or a truck tractor under 61-3-321 and 61-3-529; or (vi) a trailer under 61-3-321; (b) a donation of \$1 or more if the person indicates that the person wishes to donate to promote awareness and education efforts for procurement of organ and tissue donations in Montana to favorably impact anatomical gifts; (c) a donation of \$1 or more if the person indicates that the person wishes to donate to promote education on, support for, and awareness of traumatic brain injury; and (d) a donation of \$1 or more if the person indicates that the person wishes to donate to a program supporting cancer screening. (7) The county treasurer or an authorized agent may not issue a registration receipt or license plates for the motor vehicle, trailer, semitrailer, or pole trailer to the owner unless the owner makes the payments required by subsection (6). (8) The department may make full and complete investigation of the registration status of the motor vehicle, trailer, semitrailer, or pole trailer. A person seeking to register a motor vehicle, trailer, semitrailer, or pole trailer under this section shall provide additional information to support the registration to the department if requested. (9) Revenue that accrues from the voluntary donations provided for in subsection (6) must be forwarded by the respective county treasurer or an authorized agent to the department for deposit as follows: (a) in the state special revenue fund to the credit of an account established by the department of labor and industry to support activities related to awareness and education efforts for procurement of organ and tissue donations for anatomical gifts if the revenue is from the donation provided for in subsection (6)(b); (b) to the credit of the account established in 2-15-2218 if the revenue is from the donation provided for in subsection (6)(c); and (c) to the credit of the special revenue account established in 33-22-2104 if the revenue is from the donation provided for in subsection (6)(d). (10) (a) Except as provided in subsection (10)(b), the fees in lieu of tax, taxes, and fees imposed on or collected from the registration of a travel trailer, motorcycle, or quadricycle or a trailer, semitrailer, or pole trailer that has a declared weight of less than 26,000 pounds are required to be paid only once during the time that the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is owned by the same person who registered the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. When registered, a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is registered permanently unless ownership is transferred or unless it was registered under 61-3-701. (b) Whenever ownership of a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer is transferred, the new owner is required to register the travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer as if it were being registered for the first time, including paying all of the required fees in lieu of tax, taxes, and fees. (11) The department, an authorized agent of the department, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify that the vehicle owner has complied with the requirements of 61-6-301. History: En. Sec. 5, Ch. 75, L. 1917; amd. Sec. 1, Ch. 207, L. 1919; re-en. Sec. 1759, R.C.M. 1921; amd. Sec. 22, Ch. 113, L. 1925; amd. Sec. 2, Ch. 181, L. 1929; amd. Sec. 1, Ch. 158, L. 1931; amd. Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1937; amd. Sec. 1, Ch. 195, L. 1953; amd. Sec. 1, Ch. 256, L. 1955; amd. Sec. 1, Ch. 223, L. 1957; amd. Sec. 1, Ch. 245, L. 1963; amd. Sec. 1, Ch. 290, L. 1967; amd. Sec. 9, Ch. 296, L. 1967; amd. Sec. 3, Ch. 214, L. 1971; amd. Sec. 12, Ch. 74, L. 1975; amd. Sec. 1, Ch. 55, L. 1977; amd. Sec. 1, Ch. 521, L. 1977; amd. Sec. 43, Ch. 566, L. 1977; R.C.M. 1947, 53-114(1), (3); amd. Sec. 4, Ch. 502, L. 1979; amd. Sec. 7, Ch. 712, L. 1979; amd.

Sec. 23, Ch. 614, L. 1981; amd. Sec. 1, Ch. 433, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 16, Ch. 516, L. 1985; amd. Sec. 4, Ch. 421, L. 1987; amd. Sec. 21, Ch. 611, L. 1987; amd. Sec. 6, Ch. 724, L. 1991; amd. Sec. 131, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 88, L. 1995; amd. Sec. 3, Ch. 257, L. 1995; amd. Sec. 22, Ch. 200, L. 1997; amd. Sec. 20, Ch. 496, L. 1997; amd. Sec. 1, Ch. 94, L. 1999; amd. Sec. 24, Ch. 515, L. 1999; amd. Secs. 60, 83(2), Ch. 477, L. 2003; amd. Secs. 28, 47(2)(a), Ch. 592, L. 2003; amd. Sec. 67, Ch. 542, L. 2005; amd. Secs. 50, 142, Ch. 596, L. 2005; amd. Sec. 56, Ch. 44, L. 2007; amd. Sec. 25, Ch. 329, L. 2007; amd. Sec. 4, Ch. 41, L. 2009; amd. Sec. 8, Ch. 413, L. 2009; amd. Sec. 1, Ch. 73, L. 2011; amd. Sec. 1, Ch. 142, L. 2013; amd. Sec. 5, Ch. 196, L. 2013; amd. Sec. 2, Ch. 370, L. 2013; amd. Sec. 4, Ch. 323, L. 2017; amd. Sec. 3, Ch. 435, L. 2017; amd. Sec. 1, Ch. 77, L. 2021; amd. Sec. 7, Ch. 389, L. 2021; amd. Sec. 3, Ch. 663, L. 2023; amd. Sec. 9, Ch. 782, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-306. through 61-3-310 reserved

61-3-306 through 61-3-310 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-311. Registration -- time periods

61-3-311. Registration -- time periods. (1) Unless a motor vehicle, trailer, semitrailer, or pole trailer is subject to permanent registration under this title and except as provided in 61-3-313, 61-3-701, 61-3-721, and subsection (3) of this section, the department, an authorized agent, or a county treasurer shall, upon original registration of a motor vehicle in this state, assign each motor vehicle to a registration period, as provided in 61-3-316, based upon the calendar month in which the motor vehicle is first registered in this state and designate the calendar year in which the current registration will expire. (2) Each registration period commences on the first day of the calendar month in the calendar year in which the motor vehicle is registered and the motor vehicle's registration expires on the earlier of: (a) the last day of the month preceding the anniversary of the registration period for the year designated on the motor vehicle's registration decal if the motor vehicle is registered for a minimum 12-month period; (b) the last day of the month preceding the anniversary of the registration period for the year designated on the motor vehicle's registration decal if the motor vehicle is registered for a period of at least 13 but less than 25 months; or (c) the transfer of ownership of the motor vehicle, trailer, semitrailer, or pole trailer to another person. (3) (a) Upon request of the motor vehicle owner, a county treasurer or an authorized agent may assign a motor vehicle to a registration period, as provided in 61-3-316, other than a registration period beginning in the calendar month in which the motor vehicle is first registered in this state if at least 13 but less than 25 months will elapse between the first day of the calendar month in which the motor vehicle is registered and the last day of the month preceding the anniversary of the requested registration period in the year designated on the motor vehicle's registration decal. (b) The county treasurer or an authorized agent shall determine fees imposed for a motor vehicle registered for a period between 13 and 24 months. All registration fees, fees in lieu of tax, or local option taxes or fees that are imposed on an annual basis must be prorated based on the number of months in the requested registration period. (c) A motor vehicle registered under the provisions of 61-3-303(4)(b) may not be registered under this subsection (3). (4) If a motor vehicle, trailer, semitrailer, or pole trailer is permanently registered under the provisions of this chapter, the registration is not subject to expiration unless the registered owner of the motor vehicle, trailer, semitrailer, or pole trailer transfers ownership of the vehicle to another person. History: En. Subd. 2, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.1, R.C.M. 1935; amd. Sec. 1, Ch. 51, L. 1967; amd. Sec. 9, Ch. 127, L. 1969; amd. Sec. 13, Ch. 74, L. 1975; R.C.M. 1947, 53-115; amd. Sec. 2, Ch. 146, L. 1989; amd. Sec. 1, Ch. 42, L. 1995; amd. Secs. 29, 47(2)(b), Ch. 592, L. 2003; amd. Sec. 68, Ch. 542, L. 2005; amd. Secs. 51, 143, Ch. 596, L. 2005; amd. Sec. 57, Ch. 44, L. 2007; amd. Sec. 6, Ch. 196, L. 2013; amd. Sec. 8, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-312. Renewal of registration -- exceptions -- grace period

61-3-312. Renewal of registration -- exceptions -- grace period. (1) Except as provided in 61-3-313 and 61-3-721, the registration of a motor vehicle under this chapter must be renewed on or before the last day of the month of the motor vehicle's registration period following the expiration of the motor vehicle's registration. (2) A person may renew a motor vehicle's registration by submitting full payment for the fees or taxes required under 61-3-303 and 61-3-321(13) to the department, an authorized agent, or a county treasurer in any county of this state. (3) The department, an authorized agent, or a county treasurer shall use the online motor vehicle liability insurance verification system provided in 61-6-157 to verify proof of compliance with 61-6-301. (4) The registration period originally assigned under 61-3-311 must be retained and the duration of the renewed registration is determined in accordance with 61-3-311. A registration receipt is valid for the registration period for which it is issued. (5) The owner of a motor vehicle subject to registration renewal under the provisions of this section is considered to have renewed the motor vehicle's registration in a timely manner if the owner submits full payment for the required fees or taxes, as prescribed in the mail renewal notice from the department, to the department, an authorized agent, or a county treasurer on or before the last day of the month of the motor vehicle's registration period. (6) The department, an authorized agent, or a county treasurer may not renew the registration of a motor vehicle for which ownership has been transferred and that was originally registered without being titled under the provisions of 61-3-303(4)(b) unless: (a) the previously issued certificate of title has been surrendered to the department, an authorized agent, or the county treasurer and the process for issuing a certificate of title has been completed; or (b) the person to whom ownership of the motor vehicle has been transferred presents an affidavit and bond in support of the application for a certificate of title as permitted in

61-3-208. History: En. Subd. 2, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.1, R.C.M. 1935; amd. Sec. 1, Ch. 244, L. 1955; amd. Sec. 1, Ch. 146, L. 1957; amd. Sec. 1, Ch. 100, L. 1959; amd. Sec. 25, Ch. 121, L. 1965; amd. Sec. 1, Ch. 116, L. 1969; amd. Sec. 8, Ch. 127, L. 1969; amd. Sec. 1, Ch. 138, L. 1971; amd. Sec. 2, Ch. 214, L. 1971; amd. Sec. 11, Ch. 74, L. 1975; R.C.M. 1947, 53-108(part); amd. Sec. 3, Ch. 146, L. 1989; amd. Sec. 2, Ch. 42, L. 1995; amd. Sec. 62, Ch. 477, L. 2003; amd. Sec. 30, Ch. 592, L. 2003; amd. Sec. 69, Ch. 542, L. 2005; amd. Secs. 52, 144, Ch. 596, L. 2005; amd. Sec. 9, Ch. 413, L. 2009; amd. Sec. 2, Ch. 73, L. 2011; amd. Sec. 8, Ch. 209, L. 2011; amd. Sec. 5, Ch. 247, L. 2011; amd. Sec. 2, Ch. 142, L. 2013; amd. Sec. 3, Ch. 335, L. 2019; amd. Sec. 9, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-313. Motor vehicles exempt from registration renewal

61-3-313. Motor vehicles exempt from registration renewal. (1) The following motor vehicles are exempt from the registration renewal requirements of 61-3-312: (a) motor vehicles owned or leased and operated by the government of the United States or by the state of Montana or a political subdivision of the state; (b) motor vehicles registered as part of a fleet under 61-3-318; and (c) apportionable motor vehicles registered as part of a fleet, as defined in 61-3-712, that is subject to the provisions of 61-3-711 through 61-3-733. (2) Unless a transfer of ownership occurs, a travel trailer, trailer, semitrailer, pole trailer, motorcycle, or quadricycle, including a motorcycle or quadricycle registered only for off-highway use under Title 23, chapter 2, part 8, is permanently registered. History: En. 53-154 by Sec. 1, Ch. 74, L. 1975; R.C.M. 1947, 53-154; amd. Sec. 1, Ch. 82, L. 1979; amd. Sec. 17, Ch. 516, L. 1985; amd. Sec. 2, Ch. 517, L. 1989; amd. Sec. 17, Ch. 724, L. 1991; amd. Sec. 2, Ch. 209, L. 1993; amd. Sec. 3, Ch. 42, L. 1995; amd. Sec. 3, Ch. 88, L. 1995; amd. Sec. 1, Ch. 393, L. 2003; amd. Sec. 10, Ch. 399, L. 2003; amd. Sec. 31, Ch. 592, L. 2003; amd. Sec. 70, Ch. 542, L. 2005; amd. Secs. 53, 145, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-314. Registration period

61-3-314. Registration period. For the purposes of this chapter, there are 12 registration periods to which a motor vehicle may be assigned. Each registration period commences on the first day of a calendar month. The periods are: History: En. 53-155, 53-156 by Secs. 2, 3, Ch. 74, L. 1975; R.C.M. 1947, 53-155, 53-156; amd. Sec. 1, Ch. 337, L. 1991; amd. Sec. 5, Ch. 604, L. 1991; amd. Sec. 25, Ch. 515, L. 1999; amd. Sec. 71, Ch. 542, L. 2005; amd. Secs. 54, 146, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-316. New registrations

61-3-316. New registrations. Except as provided in 61-3-311, a motor vehicle that is registered for the first time in this state must be assigned a registration period corresponding to when the motor vehicle is first registered in this state. Except as permitted in 61-3-318 or 61-3-324, the registration period for a motor vehicle must remain the same from year to year. History: En. 53-158 by Sec. 5, Ch. 74, L. 1975; R.C.M. 1947, 53-158(part); amd. Sec. 27, Ch. 515, L. 1999; amd. Sec. 73, Ch. 542, L. 2005; amd. Sec. 56, Ch. 596, L. 2005; amd. Sec. 4, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-317. New registration required for transferred motor vehicle -- grace period -- penalty -- display of proof of purchase

61-3-317. New registration required for transferred motor vehicle -- grace period -- penalty -- display of proof of purchase. (1) The new owner of a transferred motor vehicle, trailer, semitrailer, or pole trailer has a grace period of 40 calendar days from the date of purchase to make application for a certificate of title and pay the registration fees, fees in lieu of tax and other fees required by this chapter, and local option taxes, if applicable. However, the motor vehicle, trailer, semitrailer, or pole trailer may not be operated upon the streets and highways of this state during this period unless a temporary registration permit has been issued for and is properly displayed on the motor vehicle, trailer, semitrailer, or pole trailer as permitted by 61-3-224. (2) If the motor vehicle, trailer, semitrailer, or pole trailer was not purchased from a licensed motor vehicle dealer as provided in this chapter, it is not a violation of this chapter or any other law for the purchaser to operate the motor vehicle, trailer, semitrailer, or pole trailer upon the streets and highways of this state without a current registration receipt or registration decal during the period allowed under 61-1-101(81)(b) if at all times during that period a temporary registration permit issued under 61-3-224 is properly displayed. History: En. Sec. 3, Ch. 127, L. 1969; amd. Sec. 7, Ch. 138, L. 1971; amd. Sec. 1, Ch. 187, L. 1974; amd. Sec. 4, Ch. 243, L. 1977; amd. Sec. 4, Ch. 399, L. 1977; R.C.M. 1947, 53-147; amd. Sec. 32, Ch. 421, L. 1979; amd. Sec. 8, Ch. 712, L. 1979; amd. Sec. 24, Ch. 614, L. 1981; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 1, Ch. 529, L. 1985; amd. Sec. 28, Ch. 515, L. 1999; amd. Sec. 17, Ch. 13, Sp. L. August 2002; amd. Sec. 63, Ch. 477, L. 2003; amd. Sec. 32, Ch. 592, L. 2003; amd. Sec. 74, Ch. 542, L. 2005; amd. Secs. 57, 147, Ch. 596, L. 2005; amd. Sec. 4, Ch. 435, L. 2017; amd. Sec. 2, Ch. 309, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-318. Fleet registration period -- definition

61-3-318. Fleet registration period -- definition. (1) (a) Notwithstanding any other provisions of this title regarding the registration of

motor vehicles, a person owning or leasing a fleet may register its fleet for a 6-month or a 9-month period, commencing from the date of original registration. (b) A motor vehicle remaining in the fleet at the end of a 6-month or a 9-month period must be reregistered for a minimum of 12 months. (2) As used in this section, "fleet" means automobiles or trucks having a rated capacity of three-quarters of a ton or less that are rented or offered for rental without drivers and that are designated by a rental owner as a rental fleet in a quantity set by the department pursuant to 61-14-101. History: En. Sec. 1, Ch. 517, L. 1989; amd. Sec. 1, Ch. 344, L. 2005; amd. Sec. 75, Ch. 542, L. 2005; amd. Sec. 1, Ch. 407, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-319. Registration of custom-built motorcycle -- exemptions

61-3-319. Registration of custom-built motorcycle -- exemptions. (1) Upon original registration of a custom-built motorcycle, the owner of the custom-built motorcycle shall: (a) pay the fees required in 61-3-321, plus an additional \$10 fee, to be deposited in the state general fund; (b) certify, in writing, that the motorcycle is: (i) not used for general transportation purposes; and (ii) is equipped as required by the state law in effect in the year of manufacture of the motorcycle, as determined under 61-3-214. (2) A custom-built motorcycle registered under this section is exempt from vehicle equipment requirements under chapter 9 of this title unless the equipment was required under state law in the year of manufacture of the motorcycle, as listed on the registration receipt for the motorcycle and determined under 61-3-214. History: En. Sec. 2, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-320. Registration -- custom vehicle, street rod, originally equipped older vehicle, kit vehicle, or specially constructed vehicle

61-3-320. Registration -- custom vehicle, street rod, originally equipped older vehicle, kit vehicle, or specially constructed vehicle. (1) (a) A custom vehicle or street rod: (i) that is more than 30 years old may be registered under 61-3-411 as a collector's item; or (ii) may be registered, depending on the vehicle type, as a motor home, a bus, a truck having a manufacturer's rated capacity of more than 1 ton, a truck tractor, or a light vehicle upon payment of the registration fee required in 61-3-321, the applicable fee or fee in lieu of tax provided for in 61-3-529 or 61-3-562, and, if applicable, any local option tax or fee under 61-3-537 or 61-3-570. (b) The owner of a custom vehicle or street rod that is originally registered under subsection (1)(a) or that was registered prior to January 1, 2006, may be authorized to operate the custom vehicle or street rod while displaying only one license plate on the rear exterior of the vehicle if the owner certifies that the custom vehicle or street rod is not used for general transportation purposes and pays an additional \$10 fee, to be deposited in the state general fund. (c) (i) Upon original registration of a custom vehicle or street rod under subsection (1)(a)(i), a custom vehicle or street rod must be assigned a set of pioneer or vintage license plates, as described in 61-3-411(2), or a set of original Montana license plates or collector reproduction license plates, as allowed under 61-3-412. (ii) Upon original registration of a custom vehicle or street rod under subsection (1)(a)(ii) and unless the owner has applied for personalized license plates, special license plates for military personnel, veterans, or spouses, collegiate plates, or generic specialty license plates or has met the requirements of subsection (1)(b), a set of standard license plates must be assigned to the vehicle under 61-3-331. (iii) Upon original registration of a custom vehicle or street rod under subsection (1)(a)(ii) and if the owner of a custom vehicle or street rod has met the requirements of subsection (1)(b), a single license plate, including a personalized standard license plate, special license plate for military personnel, veterans, or spouses, collegiate plate, or generic specialty license plate, if otherwise available to the vehicle owner or vehicle type, may be issued for the custom vehicle or street rod. (d) The owner of an originally equipped motor vehicle, other than a motorcycle, that is more than 30 years old and that is not registered as a collector's item under 61-3-411 may be authorized to operate the motor vehicle while displaying only one license plate on the rear exterior of the vehicle, as if it were a custom vehicle or street rod, if the owner: (i) certifies that the originally equipped motor vehicle is not used for general transportation purposes; (ii) pays any fees required under 61-3-321, 61-3-529, or 61-3-562 and, if applicable, a local option tax or fee under 61-3-537 or 61-3-570, plus an additional \$10 fee, to be deposited in the state general fund; and (iii) is otherwise eligible, based on the owner's status and the vehicle type, for one of the single license plate options available to an owner of a custom vehicle or street rod under this subsection (1). (2) (a) The owner of a kit vehicle shall pay the registration fees provided for in 61-3-321 and, if applicable, any local option tax or fee under 61-3-537 or 61-3-570. (b) Upon original registration of a kit vehicle and unless the owner has applied for special license plates, collegiate plates, or generic specialty license plates, standard license plates must be assigned and issued to the kit vehicle under 61-3-331. (3) (a) Depending on whether the specially constructed vehicle is a motor home, bus, truck having a manufacturer's rated capacity of more than 1 ton, truck tractor, or light vehicle, the owner of a specially constructed vehicle shall pay the registration fees provided for in 61-3-321, any registration fee or fee in lieu of tax provided for in 61-3-529, and, if applicable, any local option tax or fee under 61-3-537 or 61-3-570. (b) Upon original registration of a specially constructed vehicle and unless the owner has applied for special license plates, collegiate plates, or generic specialty license plates, standard license plates must be assigned and issued to the specially constructed vehicle under 61-3-331. History: En. Sec. 3, Ch. 458, L. 2005; amd. Sec. 26, Ch. 329, L. 2007; amd. Sec. 2, Ch. 295, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees -- definition

61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration fees -- disposition of fees --

definition.(1) Except as otherwise provided in this section, registration fees must be paid upon registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers, semitrailers, and pole trailers as provided in subsections (2) through (20). (2) (a) Except as provided in subsection (2)(b), unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light vehicles, trucks, and buses that weigh 1 ton or less and for logging trucks that weigh 1 ton or less is as follows: (i) if the vehicle is 4 or less years old, \$217; (ii) if the vehicle is 5 through 10 years old, \$87; and (iii) if the vehicle is 11 or more years old, \$28. (b) For a light vehicle with a manufacturer's suggested retail price of more than \$150,000 that is 10 years old or less, the annual registration fee is the amount provided for in subsection (2)(a) plus \$825. (3) (a) Except as provided in subsections (3)(b) and (15), the one-time registration fee based on the declared weight of a trailer, semitrailer, or pole trailer is as follows: (i) if the declared weight is less than 6,000 pounds, \$61.25; or (ii) if the declared weight is 6,000 pounds or more, \$148.25. (b) For a trailer, semitrailer, or pole trailer that is registered under 61-3-701, the annual registration fee based on the declared weight is as follows: (i) if the declared weight is less than 6,000 pounds, \$30; or (ii) if the declared weight is 6,000 pounds or more, \$60. (4) Except as provided in subsection (15), the one-time registration fee for motor vehicles owned and operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows: (a) 2,850 pounds and over, \$10; and (b) under 2,850 pounds, \$5. (5) (a) Except as provided in subsections (5)(b) and (15), the one-time registration fee for off-highway vehicles other than a quadricycle or motorcycle is \$61.25. (b) Whenever a valid summer motorized recreation trail pass issued pursuant to 23-2-111 is affixed to an off-highway vehicle other than a quadricycle or motorcycle, the one-time registration fee is \$41.25. (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75. (7) (a) Except as provided in subsection (7)(c), the annual registration fee for a motor home, based on the age of the motor home, is as follows: (i) less than 2 years old, \$282.50; (ii) 2 years old and less than 5 years old, \$224.25; (iii) 5 years old and less than 8 years old, \$132.50; and (iv) 8 years old and older, \$97.50. (b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee under this section may permanently register the motor home upon payment of: (i) a one-time registration fee of \$237.50; (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158; (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406; and (iv) if applicable, the donation fee for a generic specialty license plate under 61-3-480 or a collegiate license plate under 61-3-465. (c) For a motor home with a manufacturer's suggested retail price of more than \$300,000 that is 10 years old or less, the annual registration fee is the amount provided in subsection (7)(a) plus \$800. (8) (a) (i) Except as provided in subsections (8)(b), (8)(c), and (15), the one-time registration fee for motorcycles and quadricycles registered for use on the public highways is \$53.25, the one-time registration fee for motorcycles and quadricycles registered for off-highway use is \$53.25, and the one-time registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways is \$114.50. (ii) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002. (b) (i) The annual registration fee for motorcycles and quadricycles registered for use on the public highways under 61-3-701 is \$44. (ii) The annual registration fee for motorcycles and quadricycles registered for off-highway use under 61-3-701 is \$44. (iii) The annual registration fee for motorcycles and quadricycles registered for both off-road use and for use on the public highways under 61-3-701 is \$88. (iv) An additional safety fee of \$7 must be collected annually for each motorcycle or quadricycle registered under 61-3-701. The safety fee must be deposited in the state motorcycle safety account provided for in 20-25-1002. (c) Whenever a valid summer motorized recreation trail pass issued pursuant to 23-2-111 is affixed to a motorcycle or quadricycle, the one-time registration fee for motorcycles and quadricycles registered for: (i) use on the public highways is \$33.25; and (ii) both off-road use and for use on the public highways is \$94.50. (9) Except as provided in subsection (15), the one-time registration fee for travel trailers, based on the length of the travel trailer, is as follows: (a) under 16 feet in length, \$72; and (b) 16 feet in length or longer, \$152. (10) Except as provided in subsection (15), the one-time registration fee for a motorboat, sailboat, personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows: (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length, \$65.50; (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in length, \$125.50; and (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50. (11) (a) Except as provided in subsections (11)(b), (11)(c), and (15), the one-time registration fee for a snowmobile is \$60.50. (b) Whenever a valid winter trail pass issued pursuant to 23-2-636 is affixed to a snowmobile, the one-time registration fee is \$40.50. (c) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose of daily rental to customers is assessed: (A) a fee of \$40.50 in the first year of registration; and (B) if the business reregisters the snowmobile for a second year, a fee of \$20. (ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently registered and the business is assessed the registration fee imposed in subsection (11)(a). (12) (a) The one-time registration fee for a low-speed electric vehicle is \$25. (b) The one-time registration fee for a golf cart that is owned by a person who has or is applying for a low-speed restricted driver's license is \$25. (c) The one-time registration fee for golf carts authorized to operate on certain public streets and highways pursuant to 61-8-391 is \$25. Upon receipt of the fee, the department shall issue the owner a decal, which must be displayed visibly on the golf cart. (13) (a) Except as provided in subsection (13)(b), a fee of \$12 must be collected when a new set of standard license plates, a new single standard license plate, or a replacement set of special license plates required under 61-3-332 is issued. The fee imposed under this subsection (13)(a) does not apply when previously issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be paid if the vehicle to which the plates are transferred is not currently registered. (b) An additional fee of \$16 must be collected if a vehicle owner elects to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under 61-3-332(3). (c) The fees imposed in this subsection (13) must be deposited in the account established

under 61-6-158, except that \$2 of the fee imposed in subsection (13)(a) must be deposited in the state general fund. (14) The provisions of this part with respect to the payment of registration fees do not apply to and are not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), (1)(d), (1)(e), (1)(g), (1)(h), (1)(i), (1)(k), (1)(l), (1)(n), or (1)(o), 15-6-203, or 15-6-215, except as provided in 61-3-520. (15) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle, quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile, motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411, or low-speed electric vehicle is transferred, the new owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under this section. (16) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section. (17) Except as otherwise provided in this section, revenue collected under this section must be deposited in the state general fund. (18) The fees imposed by subsections (2) through (12) are not required to be paid by a dealer for the enumerated vehicles or vessels that constitute inventory of the dealership. (19) (a) Unless a person exercises the option in either subsection (19)(b) or (19)(c), an additional fee of \$9 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. Of the \$9 fee: (i) \$6.74 must be deposited in the state special revenue account established in 23-1-105 and used for state parks; (ii) 50 cents must be deposited in an account in the state special revenue fund to the credit of the department of fish, wildlife, and parks and used for fishing access sites; (iii) \$1.37 must be deposited in the trails and recreation facilities state special revenue account established in 23-2-108; and (iv) 39 cents must be deposited in the Montana heritage preservation and development account established in 22-3-1004 and used for the operation of state-owned facilities at Virginia City and Nevada City. (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election not to pay the additional \$9 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected. (c) (i) A person who registers one or more light vehicles may, at the time of annual registration, certify that the person does not intend to use any of the vehicles to visit state parks and fishing access sites and may make a written election not to pay the additional \$9 fee provided for in subsection (19)(a). If a written election is made, the fee may not be collected at any subsequent annual registration unless the person makes the written election to pay the additional fee on one or more of the light vehicles. (ii) The written election not to pay the additional fee on a light vehicle expires if the vehicle is registered to a different person. (20) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle, quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$10 must be collected and forwarded to the state for deposit in the account established in 44-1-504. (21) (a) If a person exercises the option in subsection (21)(b), an additional fee of \$5 must be collected for each light vehicle registered under this part. This fee must be accounted for and transmitted separately from the registration fee. The fee must be deposited in an account in the state special revenue fund. Funds in the account are statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated as provided in 60-3-309. (b) A person who registers one or more light vehicles may, at the time of annual registration, make a written or electronic election to pay the additional \$5 fee provided for in subsection (21)(a). (22) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by 61-3-721. (23) (a) The \$800 and \$825 amounts collected based on the manufacturer's suggested retail price in subsections (2) and (7) are exempt from the provisions of 15-1-122 and must be deposited in the motor vehicle division administration account established in 61-3-112. (b) By August 15 of each year, beginning in the fiscal year beginning July 1, 2019, the department of justice shall deposit into the general fund an amount equal to the fiscal yearend balance minus 25% of the current fiscal year appropriation for the account established in 61-3-112. (24) For the purposes of this section, "manufacturer's suggested retail price" means the price suggested by a manufacturer for each given type, style, or model of a light vehicle or motor home produced and first made available for retail sale by the manufacturer. History: (1) thru (4), (6), (7)En. Sec. 6, Ch. 75, L. 1917; amd. Sec. 2, Ch. 207, L. 1919; amd. Sec. 1, Ch. 199, L. 1921; re-en. Sec. 1760, R.C.M. 1921; amd. Sec. 1, Ch. 107, L. 1923; amd. Sec. 1, Ch. 88, L. 1927; amd. Sec. 1, Ch. 182, L. 1929; amd. Sec. 1, Ch. 103, L. 1933; amd. Sec. 1, Ch. 38, Ex. L. 1933; re-en. Sec. 1760, R.C.M. 1935; amd. Sec. 1, Ch. 138, L. 1937; amd. Sec. 1, Ch. 125, L. 1939; amd. Sec. 2, Ch. 154, L. 1943; amd. Sec. 2, Ch. 200, L. 1945; amd. Sec. 1, Ch. 201, L. 1945; amd. Sec. 1, Ch. 221, L. 1951; amd. Sec. 1, Ch. 215, L. 1953; amd. Sec. 1, Ch. 41, L. 1955; amd. Sec. 228, Ch. 147, L. 1963; amd. Sec. 1, Ch. 178, L. 1963; amd. Sec. 30, Ch. 121, L. 1965; amd. Sec. 12-105, Ch. 197, L. 1965; amd. Sec. 4, Ch. 226, L. 1971; amd. Sec. 2, Ch. 243, L. 1977; Sec. 53-122, R.C.M. 1947; (5)En. Sec. 3, Ch. 75, L. 1917; re-en. Sec. 1757, R.C.M. 1921; amd. Sec. 2, Ch. 158, L. 1933; re-en. Sec. 1757, R.C.M. 1935; amd. Sec. 1, Ch. 6, L. 1941; amd. Sec. 3, Ch. 88, L. 1943; amd. Sec. 1, Ch. 111, L. 1951; amd. Sec. 1, Ch. 29, L. 1953; amd. Sec. 1, Ch. 245, L. 1955; amd. Sec. 1, Ch. 236, L. 1957; amd. Sec. 1, Ch. 245, L. 1959; amd. Sec. 1, Ch. 245, L. 1965; amd. Sec. 1, Ch. 41, L. 1967; amd. Sec. 5, Ch. 127, L. 1969; amd. Sec. 1, Ch. 226, L. 1971; amd. Sec. 1, Ch. 41, L. 1975; amd. Sec. 1, Ch. 390, L. 1975; amd. Sec. 1, Ch. 243, L. 1977; amd. Sec. 3, Ch. 492, L. 1977; Sec. 53-106, R.C.M. 1947; R.C.M. 1947, 53-106(part), 53-122(part); amd. Sec. 33, Ch. 421, L. 1979; amd. Sec. 7, Ch. 508, L. 1979; amd. Sec. 2, Ch. 654, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 18, Ch. 516, L. 1985; amd. Sec. 4, Ch. 378, L. 1987; amd. Sec. 10, Ch. 398, L. 1989; amd. Sec. 8, Ch. 535, L. 1989; amd. Sec. 2, Ch. 627, L. 1989; amd. Sec. 2, Ch. 654, L. 1989; amd. Secs. 3, 5, Ch. 567, L. 1991; amd. Sec. 2, Ch. 735, L. 1991; amd. Sec. 7, Ch. 575, L. 1993; amd. Sec. 1, Ch. 81, L. 1995; amd. Sec. 4, Ch. 88, L. 1995; amd. Sec. 1, Ch. 72, L. 1997; amd. Sec. 37, Ch. 532, L. 1997; amd. Sec. 1, Ch. 79, L. 1999; amd. Sec. 25, Ch. 257, L. 2001; amd. Sec. 163, Ch. 574, L. 2001; amd. Sec. 18, Ch. 13, Sp. L. August 2002; amd. Sec. 2, Ch. 280, L. 2003; amd. Sec. 11, Ch. 399, L. 2003; amd. Sec. 13, Ch. 491, L. 2003; amd. Sec. 33, Ch. 592, L. 2003; amd. Sec. 3, Ch. 601, L. 2003; amd. Secs. 3, 9, Ch. 421, L. 2005; amd. Secs. 4, 8, Ch. 500, L. 2005; amd. Sec. 76, Ch. 542, L. 2005; amd. Secs. 58, 150,

Ch. 596, L. 2005; amd. Sec. 58, Ch. 44, L. 2007; amd. Sec. 1, Ch. 206, L. 2007; amd. Sec. 27, Ch. 329, L. 2007; amd. Sec. 11, Ch. 413, L. 2009; amd. Sec. 9, Ch. 209, L. 2011; amd. Sec. 6, Ch. 247, L. 2011; amd. Sec. 3, Ch. 278, L. 2011; amd. Sec. 2, Ch. 326, L. 2011; amd. Sec. 1, Ch. 393, L. 2013; amd. Sec. 8, Ch. 250, L. 2017; amd. Sec. 5, Ch. 323, L. 2017; amd. Sec. 10, Ch. 351, L. 2017; amd. Sec. 3, Ch. 414, L. 2017; amd. Sec. 6, Ch. 416, L. 2017; amd. Sec. 3, Ch. 219, L. 2019; amd. Secs. 5, 28, Ch. 335, L. 2019; amd. Sec. 11, Ch. 353, L. 2019; amd. Sec. 7, Ch. 153, L. 2021; amd. Sec. 1, Ch. 540, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-322. Registration receipts -- issuance

61-3-322. Registration receipts -- issuance. (1) Upon completion of the original registration or registration renewal process, the department, an authorized agent, or a county treasurer shall issue a registration receipt to the owner of the motor vehicle, trailer, semitrailer, or pole trailer. (2) The registration receipt must contain the name and address of the owner of the motor vehicle, trailer, semitrailer, or pole trailer, the license plate number assigned to the motor vehicle, trailer, semitrailer, or pole trailer, sufficient information to identify the registered motor vehicle, trailer, semitrailer, or pole trailer and determine its registration date and period of registration, and any additional information required by rule. (3) The registration receipt must at all times be carried in the motor vehicle, trailer, semitrailer, or pole trailer to which it refers or must be carried by the person driving or in control of the motor vehicle, trailer, semitrailer, or pole trailer, who shall display it upon demand of a peace officer or any officer or employee of the department or the department of transportation. History: (1) thru (3) En. Sec. 4, Ch. 75, L. 1917; re-en. Sec. 1758, R.C.M. 1921; amd. Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758, R.C.M. 1935; amd. Sec. 5, Ch. 72, L. 1937; amd. Sec. 1, Ch. 148, L. 1943; amd. Sec. 1, Ch. 63, L. 1945; amd. Sec. 1, Ch. 115, L. 1953; amd. Sec. 1, Ch. 200, L. 1955; amd. Sec. 1, Ch. 139, L. 1961; amd. Sec. 7, Ch. 127, L. 1969; amd. Sec. 1, Ch. 179, L. 1971; amd. Sec. 1, Ch. 104, L. 1975; Sec. 53-107, R.C.M. 1947; (4), (5) En. Subd. 3, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.2, R.C.M. 1935; amd. Sec. 3, Ch. 72, L. 1937; amd. Sec. 1, Ch. 199, L. 1955; Sec. 53-116, R.C.M. 1947; R.C.M. 1947, 53-107(part), 53-116(part); amd. Sec. 35, Ch. 421, L. 1979; amd. Sec. 5, Ch. 502, L. 1979; amd. Sec. 9, Ch. 712, L. 1979; amd. Sec. 25, Ch. 614, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 5, Ch. 363, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 2, Ch. 365, L. 1993; amd. Sec. 64, Ch. 477, L. 2003; amd. Sec. 77, Ch. 542, L. 2005; amd. Sec. 59, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-323. Definitions

61-3-323. Definitions. As used in 61-3-323 through 61-3-325, unless the context requires otherwise, the following definitions apply: (1) "Domicile" means the county in which a motor vehicle is most frequently used, dispatched, or controlled. (2) "Fleet" means motor vehicles, trailers, semitrailers, or pole trailers owned or leased by a person operating the motor vehicles, trailers, semitrailers, or pole trailers in this state in a quantity set by the department pursuant to 61-14-101. History: En. Sec. 1, Ch. 61, L. 1989; amd. Sec. 78, Ch. 542, L. 2005; amd. Sec. 2, Ch. 407, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-324. Fleet registration -- application -- additions to and deletions from fleet

61-3-324. Fleet registration -- application -- additions to and deletions from fleet. (1) A person owning or leasing a fleet may register the fleet annually through the department in lieu of registering each motor vehicle, trailer, semitrailer, or pole trailer in its domicile. (2) The fleet owner or lessor and the department may enter into an agreement to change the registration period for the fleet in a manner that comports with the requirements of 61-3-311(3). (3) A motor vehicle, trailer, semitrailer, or pole trailer may be added to the fleet at any time during the registration period. If a certificate of title for a vehicle to be added to the fleet has not been issued by the department, the fleet owner or lessor may submit the application for certificate of title directly to the department. (4) A motor vehicle, trailer, semitrailer, or pole trailer may be removed from a fleet if the fleet owner or lessor notifies the department of its removal. Upon receipt of the notice, the department shall cancel the vehicle's registration. History: En. Sec. 2, Ch. 61, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 22, L. 2005; amd. Sec. 79, Ch. 542, L. 2005; amd. Sec. 60, Ch. 596, L. 2005; amd. Sec. 3, Ch. 407, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-325. Fleet registration -- license plates

61-3-325. Fleet registration -- license plates. (1) The department or an authorized agent shall compute fees and taxes due on each motor vehicle, trailer, semitrailer, or pole trailer in the fleet as provided in parts 3 and 5 of this chapter, based on its domicile. (2) The department may issue a separate series of license plates that do not require a registration decal to be affixed. Fleet series license plates may have the same background as standard license plates issued under 61-3-332 but may have a separate numbering system determined by the department pursuant to 61-14-101. At the request of the fleet owner or lessor and upon payment of all applicable fees, a license plate type other than the fleet plate may be issued to a fleet vehicle. History: En. Sec. 3, Ch. 61, L. 1989; amd. Sec. 14, Ch. 398, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 164, Ch. 574, L. 2001; amd. Sec. 2, Ch. 22, L. 2005; amd. Sec. 80, Ch. 542, L. 2005; amd. Sec. 61, Ch. 596, L. 2005; amd. Sec. 4, Ch. 407, L. 2021.

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61-3-326 through 61-3-330 reserved.

2024 Montana Code AnnotatedTitle 61. Motor VehiclesChapter 3. Certificates of Title, Registration, and Taxation of Motor VehiclesPart 3. Registration61-3-331. Assignment of license plates

61-3-331. Assignment of license plates.The county treasurer or an authorized agent shall, at the time of issuing a registration receipt under 61-3-322, assign the motor vehicle, trailer, semitrailer, or pole trailer a distinctive license plate number and, unless the license plates must be specially ordered from the department, deliver to the applicant, depending on the type of motor vehicle that was registered, a set of two license plates or one license plate, each of which must bear the assigned distinctive number. History: En. Subd. 3, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.2, R.C.M. 1935; amd. Sec. 3, Ch. 72, L. 1937; amd. Sec. 1, Ch. 199, L. 1955; R.C.M. 1947, 53-116(part); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 81, Ch. 542, L. 2005; amd. Sec. 62, Ch. 596, L. 2005; amd. Sec. 7, Ch. 196, L. 2013.

2024 Montana Code AnnotatedTitle 61. Motor VehiclesChapter 3. Certificates of Title, Registration, and Taxation of Motor VehiclesPart 3. Registration61-3-332. Standard license plates

61-3-332. Standard license plates.(1) In addition to special license plates, collegiate license plates, generic specialty license plates, and fleet license plates authorized under this chapter, a separate series of standard license plates must be issued for motor vehicles, quadricycles, travel trailers, trailers, semitrailers, and pole trailers registered in this state or offered for sale by a vehicle dealer licensed in this state. Standard license plates issued to licensed vehicle dealers must be readily distinguishable from license plates issued to vehicles owned by other persons. (2) (a) Except as provided in 61-3-479 and subsections (2)(b), (3)(b), and (3)(c) of this section, all standard license plates for motor vehicles, trailers, semitrailers, or pole trailers must bear a distinctive marking, as determined by the department, and be furnished by the department. In years when standard license plates are not reissued for a vehicle, the department shall provide a registration decal that must be affixed to the rear license plate of the vehicle. (b) For light vehicles that are permanently registered as provided in 61-3-562 and motor vehicles described in 61-3-303(10) that are permanently registered, the department shall provide a distinctive registration decal indicating that the motor vehicle is permanently registered. The registration decal must be affixed to the rear license plate of the permanently registered motor vehicle. (c) For a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer that is permanently registered as provided in 61-3-313(2), the department may use the word or an abbreviation for the word "permanent" on the plate in lieu of issuing a registration decal for the plate. (3) (a) (i) New license plates issued under 61-3-303 or this section must be a standard license plate design first issued in 1989 or later or current collegiate or generic specialty license plate designs. For the purposes of this subsection (3), all military, veteran, and amateur radio license plates and any license plate with a wheelchair design, excluding collegiate or generic specialty plates with a wheelchair design, are treated as standard license plates. (ii) (A) Except as provided in subsection (3)(a)(ii)(B), license plates issued on or after January 1, 2010, must be replaced with new license plates if, upon renewal of registration under 61-3-312, the license plates are 5 or more years old or will become older than 5 years during the registration period. New license plates must be issued in accordance with the implementation schedule adopted by the department under 61-14-101. (B) License plates issued to a disabled veteran with a combat-related disability must be replaced with new license plates if, on renewal of registration under 61-3-312, the license plates are 10 or more years old or will become older than 10 years during the registration period. (iii) A vehicle owner may elect to keep the same license plate number from license plates issued before January 1, 2010, when replacement of those plates is required under this subsection. (b) A motor vehicle that is registered for a 13-month to a 24-month period, as provided in 61-3-311, may display the license plate and plate design in effect at the time of registration for the entire registration period. (c) A light vehicle described in subsection (2)(b) or a motor home that is permanently registered may display the license plate and plate design in effect at the time of registration for the entire period that the light vehicle or motor home is permanently registered. (d) The provisions of this subsection (3) do not apply to a travel trailer, motorcycle, quadricycle, trailer, semitrailer, or pole trailer. (e) The requirements of this subsection (3) apply to collegiate license plates authorized under 61-3-461 through 61-3-468, generic specialty license plates authorized under 61-3-472 through 61-3-481, commemorative centennial license plates authorized under 61-3-448, and special military or veteran license plates authorized under 61-3-458. (4) (a) All license plates must be metal and treated with a reflectorized background material according to specifications prescribed by the department. The word "Montana" must be placed on each license plate and, except for license plates that are 4 inches wide and 7 inches in length, the outline of the state of Montana must be used as a distinctive border on each standard license plate. (b) Plates for semitrailers, travel trailers, pole trailers, trailers with a declared weight of 6,000 pounds or more, and motor vehicles, other than motorcycles and quadricycles, must be 6 inches wide and 12 inches in length. (c) Plates for motorcycles and quadricycles must be 4 inches wide and 7 inches in length. (d) The department shall issue plates that are 4 inches wide and 7 inches in length for trailers with a declared weight of less than 6,000 pounds unless a person registering a trailer with a declared weight of less than 6,000 pounds requests plates that are 6 inches wide and 12 inches in length. A person registering a trailer shall pay all applicable fees for the plates chosen. (5) The distinctive registration numbers for standard license plates must begin with a number one or with a letter-number combination, such as "A 1" or "AA 1", or any other similar combination of letters and numbers. Except for special license plates, collegiate license plates, generic specialty license plates, fleet license plates, and standard license plates that are 4 inches wide and 7 inches in length, the distinctive registration number or letter-number combination assigned to the motor vehicle must appear on the plate preceded by the number of the county and

appearing in horizontal order on the same horizontal baseline. The county number must be separated from the distinctive registration number by a separation mark unless a letter-number combination is used. The dimensions of the numerals and letters must be determined by the department, and all county and registration numbers must be of equal height. (6) For the use of exempt motor vehicles, trailers, semitrailers, or pole trailers and motor vehicles, trailers, semitrailers, or pole trailers that are exempt from the registration fee as provided in 61-3-321, in addition to the markings provided in this section, standard license plates must bear the following distinctive markings: (a) For motor vehicles, trailers, semitrailers, or pole trailers owned by the state, the department may designate the prefix number for the various state departments. All numbered plates issued to state departments must bear the words "State Owned", and a year number may not be indicated on the plates because these numbered plates are of a permanent nature and will be replaced by the department only when the physical condition of numbered plates requires it. (b) For motor vehicles, trailers, semitrailers, or pole trailers that are owned by the counties, municipalities, and special districts, as defined in 18-8-202, organized under the laws of Montana and not operating for profit, and that are used and operated by officials and employees in the line of duty and for motor vehicles on loan from the United States government or the state of Montana to, or owned by, the civil air patrol and used and operated by officials and employees in the line of duty, there must be placed on the standard license plates assigned, in a position that the department may designate, the letter "X" or the word "EXEMPT". Distinctive registration numbers for plates assigned to motor vehicles, trailers, semitrailers, or pole trailers of each of the counties in the state and those of the municipalities and special districts that obtain plates within each county must begin with number one and be numbered consecutively. Because these standard license plates are of a permanent nature, they are subject to replacement by the department only when the physical condition of the license plates requires it and a year number may not be displayed on the plates. (7) For the purpose of this chapter, the several counties of the state are assigned numbers as follows: Silver Bow, 1; Cascade, 2; Yellowstone, 3; Missoula, 4; Lewis and Clark, 5; Gallatin, 6; Flathead, 7; Fergus, 8; Powder River, 9; Carbon, 10; Phillips, 11; Hill, 12; Ravalli, 13; Custer, 14; Lake, 15; Dawson, 16; Roosevelt, 17; Beaverhead, 18; Chouteau, 19; Valley, 20; Toole, 21; Big Horn, 22; Musselshell, 23; Blaine, 24; Madison, 25; Pondera, 26; Richland, 27; Powell, 28; Rosebud, 29; Deer Lodge, 30; Teton, 31; Stillwater, 32; Treasure, 33; Sheridan, 34; Sanders, 35; Judith Basin, 36; Daniels, 37; Glacier, 38; Fallon, 39; Sweet Grass, 40; McCone, 41; Carter, 42; Broadwater, 43; Wheatland, 44; Prairie, 45; Granite, 46; Meagher, 47; Liberty, 48; Park, 49; Garfield, 50; Jefferson, 51; Wibaux, 52; Golden Valley, 53; Mineral, 54; Petroleum, 55; Lincoln, 56. Any new counties must be assigned numbers by the department as they are formed, beginning with the number 57. (8) Each type of special license plate approved by the legislature, except collegiate license plates authorized in 61-3-463 and generic specialty license plates authorized in 61-3-472 through 61-3-481, must be a separate series of plates, numbered as provided in subsection (5), except that the county number must be replaced by a design that distinguishes each separate plate series. Unless otherwise specifically stated in this section, the special plates are subject to the same rules and laws as govern the issuance of standard license plates, must be placed or mounted on a motor vehicle, trailer, semitrailer, or pole trailer owned by the person who is eligible to receive them, with the registration decal affixed to the rear license plate of the motor vehicle, trailer, semitrailer, or pole trailer, and must be removed upon sale or other disposition of the motor vehicle, trailer, semitrailer, or pole trailer. (9) (a) A Montana resident who is eligible to receive a disability parking permit under 49-4-301 may and a person with a low-speed restricted driver's license operating a low-speed electric vehicle or golf cart as provided in 61-5-122 must, upon written application on a form prescribed by the department, be issued a disability license plate with a design or decal bearing a representation of a wheelchair as the symbol of a person with a disability. (b) If the motor vehicle to which the license plate is attached is permanently registered, the owner of the motor vehicle shall provide, upon request of a person authorized to enforce disability parking laws or ordinances in this or any state, evidence of continued eligibility to use the license plate in the form of a valid disability parking permit issued to or renewed by the vehicle owner under 49-4-304 and 49-4-305. (c) A person with a permanent condition, as provided in 49-4-301(2)(b), who has been issued a disability license plate upon written application, as provided in this subsection (9), is not required to reapply upon reregistration of the motor vehicle. (10) The provisions of this section do not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is registered as part of a fleet, as defined in 61-3-712, and that is subject to the provisions of 61-3-711 through 61-3-733. History: En. Sec. 3, Ch. 75, L. 1917; re-en. Sec. 1757, R.C.M. 1921; amd. Sec. 2, Ch. 158, L. 1933; re-en. Sec. 1757, R.C.M. 1935; amd. Sec. 1, Ch. 6, L. 1941; amd. Sec. 3, Ch. 88, L. 1943; amd. Sec. 1, Ch. 111, L. 1951; amd. Sec. 1, Ch. 29, L. 1953; amd. Sec. 1, Ch. 245, L. 1955; amd. Sec. 1, Ch. 236, L. 1957; amd. Sec. 1, Ch. 245, L. 1959; amd. Sec. 1, Ch. 245, L. 1965; amd. Sec. 1, Ch. 41, L. 1967; amd. Sec. 5, Ch. 127, L. 1969; amd. Sec. 1, Ch. 226, L. 1971; amd. Sec. 1, Ch. 41, L. 1975; amd. Sec. 1, Ch. 390, L. 1975; amd. Sec. 1, Ch. 243, L. 1977; amd. Sec. 3, Ch. 492, L. 1977; R.C.M. 1947, 53-106(part); amd. Sec. 26, Ch. 614, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 19, Ch. 516, L. 1985; amd. Sec. 4, Ch. 674, L. 1985; amd. Sec. 22, Ch. 611, L. 1987; amd. Sec. 1, Ch. 654, L. 1989; amd. Sec. 2, Ch. 632, L. 1991; amd. Sec. 1, Ch. 83, L. 1993; amd. Sec. 2, Ch. 159, L. 1993; amd. Sec. 3, Ch. 209, L. 1993; amd. Sec. 2, Ch. 81, L. 1995; amd. Sec. 2, Ch. 72, L. 1997; amd. Sec. 10, Ch. 109, L. 1997; amd. Sec. 72, Ch. 472, L. 1997; amd. Sec. 2, Ch. 79, L. 1999; amd. Sec. 1, Ch. 344, L. 1999; amd. Sec. 29, Ch. 515, L. 1999; amd. Sec. 1, Ch. 570, L. 1999; amd. Sec. 1, Ch. 72, L. 2001; amd. Sec. 1, Ch. 167, L. 2001; amd. Sec. 10, Ch. 191, L. 2001; amd. Sec. 1, Ch. 249, L. 2001; amd. Sec. 3, Ch. 337, L. 2001; amd. Secs. 11, 16, 17(2), Ch. 402, L. 2001; amd. Sec. 2, Ch. 539, L. 2001; amd. Sec. 165, Ch. 574, L. 2001; amd. Sec. 3, Ch. 280, L. 2003; amd. Sec. 12, Ch. 399, L. 2003; amd. Sec. 34, Ch. 592, L. 2003; amd. Sec. 5, Ch. 500, L. 2005; amd. Secs. 2, 4, Ch. 507, L. 2005; amd. Sec. 82, Ch. 542, L. 2005; amd. Sec. 63, Ch. 596, L. 2005; amd. Sec. 28, Ch. 329, L. 2007; amd. Sec. 1, Ch. 392, L. 2007; amd. Sec. 12, Ch. 413, L. 2009; amd. Sec. 1, Ch. 127, L. 2011; amd. Sec. 10, Ch. 209, L. 2011; amd. Sec. 2, Ch. 231, L. 2011; amd. Sec. 7, Ch. 247, L. 2011; amd. Sec. 2, Ch. 393, L. 2013; amd. Sec. 17, Ch. 275, L. 2017; amd. Sec. 6, Ch. 335, L. 2019; amd. Sec. 1, Ch. 252, L. 2021; amd. Sec. 10, Ch. 389, L. 2021; amd. Sec. 11, Ch. 390, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-333. Replacing license plates or decals

61-3-333. Replacing license plates or decals. (1) Except as provided in subsection (2), if one or both license plates registered to a motor vehicle, quadricycle, travel trailer, trailer, semitrailer, or pole trailer or the registration decal for the motor vehicle, quadricycle, travel trailer, trailer, semitrailer, or pole trailer is mutilated or destroyed, the owner of the registered motor vehicle or trailer may obtain a set of replacement license plates, a replacement license plate, or a duplicate registration decal upon filing a sworn declaration stating that fact and payment of a fee of \$10. (2) If the owner requests that the replacement license plate or plates bear the same background and license plate number as the plate or plates that were destroyed or mutilated, the duplicate license plate or plates may be issued upon payment of a fee of \$15. (3) The fees imposed in this section must be deposited in the account established in 61-6-158, except that \$2 of the fee imposed in subsection (1) must be deposited in the state general fund. History: En. Subd. 7, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.6, R.C.M. 1935; amd. Sec. 1, Ch. 47, L. 1955; amd. Sec. 1, Ch. 86, L. 1969; amd. Sec. 3, Ch. 226, L. 1971; R.C.M. 1947, 53-120; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 9, Ch. 724, L. 1991; amd. Sec. 4, Ch. 280, L. 2003; amd. Sec. 35, Ch. 592, L. 2003; amd. Sec. 64, Ch. 596, L. 2005; amd. Sec. 13, Ch. 413, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-334. Transfer of ownership of motor vehicle -- duty to remove plates

61-3-334. Transfer of ownership of motor vehicle -- duty to remove plates. Upon the transfer of ownership of a motor vehicle, trailer, semitrailer, or pole trailer, the transferor shall immediately remove the license plates from the motor vehicle, trailer, semitrailer, or pole trailer. History: En. Sec. 1, Ch. 127, L. 1969; R.C.M. 1947, 53-145; amd. Sec. 84, Ch. 542, L. 2005; amd. Secs. 65, 152, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-335. Transfer of license plates to another motor vehicle

61-3-335. Transfer of license plates to another motor vehicle. (1) A person may request the transfer of license plates removed from a motor vehicle, trailer, semitrailer, or pole trailer under 61-3-334 to another motor vehicle, trailer, semitrailer, or pole trailer acquired or owned by the same person. The use of the license plates may not be legalized until proper transfer of license plates has been made. (2) License plates may be transferred pursuant to this section without transferring ownership of the first motor vehicle, trailer, semitrailer, or pole trailer. (3) Upon transfer of the license plates, the registration of the motor vehicle, trailer, semitrailer, or pole trailer from which the license plates were transferred expires. History: En. Sec. 2, Ch. 127, L. 1969; amd. Sec. 6, Ch. 138, L. 1971; amd. Sec. 3, Ch. 243, L. 1977; R.C.M. 1947, 53-146; amd. Sec. 1, Ch. 106, L. 1979; amd. Sec. 1, Ch. 415, L. 1979; amd. Sec. 27, Ch. 614, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 85, Ch. 542, L. 2005; amd. Sec. 66, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-336. Recycling license plates

61-3-336. Recycling license plates. The department is authorized to promote the recycling of used or outdated license plates for the metal content and may enter into contractual agreements with nonprofit organizations for the collection of used or outdated license plates and for their transportation to a central recycling point. History: En. Sec. 1, Ch. 96, L. 1979; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-337. Permanently registered motor homes -- plate restriction

61-3-337. Permanently registered motor homes -- plate restriction. The following series of license plates may not be used for purposes of permanent registration of a motor home: (1) Montana national guard license plates issued under 61-3-458(2)(b); (2) reserve armed forces license plates issued under 61-3-458(2)(c); and (3) amateur radio operator license plates issued under 61-3-422. History: En. Secs. 154, 155, Ch. 596, L. 2005; amd. Sec. 3, Ch. 393, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-338. Contract for manufacture and distribution of license plates

61-3-338. Contract for manufacture and distribution of license plates. (1) The department shall contract with Montana correctional enterprises for the manufacture, inventory control, storage, and distribution of all license plates issued under this chapter. (2) The contract must include provisions for payment to Montana correctional enterprises after license plates are shipped to the department, the office of a county treasurer, an authorized agent, or a vehicle owner, as directed by the department or at the request of a vehicle owner. (3) The contract must require Montana correctional enterprises to provide the necessary interface to support the automated ordering of license plates by the department or as directed by the department and to acquire and use readability software to assess any new plate design or manufactured plate and, if requested by the department, any previously issued license plates. History: En. Sec. 4, Ch. 413, L. 2009; amd. Sec. 8, Ch. 196, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-339. and 61-3-340 reserved

61-3-339 and 61-3-340 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-341. Lost certificates

61-3-341. Lost certificates. In the event any certificate of registration shall be lost, mutilated, or become illegible, the person to whom the same shall have been issued shall immediately make application for and may obtain a duplicate thereof, upon furnishing satisfactory information to the department of such facts and upon payment of a fee of \$2. History: En. Subd. 6, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.5, R.C.M. 1935; amd. Sec. 1, Ch. 96, L. 1953; amd. Sec. 28, Ch. 121, L. 1965; R.C.M. 1947, 53-113(part); amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-343. reserved

61-3-343 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-344. Out-of-state USS Montana vehicles -- compliance with local state safety and emissions laws

61-3-344. Out-of-state USS Montana vehicles -- compliance with local state safety and emissions laws. A vehicle displaying USS Montana specialty license plates and located for more than 1 month in the state that contains the home port of the USS Montana is subject to that state's laws regarding safety inspections and emissions testing. History: En. Sec. 1, Ch. 663, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-345. Motor vehicle computer system

61-3-345. Motor vehicle computer system. The department shall maintain a statewide online computer system to be used to title and register motor vehicles, trailers, semitrailers, pole trailers, campers, motorboats, personal watercraft, sailboats, snowmobiles, and off-highway vehicles. History: En. Sec. 12, Ch. 604, L. 1991; amd. Sec. 132, Ch. 27, Sp. L. November 1993; amd. Sec. 41, Ch. 313, L. 2001; amd. Sec. 87, Ch. 542, L. 2005; amd. Sec. 67, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-346. County motor vehicle computer committee

61-3-346. County motor vehicle computer committee. (1) There is a county motor vehicle computer committee. (2) The committee is allocated to the department of justice for administrative purposes only as provided in 2-15-121. (3) The committee consists of: (a) an employee of the department of justice information technology division, appointed by the attorney general; (b) two county treasurers, appointed by the Montana county treasurers association; and (c) two employees of the department of justice, appointed by the attorney general. History: En. Sec. 13, Ch. 604, L. 1991; amd. Sec. 42, Ch. 313, L. 2001; amd. Sec. 26, Ch. 365, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 3. Registration 61-3-347. Duties of county motor vehicle computer committee -- definition

61-3-347. Duties of county motor vehicle computer committee -- definition. (1) The county motor vehicle computer committee shall: (a) establish the requirements and specifications for the county motor vehicle computer system to be used by county treasurers and the department of justice to register and renew the registration of motor vehicles, boats, snowmobiles, and off-highway vehicles; (b) approve the purchase of computer equipment, including peripherals, to be used for the registration and renewal of the registration of motor vehicles, boats, snowmobiles, and off-highway vehicles; (c) approve the procedures for the development of the county motor vehicle computer system provided for in 61-3-345 and for training in the use of that system. (2) As used in this section, "computer system" means the county motor vehicle application system and does not imply that the department of administration is responsible for establishing policy and operating and maintaining the county motor vehicle computer system. History: En. Sec. 14, Ch. 604, L. 1991; amd. Sec. 68, Ch. 596, L. 2005; amd. Sec. 27, Ch. 365, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-401. Definition of personalized license plates

61-3-401. Definition of personalized license plates. Personalized license plates, as used in 61-3-401 through 61-3-406, are license plates that are specially produced and display a specific combination of letters or numbers, or both, expressly requested by the owner of the passenger motor vehicle. History: En. 53-150 by Sec. 3, Ch. 257, L. 1973; R.C.M. 1947, 53-150; amd. Sec. 88, Ch. 542, L. 2005; amd. Sec. 69, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-402. Personalized license plates authorized

61-3-402. Personalized license plates authorized. A person who is the registered owner of a motor vehicle, truck, motor home, trailer,

motorcycle, quadricycle, or other vehicle for the owner's personal use may upon payment of the fee prescribed in 61-3-406 apply to the department for personalized license plates in the manner prescribed in 61-3-405. The plates must be affixed to the vehicle for which registration is sought in lieu of the license plates numbered as provided in 61-3-332. History: En. 53-148 by Sec. 1, Ch. 257, L. 1973; amd. Sec. 1, Ch. 53, L. 1975; R.C.M. 1947, 53-148; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 20, Ch. 516, L. 1985; amd. Sec. 70, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-403. Color and design of personalized license plates -- exception

61-3-403. Color and design of personalized license plates -- exception. Except as provided in 61-3-407 and 61-3-466, the personalized license plates must be the same color and design as standard license plates and must consist of numbers or letters, or any combination of numbers or letters, not exceeding eight positions and not less than two positions, provided that there are no conflicts with existing standard or special license plate series under this title. A registration decal must be displayed on personalized license plates as provided in 61-3-332. History: En. 53-149 by Sec. 2, Ch. 257, L. 1973; R.C.M. 1947, 53-149; amd. Sec. 1, Ch. 318, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 21, Ch. 516, L. 1985; amd. Sec. 8, Ch. 661, L. 1989; amd. Sec. 66, Ch. 130, L. 2005; amd. Sec. 89, Ch. 542, L. 2005; amd. Sec. 71, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-404. Personalized license plates restricted to registered owner

61-3-404. Personalized license plates restricted to registered owner. Personalized license plates may be issued only to the registered owner of the motor vehicle upon which they are displayed. History: En. 53-151 by Sec. 4, Ch. 257, L. 1973; R.C.M. 1947, 53-151; amd. Sec. 90, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-405. Application for personalized plates

61-3-405. Application for personalized plates. An applicant for personalized license plates or renewal of such plates in subsequent years pursuant to 61-3-401 through 61-3-406 shall file an application therefor in the form and by the date the department requires, indicating thereon the combination of letters or numbers, or both, requested as a registration number. There shall be no duplication of registration numbers, and the department may refuse to issue any combination of letters or numbers, or both, that may carry connotations offensive to good taste and decency or which are misleading or a duplication of license plates provided for elsewhere in this title. History: En. 53-152 by Sec. 5, Ch. 257, L. 1973; R.C.M. 1947, 53-152; amd. Sec. 36, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-406. Fees for personalized plates -- disposition

61-3-406. Fees for personalized plates -- disposition. (1) In addition to all other fees and taxes imposed by law, the applicant for a personalized license plate shall pay a fee of \$25 for the original personalized license plate and a fee of \$10 for each transfer or renewal of the personalized license plate. (2) The revenue derived from the fee must be deposited in the state general fund. History: En. 53-153 by Sec. 6, Ch. 257, L. 1973; R.C.M. 1947, 53-153; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 1, Ch. 141, L. 1989; amd. Sec. 11, Ch. 398, L. 1989; amd. Sec. 166, Ch. 574, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-407. Personalized license plates for disabled -- military, veteran, and generic specialty license plates

61-3-407. Personalized license plates for disabled -- military, veteran, and generic specialty license plates. Subject to the provisions of 61-3-405 and 61-3-406, an application for standard license plates bearing a wheelchair as the symbol of a person with a disability under 61-3-332(9), special military or veteran license plates under 61-3-458, or generic specialty license plates under 61-3-472 through 61-3-481 may be combined with an application for personalized plates. The application must be made on a form supplied by the department. History: En. Sec. 1, Ch. 126, L. 1995; amd. Sec. 2, Ch. 344, L. 1999; amd. Sec. 12, Ch. 402, L. 2001; amd. Sec. 13, Ch. 399, L. 2003; amd. Sec. 72, Ch. 596, L. 2005; amd. Sec. 3, Ch. 233, L. 2009; amd. Sec. 14, Ch. 413, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-408. through 61-3-410 reserved

61-3-408 through 61-3-410 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-411. Registration of motor vehicle owned and operated solely as collector's item

61-3-411. Registration of motor vehicle owned and operated solely as collector's item. (1) An owner of a motor vehicle, trailer, semitrailer, or pole trailer that is more than 30 years old and that is used solely as a collector's item and is not used for general

transportation purposes may file with the department an application for the registration of the motor vehicle, trailer, semitrailer, or pole trailer. The application must state: (a) the name and address of the owner; (b) the name and address of the person from whom the motor vehicle, trailer, semitrailer, or pole trailer was purchased; (c) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle, trailer, semitrailer, or pole trailer; and (d) that the motor vehicle, trailer, semitrailer, or pole trailer is owned and operated solely as a collector's item and not for general transportation purposes. (2) Upon receipt of the application for registration and payment of the registration fees, including fees in lieu of tax, the department shall file the application and register the motor vehicle, trailer, semitrailer, or pole trailer in the manner specified in 61-3-303 and, unless the applicant chooses to exercise an option allowed in 61-3-412, shall deliver to the applicant: (a) for a motor vehicle, trailer, semitrailer, or pole trailer manufactured in 1933 or earlier, two license plates bearing the inscription "Pioneer--Montana" and the registration number; or (b) for a motor vehicle, trailer, semitrailer, or pole trailer manufactured in 1934 or later and more than 30 years old, two license plates bearing the inscription "Vintage--Montana" and the registration number. (3) The year of issuance may not be shown on the plates. (4) Annual renewal of the registration of a motor vehicle, trailer, semitrailer, or pole trailer registered under this section is not required, and the registration is valid as long as the motor vehicle, trailer, semitrailer, or pole trailer is in existence and owned by the initial registrant. History: En. 53-106.1 by Sec. 1, Ch. 123, L. 1955; amd. Sec. 1, Ch. 86, L. 1963; amd. Sec. 1, Ch. 422, L. 1973; R.C.M. 1947, 53-106.1; amd. Sec. 37, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 150, L. 1989; amd. Sec. 167, Ch. 574, L. 2001; amd. Sec. 66, Ch. 477, L. 2003; amd. Secs. 5, 10, Ch. 458, L. 2005; amd. Sec. 91, Ch. 542, L. 2005; amd. Sec. 3, Ch. 197, L. 2019; amd. Sec. 3, Ch. 295, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-412. Display of original Montana license plates or collector reproduction license plates on collector's item and general transportation collector's item motor vehicles -- definitions -- validation

61-3-412. Display of original Montana license plates or collector reproduction license plates on collector's item and general transportation collector's item motor vehicles -- definitions -- validation. (1) As used in 61-3-413 and this section, the following definitions apply: (a) "Collector reproduction license plate" means a license that is a reproduction of the original license plate issued according to the provisions of 61-3-331; section 53-116, R.C.M. 1947; section 1759.1, R.C.M. 1935; or section 1759, R.C.M. 1921; whichever section was effective during the year of the manufacture of the motor vehicle, trailer, semitrailer, or pole trailer on which the license plate is authorized to be displayed. To qualify as a collector reproduction license plate, the reproduction plate must be made of metal, must be the same size and color as the original license plate, and must have the same design, including any embossed or raised letters or numbers, as the original license plate. (b) "Original Montana license plate" means a license plate issued according to the provisions of 61-3-331; section 53-116, R.C.M. 1947; section 1759.1, R.C.M. 1935; or section 1759, R.C.M. 1921; whichever section was effective during the year of the manufacture of the motor vehicle, trailer, semitrailer, or pole trailer on which the license plate is authorized to be displayed. (2) Notwithstanding the provisions of 61-3-332, the department shall authorize the owner of a motor vehicle, trailer, semitrailer, or pole trailer registered as provided in 61-3-411 or 61-3-413 to display original Montana license plates or collector reproduction license plates, with validation as required in 61-3-413 or subsection (4) of this section, after: (a) payment of the fee required in subsection (6); (b) inspection by a highway patrol officer of the original Montana license plate or collector reproduction license plate to be displayed on the motor vehicle, trailer, semitrailer, or pole trailer and, upon payment of a \$5 fee, receipt of the highway patrol officer's certification that the officer has determined that: (i) the license plate is legible and meets the requirements of subsection (1); and (ii) in the case of a license plate intended for use on a general transportation collector's item, the license plate is visible at night; (c) receipt of an application by the owner of the motor vehicle, trailer, semitrailer, or pole trailer as provided for in 61-3-411 or 61-3-413; and (d) in the case of a general transportation collector's item application, certification from the department that a duplicate license plate number does not exist among currently issued license plates. (3) The owner of a motor vehicle, trailer, semitrailer, or pole trailer manufactured in the year 1948, 1949, or 1950 may display a single original Montana license plate that is affixed to the rear of the vehicle. The original Montana license plate must be legible and must bear the year that matches the year in which the vehicle was manufactured. (4) If the owner of a motor vehicle, trailer, semitrailer, or pole trailer meets the requirements of subsection (2), the department shall: (a) register the motor vehicle, trailer, semitrailer, or pole trailer as prescribed in 61-3-303; and (b) issue a validating decal inscribed with: (i) a unique number; and (ii) the letter: (A) "P" to designate motor vehicles, trailers, semitrailers, or pole trailers described in 61-3-411(2)(a); or (B) "V" to designate motor vehicles, trailers, semitrailers, or pole trailers described in 61-3-411(2)(b). (5) The owner of the motor vehicle, trailer, semitrailer, or pole trailer shall permanently affix the validating decal to the windshield of the collector's item motor vehicle, trailer, semitrailer, or pole trailer or, if a windshield does not exist, to another prominent and visible position on the motor vehicle, trailer, semitrailer, or pole trailer. (6) The owner of the motor vehicle, trailer, semitrailer, or pole trailer shall pay to the department with the application required under this section a one-time special collector's item motor vehicle, trailer, semitrailer, or pole trailer license fee of \$20. History: En. Sec. 2, Ch. 150, L. 1989; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 168, Ch. 574, L. 2001; amd. Sec. 1, Ch. 143, L. 2003; amd. Sec. 67, Ch. 477, L. 2003; amd. Sec. 92, Ch. 542, L. 2005; amd. Sec. 73, Ch. 596, L. 2005; amd. Sec. 1, Ch. 106, L. 2013; amd. Sec. 4, Ch. 295, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-413. Registration of motor vehicle as general transportation collector's item -- definition -- permanent registration required

61-3-413. Registration of motor vehicle as general transportation collector's item -- definition -- permanent registration required.(1) For the purposes of 61-3-412 and this section, a "general transportation collector's item" is a motor vehicle, trailer, semitrailer, or pole trailer that is 25 years old or older and that is used for general transportation purposes. (2) An owner of a general transportation collector's item who wishes to display original Montana license plates or collector reproduction license plates on the motor vehicle, trailer, semitrailer, or pole trailer shall file with the department an application for the registration of the motor vehicle, trailer, semitrailer, or pole trailer. The application must state: (a) the name and address of the owner; (b) the year and number of the license plate the applicant wishes to use; and (c) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle, trailer, semitrailer, or pole trailer. (3) Upon receipt of an application for registration of a general transportation collector's item that will display an original Montana license plate, the department shall compare the number of the license plate that the applicant intends to use with the license plate numbers assigned to currently registered motor vehicles, trailers, semitrailers, or pole trailers. The department may reject an application if the number the applicant intends to use matches a number that is assigned to a currently registered motor vehicle, trailer, semitrailer, or pole trailer. If the department approves the application, the department shall file the application and register the motor vehicle, trailer, semitrailer, or pole trailer in the manner specified in 61-3-101. (4) Upon receipt of an application for registration of a general transportation collector's item that will display a collector reproduction license plate, the department shall determine a distinctive license plate number to be assigned to the collector reproduction license plate. The department may: (a) issue a new license plate number following the requirements for issuing distinctive license plate numbers under 61-3-331; (b) issue a new personalized license plate number under 61-3-401 through 61-3-406; or (c) at the request of the owner, transfer a license plate number that is already assigned to the general transportation collector's item or another motor vehicle owned by the owner of the general transportation collector's item. (5) The general transportation collector's item owner may take the license plate number issued pursuant to subsection (4) and purchase a collector reproduction license plate from any source. (6) The one-time application fee for a collector reproduction license plate under subsection (4) is \$50. The fee must be deposited as follows: (a) \$25 must be deposited into the state special revenue account to partially fund highway patrol officers' salaries established in 44-1-504; and (b) \$25 must be deposited into the motor vehicle division administration account established in 61-3-112. (7) Once an application is approved, appropriate fees are paid, and the requirements provided in 61-3-412(2) are met, an owner of a general transportation collector's item shall permanently register the motor vehicle, trailer, semitrailer, or pole trailer as provided in 61-3-562 and shall display on the motor vehicle's, trailer's, semitrailer's, or pole trailer's license plate a decal indicating that the motor vehicle, trailer, semitrailer, or pole trailer has been permanently registered. History: En. Sec. 2, Ch. 143, L. 2003; amd. Sec. 93, Ch. 542, L. 2005; amd. Sec. 5, Ch. 295, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-414. Special motorcycle license plates for military personnel, veterans, and spouses -- department to design -- fees -- disposition

61-3-414. Special motorcycle license plates for military personnel, veterans, and spouses -- department to design -- fees -- disposition.(1) The department shall design and issue motorcycle license plates for all special military and veteran license plates provided for in 61-3-458. (2) A person requesting a special military or veteran motorcycle license plate under this section: (a) is subject to the eligibility requirements for the license plate as provided in 61-3-458; and (b) shall pay to the county treasurer or an authorized agent: (i) an administrative fee of \$5 upon issuance of the motorcycle license plate, to be deposited in the county general fund; (ii) a \$5 license plate fee, to be deposited in the state general fund; and (iii) a \$10 veterans' cemetery fee, to be deposited as provided in 61-3-459(2). (3) Upon request, after paying the fees imposed under subsection (2)(b) and any applicable vehicle registration fees under this chapter, the surviving spouse of an eligible veteran, if the spouse has not remarried, may retain the special license plates issued to the deceased veteran, subject to the eligibility requirements for the plate as provided in 61-3-458(4). History: En. Sec. 1, Ch. 337, L. 2009; amd. Sec. 9, Ch. 196, L. 2013; amd. Sec. 7, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-415. Special motorcycle license plates -- department to design -- fees -- distribution

61-3-415. Special motorcycle license plates -- department to design -- fees -- distribution.(1) A Montana resident who is the owner of a motorcycle or quadricycle titled and registered under this chapter and who pays the fee required under subsection (2) may be issued a special motorcycle license plate bearing a design created by the department. The design must recognize the efforts of one or more Montana-based nonprofit organizations that grant wishes to chronically or critically ill Montana children. (2) A person requesting a special motorcycle license plate under this section shall pay to the county treasurer or an authorized agent: (a) an administrative fee of \$5 upon issuance of the special license plate, to be deposited in the county general fund; (b) a \$5 license plate fee; and (c) a donation fee of \$20. (3) The county treasurer or an authorized agent shall remit the fees required in subsections (2)(b) and (2)(c) to the department. For each special plate issued, the department shall deposit \$5 in the state general fund and \$20 in an account in the state special revenue fund to be used by the department as provided in subsection (4). (4) The department shall use the money deposited in the account in the state special revenue fund as provided in subsection (3) to provide grants, using criteria established by the department, to Montana-based nonprofit organizations that grant wishes to Montana children who are chronically or critically ill. (5) The account in the state special revenue fund provided for in subsection (3) is statutorily appropriated to the department, as provided in 17-7-502. History: En. Sec. 1, Ch. 533, L. 2003; amd. Sec. 74, Ch. 596, L. 2005; amd. Sec. 10, Ch. 196, L. 2013; amd. Sec. 8, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-416. through 61-3-420 reserved

61-3-416 through 61-3-420 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-421. Amateur radio operators -- special license plate

61-3-421. Amateur radio operators -- special license plate. A resident of this state who holds an unrevoked and unexpired official amateur radio station license and operator's license, "conditional" or higher class, issued by the federal communications commission of the United States, upon proof of ownership of the amateur radio station license and operator's license, may be issued a set of license plates displaying the official amateur radio call letters of the owner as assigned to the owner by the federal communications commission for a light vehicle or motor home owned by and registered to the resident. The plates must be renewed as provided in 61-3-312. History: En. Sec. 1, Ch. 2, L. 1957; amd. Sec. 1, Ch. 62, L. 1959; R.C.M. 1947, 53-106.2; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 635, L. 1989; amd. Sec. 94, Ch. 542, L. 2005; amd. Sec. 75, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-422. Issuance -- application -- additional fee

61-3-422. Issuance -- application -- additional fee. The department shall issue license plates with the official amateur radio call letters to an amateur radio operator upon: (1) application showing proof that the applicant is the owner and holder of an amateur radio station license and operator's license; (2) compliance with the state laws relating to titling and registration of light vehicles and motor homes; (3) payment, or proof of payment, of all other fees and taxes applicable to the light vehicle or motor home; and (4) payment of a \$5 additional fee. History: En. Sec. 2, Ch. 2, L. 1957; amd. Sec. 2, Ch. 62, L. 1959; R.C.M. 1947, 53-106.3; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 635, L. 1989; amd. Sec. 95, Ch. 542, L. 2005; amd. Sec. 76, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-423. Limit of one identical pair of plates for each operator

61-3-423. Limit of one identical pair of plates for each operator. The department may not issue more than one identical pair of lettered license plates for any licensed amateur radio station in any one licensing period. History: En. Sec. 3, Ch. 2, L. 1957; amd. Sec. 3, Ch. 62, L. 1959; R.C.M. 1947, 53-106.4; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 96, Ch. 542, L. 2005; amd. Sec. 9, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-425. Special plates -- sale or transfer of auto -- revocation or expiration of radio license

61-3-425. Special plates -- sale or transfer of auto -- revocation or expiration of radio license. The license plates issued under 61-3-422 may be renewed as long as the amateur radio license is in force under the federal communications commission and the special license issued hereunder is in force. If the official amateur radio license is revoked or expires for any reason, the license plates must be removed immediately by the owner of the light vehicle or motor home, and the owner shall obtain standard license plates numbered as provided in 61-3-332. If the light vehicle or motor home is sold or otherwise transferred, the owner and holder of valid official amateur radio station and operator's licenses may transfer the amateur radio license plates to another light vehicle or motor home owned by the holder as provided in 61-3-335. On the revocation or expiration of the amateur radio station and operator's licenses, the license plates issued under 61-3-422 must be returned and surrendered to the department. History: En. Sec. 5, Ch. 2, L. 1957; amd. Sec. 4, Ch. 62, L. 1959; amd. Sec. 6, Ch. 127, L. 1969; R.C.M. 1947, 53-106.6; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 3, Ch. 635, L. 1989; amd. Sec. 77, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-426. Combined license plates

61-3-426. Combined license plates. (1) An application for license plates for amateur radio operators may be combined with an application for the special license plates issued under 61-3-458(4) or with an application for disability license plates issued to a person with a disability who complies with the provisions in 61-3-332(9). (2) Issuance of combined license plates is subject to 61-3-422. (3) The combined license plates must display the official amateur radio call letters of the owner as assigned to the owner by the federal communications commission. The plates must also display the design or decal provided for in 61-3-332(9) or 61-3-458(4). History: En. Sec. 1, Ch. 489, L. 1995; amd. Sec. 3, Ch. 79, L. 1999; amd. Sec. 4, Ch. 337, L. 2001; amd. Sec. 169, Ch. 574, L. 2001; amd. Sec. 14, Ch. 399, L. 2003; amd. Sec. 78, Ch. 596, L. 2005; amd. Sec. 4, Ch. 233, L. 2009; amd. Sec. 12, Ch. 390, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-427. through 61-3-430 reserved

61-3-427 through 61-3-430 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-431. Special mobile equipment -- exemption from registration and payment of fees and charges -- identification decal -- temporary registration permit -- publicly owned special mobile equipment

61-3-431. Special mobile equipment -- exemption from registration and payment of fees and charges -- identification decal -- temporary registration permit -- publicly owned special mobile equipment. (1) A person, firm, partnership, or corporation that owns, leases, or rents special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader and that occasionally moves that equipment on, over, or across the highways of the state is not subject to registration of that equipment or required to pay the fees and charges provided for in 61-4-301 through 61-4-308 or Title 61, chapter 10, part 2. Prior to movement on the highways: (a) each piece of equipment must display an equipment identification decal or a dealer's license plate attached to the equipment, except for motor vehicles or trailers designed and used to apply fertilizer to agricultural land that are brought into Montana for demonstration purposes; (b) each motor vehicle or trailer designed and used to apply fertilizer to agricultural land that is brought into Montana for demonstration purposes must have a temporary registration permit conspicuously displayed. (2) (a) Annual application for the identification decal must be made to the county treasurer before any piece of equipment is moved on the highways. Application must be made on a form furnished by the department, together with the payment of a fee of \$5. The equipment for which a special mobile equipment decal or for which a temporary registration permit is sought is subject to the assessment of personal property taxes. The person, firm, partnership, or corporation applying for the decal shall report the application for the identification decal to the department of revenue. For migratory personal property described in 15-24-301(1), the personal property taxes assessed against the special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader must be paid before an identification decal may be issued. The fees collected under this section must be deposited in the state general fund, except that \$25 of the temporary registration permit fee must be remitted to the department of transportation. (b) Application must be made for a temporary registration permit as provided in subsection (1)(b). The application must be made to the county treasurer or to an authorized agent before the piece of equipment is moved on Montana highways. Application for the temporary registration permit must be made on a form furnished by the department and must be accompanied by the payment of a fee of \$50, in addition to the fee required under 61-3-224. (3) The identification decal expires on December 31 of each year. If the expired identification decal is displayed, an owner of special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader registered under the provisions of this section is entitled to operate the equipment between January 1 and February 15 following expiration without displaying the identification decal or receipt of the current year. (4) (a) The temporary registration permit expires 40 days after its issuance. Special mobile equipment, a motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or a log loader that remains in the state past the expiration of the permit is subject to the assessment of personal property taxes, starting on the first day following expiration of the permit. (b) If the holder of a temporary registration permit leases or sells the piece of equipment during the term that is covered by the permit, the permit is no longer valid and the special mobile equipment, motor vehicle or trailer designed and used to apply fertilizer to agricultural land, or log loader is subject to the assessment of personal property taxes, starting on the first day of the lease or the date of the sale. (5) Publicly owned special mobile equipment, motor vehicles or trailers designed and used to apply fertilizer to agricultural land, or log loaders and implements of husbandry used exclusively by an owner in the conduct of the owner's farming operations are exempt from this section. History: En. Sec. 7-207, Ch. 197, L. 1965; amd. Sec. 1, Ch. 232, L. 1967; amd. Sec. 1, Ch. 244, L. 1971; Sec. 32-3707, R.C.M. 1947; amd. and redes. 53-639.1 by Sec. 124, Ch. 316, L. 1974; amd. Sec. 3, Ch. 388, L. 1975; R.C.M. 1947, 53-639.1; amd. Sec. 1, Ch. 74, L. 1979; amd. Sec. 1, Ch. 39, L. 1981; amd. Sec. 14, Ch. 140, L. 1985; amd. Sec. 30, Ch. 515, L. 1999; amd. Sec. 1, Ch. 526, L. 2001; amd. Sec. 170, Ch. 574, L. 2001; amd. Sec. 98, Ch. 542, L. 2005; amd. Sec. 79, Ch. 596, L. 2005; amd. Sec. 1, Ch. 89, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-432. Exemptions of vehicles not capable of operation on highways

61-3-432. Exemptions of vehicles not capable of operation on highways. Track-type tractors, other track mounted machinery and equipment, road rollers, and other similar equipment and machinery which cannot be self-propelled or towed upon the highways of this state and which must be transported by some type of hauling unit, are not subject to this chapter, chapter 4, part 1, chapter 6, chapter 10, part 2, or chapter 12, part 4. History: En. Sec. 3, Ch. 150, L. 1963; Sec. 53-638.1, R.C.M. 1947; amd. and redes. 53-639.2 by Sec. 187, Ch. 316, L. 1974; R.C.M. 1947, 53-639.2; amd. Sec. 2, Ch. 39, L. 1981; amd. Sec. 16, Ch. 409, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-433. Issuance of identification decal and receipt -- contents

61-3-433. Issuance of identification decal and receipt -- contents. The county treasurer shall issue to an applicant for an equipment identification decal a single decal with a distinguishing number and a receipt for the fee collected. The receipt must contain the name and address of the applicant, the number of the decal issued, the serial number of the equipment, and a brief description of that equipment. History: En. Sec. 2, Ch. 183, L. 1955; amd. Sec. 188, Ch. 316, L. 1974; R.C.M. 1947, 53-640; amd. Sec. 80, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-434. Attaching receipt to equipment -- inspection

61-3-434. Attaching receipt to equipment -- inspection. The receipt shall be carried in a suitable container attached to the equipment or immediately available for inspection of any peace officer or highway patrol officer. History: En. Sec. 3, Ch. 183, L. 1955; R.C.M. 1947, 53-641; amd. Sec. 1, Ch. 217, L. 1989.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-435. Certificate of title -- transaction summary receipt -- prima facie evidence

61-3-435. Certificate of title -- transaction summary receipt -- prima facie evidence. A certificate of title or transaction summary receipt issued by, or under the authority of, the department is prima facie evidence of the facts appearing on the certificate of title or transaction summary receipt. History: En. Sec. 45, Ch. 477, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-436. through 61-3-440 reserved

61-3-436 through 61-3-440 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-441. Renumbered 61-3-524

61-3-441. Renumbered 61-3-524. Code Commissioner, 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-442. Renumbered 61-3-525

61-3-442. Renumbered 61-3-525. Code Commissioner, 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-446. Retention of special license plates

61-3-446. Retention of special license plates. If during a registration year the holder of special license plates issued under 61-3-332(8) or generic specialty license plates issued as provided in 61-3-472 through 61-3-481 disposes of the motor vehicle to which the plates are affixed, the holder may retain the plates and transfer them to another vehicle under 61-3-335. History: En. Sec. 4, Ch. 441, L. 1983; amd. Sec. 5, Ch. 159, L. 1985; amd. Sec. 2, Ch. 494, L. 1985; amd. Sec. 17, Ch. 724, L. 1991; amd. Sec. 246, Ch. 42, L. 1997; amd. Sec. 3, Ch. 344, L. 1999; amd. Sec. 13, Ch. 402, L. 2001; amd. Sec. 99, Ch. 542, L. 2005; amd. Sec. 81, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-448. Commemorative centennial license plates -- continued use authorized

61-3-448. Commemorative centennial license plates -- continued use authorized. Subject to the limitation set forth in 61-3-332, a person who owned and displayed commemorative centennial license plates on a motor vehicle on or before June 30, 1996, may continue to display the commemorative centennial plates on the motor vehicle as long as the motor vehicle is registered under this chapter. History: En. Sec. 1, Ch. 58, L. 1993; amd. Sec. 81, Ch. 51, L. 1999; amd. Sec. 100, Ch. 542, L. 2005; amd. Sec. 29, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-449. and 61-3-450 reserved

61-3-449 and 61-3-450 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-455. Violation a misdemeanor

61-3-455. Violation a misdemeanor. A person who violates 61-3-414, 61-3-458, or 61-3-460 or who knowingly and wrongfully attempts to secure license plates under 61-3-332, 61-3-414, 61-3-458, or 61-3-460 is guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or imprisonment for not more than 30 days, or both. History: En. Sec. 4, Ch. 215, L. 1971; R.C.M. 1947, 53-106.11; Sec. 10-2-304, MCA 1983; redes. 61-3-455 by Sec. 7, Ch. 159, L. 1985; amd. Secs. 4, 5, Ch. 500, L. 1991; amd. Sec. 17, Ch. 724, L. 1991; amd. Sec. 15, Ch. 399, L. 2003; amd. Sec. 2, Ch. 337, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-456. Registration of motor vehicle owned and operated by Montana resident on active military duty stationed outside Montana

61-3-456. Registration of motor vehicle owned and operated by Montana resident on active military duty stationed outside Montana. (1) As an incentive for military service, an owner of a motor vehicle, trailer, semitrailer, or pole trailer who is a Montana resident, including a national guard or reserve member, and who is stationed outside Montana may file with the department an application for the registration of the motor vehicle, trailer, semitrailer, or pole trailer. The application must be sworn to before an

officer authorized to administer oaths. The application must state: (a) the name and address of the owner; (b) the make, the gross weight, the year and number of the model, and the manufacturer's identification number and serial number of the motor vehicle, trailer, semitrailer, or pole trailer; and (c) that the motor vehicle, trailer, semitrailer, or pole trailer is owned and operated by a Montana resident who meets the qualifications of subsection (1) and is on active military duty and stationed outside Montana. (2) The registration fee for a motor vehicle, trailer, semitrailer, or pole trailer registered under subsection (1) is as provided in 61-3-321. (3) A motor vehicle, trailer, semitrailer, or pole trailer registered under this section is not subject to: (a) the taxes or fees described in 61-3-303(6); (b) the fee in lieu of tax under 61-3-529 or the registration fee under 61-3-321(2) or 61-3-562; or (c) any of the fees provided in part 5 of this chapter. History: En. Sec. 1, Ch. 257, L. 1995; amd. Sec. 21, Ch. 496, L. 1997; amd. Sec. 1, Ch. 509, L. 1997; amd. Sec. 31, Ch. 515, L. 1999; amd. Sec. 68, Ch. 477, L. 2003; amd. Sec. 1, Ch. 228, L. 2005; amd. Sec. 101, Ch. 542, L. 2005; amd. Sec. 82, Ch. 596, L. 2005; amd. Sec. 11, Ch. 389, L. 2021; amd. Sec. 1, Ch. 173, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-458. Special plates for military personnel, veterans, spouses, and gold star families

61-3-458. Special plates for military personnel, veterans, spouses, and gold star families. (1) (a) Active military personnel, veterans, or the surviving spouse of an eligible veteran, if the spouse has not remarried, may be issued special military or veteran license plates as provided in this section. (b) As provided in subsection (3), family members of a member of the U.S. armed forces who are eligible for or who have received: (i) a "Gold Star Lapel Button" may be issued special gold star family license plates; and (ii) a "Next-of-Kin of Deceased Personnel Lapel Button" may be issued special next-of-kin license plates. (c) Subject to the provisions of 61-3-332 and except as otherwise provided in this chapter, special license plates issued pursuant to this section must be numbered in sets of two with a different number on each set and must be properly displayed as provided in 61-3-301. Special military, veteran, gold star family, or next-of-kin license plates may not be issued for a quadricycle, semitrailer, or pole trailer. Special military, veteran, gold star family, or next-of-kin license plates bearing a wheelchair as the symbol of a person with a disability may be issued to a person who meets the qualifications under 61-3-332(9) and this section. Special military or veteran license plates may be issued for a motorcycle pursuant to 61-3-414. (2) (a) Upon application, after paying all applicable motor vehicle, trailer, semitrailer, or pole trailer registration fees and special license plate fees and providing an official certificate from the applicant's unit commander verifying the individual's eligibility and authorizing the department to issue the plates to the individual, eligible military personnel may be issued one set of special military license plates as provided in this subsection (2). (b) A member of the Montana national guard who is a state resident may be issued special license plates with a design or decal displaying the letters "NG". However, the member shall surrender the plates to the department when the member becomes ineligible. (c) A member of the reserve armed forces of the United States who is a state resident may be issued special license plates according to the member's branch of service verified in the application with a design or decal displaying one of the following: United States army reserve, AR (symbol); United States naval reserve, NR (anchor); United States air force reserve, AFR (symbol); or United States marine corps reserve, MCR (globe and anchor). However, the member shall surrender the plates to the department when the member becomes ineligible. (d) An active member of the regular armed forces of the United States who is a state resident may be issued special license plates inscribed with a symbol signifying the United States army, United States marine corps, United States navy, United States air force, United States space force, or United States coast guard, according to the member's branch of service verified in the application. However, the member shall surrender the plates to the department upon becoming ineligible. (3) Upon application, after paying all applicable motor vehicle, trailer, semitrailer, or pole trailer registration fees and special license plate fees and: (a) providing a department of defense form 3 (DD Form 3) or its successor or documents showing the person's eligibility for a "Gold Star Lapel Button", a family member of a member of the U.S. armed services who is eligible to receive or who has received a "Gold Star Lapel Button" as provided in Public Law 534, 89th congress, may be issued special license plates inscribed with a blue-bordered gold star with the words "Gold Star Family" inscribed beneath the registration number; or (b) providing a department of defense form 1300 (DD Form 1300) or its successor or documents showing the person's eligibility for a "Next-of-Kin of Deceased Personnel Lapel Button", a family member of a member of the U.S. armed services who is eligible to receive or who has received a "Next-of-Kin of Deceased Personnel Lapel Button" as provided in 32 CFR 578.63 may be issued special next-of-kin license plates inscribed as determined by the department in consultation with the Montana department of military affairs. (4) (a) Upon application, after presenting proper identification and a department of defense form 214 (DD-214) or its successor or documents showing an other-than-dishonorable discharge or a reenlistment verifying the applicant's eligibility and paying the veterans' cemetery fee specified in 61-3-459 and all applicable motor vehicle, trailer, semitrailer, or pole trailer registration fees under this chapter, subject to the provisions of 61-3-460, an eligible veteran must be issued any set and more than one set of the special license plates provided for in this subsection (4) that the member requests and is eligible to receive. (b) A veteran may be issued special license plates displaying the letters "DV", which entitles the veteran to the parking privileges allowed to a person with a special parking permit issued under Title 49, chapter 4, part 3, if the veteran: (i) has been awarded the purple heart and has been rated by the U.S. department of veterans affairs as 50% or more disabled because of a service-connected injury; or (ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability. (c) A veteran who has been awarded the purple heart may be issued special license plates with the purple heart decal displaying the words "combat wounded". (d) A veteran who was captured and held prisoner by the military force of a foreign nation may be issued special license plates with a design or decal displaying the words "ex-prisoner of war" or an abbreviation that the department considers appropriate. (e) If the veteran was a member of the United States armed forces on December 7, 1941, and during the hours of 7:55 a.m. to 9:45 a.m. (Hawaii time) was on station at

Pearl Harbor on the island of Oahu or was offshore from Pearl Harbor at a distance of not more than 3 miles, the veteran may be issued special license plates designed to show that the veteran is a survivor of the Pearl Harbor attack. (f) A person who is a member of the legion of valor may be issued special plates displaying a design or decal depicting the recognized legion of valor medallion. (g) A veteran may be issued special license plates displaying the word "VETERAN" and a symbol signifying the United States army, United States marine corps, United States navy, United States air force, United States space force, or United States coast guard, according to the veteran's service record verified in the application. (h) A member or a former member of the Montana national guard eligible to receive a military retirement may be issued special license plates displaying the Montana national guard insignia and the words "National Guard veteran". (i) A veteran who qualifies under subsections (4)(b) and (4)(c) may be issued special combination license plates displaying the letters "DV" and displaying a purple heart decal with the words "combat wounded". A person who receives the combination plates is entitled to the same parking privileges as provided in subsection (4)(b). (5) Upon request, after paying the veterans' cemetery fee provided in 61-3-459 and all applicable vehicle registration fees under this chapter, subject to the provisions of 61-3-460, the surviving spouse of an eligible veteran, if the spouse has not remarried, may retain the special license plates issued to the deceased veteran, except the special "DV" plates provided for under subsection (4)(b) or the combination plates provided for in subsection (4)(i). (6) For purposes of this section, "veteran" has the meaning provided in 10-2-101. History: En. Sec. 1, Ch. 399, L. 2003; amd. Sec. 102, Ch. 542, L. 2005; amd. Sec. 83, Ch. 596, L. 2005; amd. Sec. 1, Ch. 37, L. 2007; amd. Sec. 3, Ch. 59, L. 2007; amd. Sec. 5, Ch. 233, L. 2009; amd. Sec. 3, Ch. 337, L. 2009; amd. Sec. 1, Ch. 219, L. 2013; amd. Sec. 5, Ch. 303, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-459. Veterans' cemetery fee for special veteran license plates -- disposition

61-3-459. Veterans' cemetery fee for special veteran license plates -- disposition. (1) Except as provided in 61-3-460, an applicant for special veteran license plates provided for under 61-3-458(4) shall pay \$10 for each set issued, renewed, or transferred, in addition to any other taxes or fees applicable under this chapter. (2) Fees collected under this section must be deposited in the state general fund and transferred as provided in 15-1-122 to the special revenue account for state veterans' cemeteries established in 10-2-603. History: En. Sec. 2, Ch. 399, L. 2003; amd. Sec. 6, Ch. 233, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-460. Motor vehicle registration fee and veterans' cemetery fee waivers

61-3-460. Motor vehicle registration fee and veterans' cemetery fee waivers. (1) Except as otherwise provided in this section, a person eligible under subsection (2) is exempt from the veterans' cemetery fee provided in 61-3-459 for two sets of special veteran license plates and all motor vehicle registration fees imposed by this chapter for two motor vehicles that are not used for commercial purposes. (2) The following persons are eligible for the waiver provided in subsection (1): (a) a veteran who was a prisoner of war who presents official documentation from the U.S. department of defense verifying the veteran's status, or the veteran's surviving spouse, if the spouse has not remarried; (b) a veteran who is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs, or the veteran's surviving spouse, if the spouse has not remarried; (c) a veteran determined by the U.S. department of veterans affairs to be 50% or more disabled because of a service-connected injury and who has been awarded the purple heart, as verified by official documentation from the U.S. department of veterans affairs and the veteran's military service record issued by the U.S. department of defense, or the veteran's surviving spouse, if the spouse has not remarried, except that the veteran or the surviving spouse shall pay the veterans' cemetery fee as provided for in 61-3-459; (d) the surviving spouse, if the spouse has not remarried, of a military service member killed while on active duty as verified in official documentation issued by the U.S. department of defense; and (e) the surviving spouse, if the spouse has not remarried, of a military service member or veteran who died of a service-connected injury or disability as determined by and verified in official documentation from the U.S. department of veterans affairs. (3) A veteran who meets the eligibility criteria in subsections (2)(a) through (2)(c) may apply the fee waiver provided in subsection (1) to any of the special license plates provided for in 61-3-458(4) as long as the veteran also meets the eligibility criteria for the specific special license plate the veteran requests. History: En. Sec. 3, Ch. 399, L. 2003; amd. Sec. 1, Ch. 116, L. 2005; amd. Secs. 103, 244, Ch. 542, L. 2005; amd. Sec. 1, Ch. 327, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-461. Short title

61-3-461. Short title. Sections 61-3-461 through 61-3-468 may be cited as the "Montana Collegiate License Plates Act". History: En. Sec. 1, Ch. 661, L. 1989; amd. Sec. 59, Ch. 44, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-462. Definitions

61-3-462. Definitions. As used in 61-3-461 through 61-3-468, the following definitions apply: (1) "Collegiate license plates" means license plates bearing the colors, numerals, letters, and insignia provided in 61-3-463 and issued as provided in 61-3-464 through 61-3-466. (2) "Institution" means: (a) a unit of the Montana university system as designated in 20-25-201; (b) a community college

district as defined in 20-15-101; or (c) a college or university located in Montana and accredited by a national or regional accrediting association for institutions of higher learning to grant baccalaureate degrees. History: En. Sec. 2, Ch. 661, L. 1989; amd. Sec. 60, Ch. 44, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-463. Collegiate license plates

61-3-463. Collegiate license plates. (1) Subject to the provisions of 61-3-332(8) and the requirement that collegiate license plates must have a white reflectorized background, the department shall design, cause to be manufactured, and issue collegiate license plates as provided in 61-3-464 through 61-3-466. (2) After consultation with each institution, the department shall prescribe the color and insignia to be displayed on the collegiate license plates for each institution. (3) In addition to each institution's distinctive color and insignia provided in subsection (2), each collegiate license plate must: (a) be imprinted consecutively with distinctive numerals from 1 through 99999, capital letters A through Z, or a combination of numerals and letters; and (b) bear a registration decal as provided in 61-3-332. (4) The department shall determine the minimum and maximum number of characters, including both numerals and letters, on the collegiate license plates. (5) An issue of collegiate license plates may not be ordered or manufactured for any individual institution unless at least 400 sets of plates are ordered and prepaid. History: En. Sec. 3, Ch. 661, L. 1989; amd. Sec. 247, Ch. 42, L. 1997; amd. Sec. 12, Ch. 191, L. 2001; amd. Sec. 36, Ch. 592, L. 2003; amd. Sec. 84, Ch. 596, L. 2005; amd. Sec. 30, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-464. Application for collegiate license plates

61-3-464. Application for collegiate license plates. An applicant for collegiate license plates or renewal of collegiate license plates pursuant to 61-3-465 shall apply in the form and by the date the department requires. An application for a collegiate license plate may be combined with an application for a license plate bearing a wheelchair as the symbol of a person with a disability if the applicant meets the qualifications under 61-3-332(9). History: En. Sec. 4, Ch. 661, L. 1989; amd. Sec. 85, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-465. Issuance -- application -- additional fee -- disposition

61-3-465. Issuance -- application -- additional fee -- disposition. (1) The department shall issue or renew collegiate license plates upon receipt of an application that shows: (a) compliance with 61-3-303, 61-3-311, and 61-3-312; and (b) payment to the county treasurer or an authorized agent of: (i) an initial application and manufacturing fee of \$10, when required; and (ii) an annual scholarship donation of \$30 for the benefit of the institution named in the application. (2) Once each month, the county treasurer shall, as provided in 15-1-504, transfer to the state the total of the amounts collected for: (a) the initial application and manufacturing fee for deposit in the state general fund; and (b) scholarship donations provided for in subsection (1)(b)(ii), along with a schedule showing the number of collegiate license plates issued and the total donations received for the benefit of each institution. (3) Once each month, an amount equal to the total donations credited to that institution and transferred to the state by the county treasurers during the preceding month must be distributed to the student academic scholarship fund or foundation of each institution. (4) The amount of \$8 of the fee imposed in subsection (1)(b)(i) must be deposited in the account established in 61-6-158, and \$2 of the fee must be deposited in the state general fund. History: En. Sec. 5, Ch. 661, L. 1989; amd. Sec. 10, Ch. 724, L. 1991; amd. Sec. 26, Ch. 257, L. 2001; amd. Sec. 172, Ch. 574, L. 2001; amd. Sec. 1, Ch. 250, L. 2003; amd. Sec. 6, Ch. 280, L. 2003; amd. Sec. 104, Ch. 542, L. 2005; amd. Sec. 15, Ch. 413, L. 2009; amd. Sec. 11, Ch. 196, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-466. Personalized collegiate license plates

61-3-466. Personalized collegiate license plates. (1) Subject to the provisions of 61-3-405 and 61-3-406, an application for collegiate license plates may be combined with an application for personalized plates. (2) An application for personalized collegiate license plates must be made on a form supplied by the department. (3) Personalized collegiate license plates must bear the distinctive color and insignia as provided in 61-3-463. History: En. Sec. 6, Ch. 661, L. 1989.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-467. Authorization to receive and transmit donations

61-3-467. Authorization to receive and transmit donations. As provided in 61-3-465 and notwithstanding any other provisions of Title 7, Title 17, or this title: (1) the county treasurer or an authorized agent must receive the annual scholarship donations provided for in 61-3-465 and transmit the donations to the state as provided in 15-1-504 or 61-3-116; and (2) the appropriate agency shall accept the annual scholarship donations and once each month distribute the accumulated proceeds to the beneficiary institutions specified by and according to the totals contained in the county treasurers' and authorized agents' reports. History: En. Sec. 7, Ch. 661, L. 1989; amd. Sec. 27, Ch. 257, L. 2001; amd. Sec. 105, Ch. 542, L. 2005; amd. Sec. 12, Ch. 196, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-468. Collegiate license plates -- continued use with institution's former name

authorized

61-3-468. Collegiate license plates -- continued use with institution's former name authorized. Subject to the limitation set forth in 61-3-332, a person who owns and displays on the person's motor vehicle, collegiate license plates that bear the name of an institution that has been renamed by its governing body or as part of the Montana university system reorganization may continue to display on the vehicle the license plate bearing the former name of the institution as long as the motor vehicle is registered under this chapter. History: En. Sec. 1, Ch. 462, L. 1997; amd. Sec. 106, Ch. 542, L. 2005; amd. Sec. 31, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-469. through 61-3-471 reserved

61-3-469 through 61-3-471 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-472. Short title

61-3-472. Short title. Sections 61-3-472 through 61-3-481 may be cited as the "Montana Generic Specialty License Plate Act". History: En. Sec. 1, Ch. 402, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-473. Definitions

61-3-473. Definitions. As used in 61-3-472 through 61-3-481, the following definitions apply: (1) "Generic specialty license plate" means a license plate that bears the name, identifying phrase, or graphic of a sponsor, approved by the department, and that is issued by the department. (2) "Governmental body" means a tribal government, state agency, local government, school district, or other political subdivision within this state. (3) "Organization" means an association, corporation, group, or other entity: (a) recognized by the internal revenue service as tax-exempt under 26 U.S.C. 501(c)(3); and (b) that does not have as its primary focus sectarian activities, including but not limited to activities aimed at promoting the adoption of one or more religious or political viewpoints. (4) "Sponsor" means the governmental body, the governmental body's successor, or an organization approved by the department to promote the sale and issuance of a generic specialty license plate. (5) "Tribal government" means the officially recognized government of an Indian tribe, nation, or other organized Indian group or community located in Montana that is exercising self-government powers and that is recognized as being eligible for services provided by the United States to Indians because of their status as Indians. History: En. Sec. 2, Ch. 402, L. 2001; amd. Sec. 7, Ch. 280, L. 2003; amd. Sec. 6, Ch. 223, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-474. Responsibility for design of generic specialty license plates -- numbering -- approval -- registration decal -- listing of plate sponsors

61-3-474. Responsibility for design of generic specialty license plates -- numbering -- approval -- registration decal -- listing of plate sponsors. (1) The department shall: (a) design the background and general format of generic specialty license plates, including ensuring the readability of a generic specialty license plate design; (b) in consultation with the department of corrections, determine which license plate processing system is the most efficient and versatile manufacturing method for the production of generic specialty license plates; and (c) use a numbering system for generic specialty license plates that is distinctive from the numbering system required under 61-3-332 or used for collegiate license plates. (2) All sponsor names, identifying phrases, and graphics intended for use on generic specialty license plates must be approved by the department prior to the manufacture of the plates. (3) Upon the issuance of generic specialty license plates, a registration decal must be affixed to the license plates as provided in 61-3-332. (4) The department shall maintain a list of the sponsors that have been approved to promote the sale and issuance of generic specialty license plates, the initial distribution date for sale of each sponsored generic specialty license plate, and the donation fee established by the sponsor for each sponsored generic specialty license plate. The department shall, upon request, make copies of this list available to interested members of the public. (5) The department shall revoke its previous approval of a sponsor's generic specialty license plate sponsorship if: (a) the sponsor fails to comply with the provisions of 61-3-472 through 61-3-481; (b) within 3 years of the date of the initial distribution of the sponsored generic specialty license plate, fewer than 400 sets of a sponsor's generic specialty license plate have been sold or renewed; (c) any time after 3 years following the date of the initial distribution of the sponsored generic specialty license plate, there are fewer than 400 sets of the sponsored generic specialty license plate with a current registration; or (d) the department has reliable information that the sponsor is no longer qualified for sponsorship under 61-3-472 through 61-3-481. (6) (a) Upon revocation of a sponsor's generic specialty license plate sponsorship status, the issuance and sale of the sponsor's generic specialty license plates must be terminated. (b) A person who owns a motor vehicle displaying valid generic specialty license plates affiliated with a sponsor whose sponsorship status has been revoked may continue to display those generic specialty license plates on the person's motor vehicle until the motor vehicle's registration is renewed. (c) Following revocation of a sponsor's sponsorship status, the department may not issue replacements or duplicates of generic specialty license plates affiliated with that sponsor. History: En. Sec. 3, Ch. 402, L. 2001; amd. Sec. 8, Ch. 280, L. 2003; amd. Sec. 37, Ch. 592, L. 2003; amd. Sec. 107, Ch. 542, L. 2005; amd. Sec. 86, Ch. 596, L. 2005; amd. Sec. 5, Ch. 41, L. 2009; amd. Sec. 6, Ch. 295, L. 2019; amd. Sec. 10, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-475. Qualifications and approval of organization as sponsor

61-3-475. Qualifications and approval of organization as sponsor. (1) To qualify as a sponsor of a generic specialty license plate, an organization shall: (a) apply, through the organization's officers, for sponsorship on a form or in a format prescribed by the department; (b) submit proof of good standing if the organization is required to be registered with the office of the secretary of state; (c) designate one of its members as the organization's generic specialty license plate liaison. The liaison is responsible for all communications with the department regarding the organization's sponsorship of generic specialty license plates and shall file the liaison's name, address, and telephone number with the department. (d) specify in its application the donation fee proposed by the organization for initial purchase of the organization's generic specialty license plate and for renewal of the organization's generic specialty license plate if the fee is required on renewal; (e) submit to the department proof that is acceptable to the department that: (i) the organization is a nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code. The organization shall submit proof of its tax-exempt status annually to the department. Acceptable forms of proof include the current year's federal income tax filing documents or a Montana secretary of state tax identification number. (ii) the organization has held its tax-exempt status for at least 1 year prior to submitting its application to sponsor a generic specialty license plate; (iii) the primary purpose of the organization, except for an organization of military service veterans, is service to the community through specific programs that promote improving public health, education, or general welfare; (iv) the organization's name, identifying phrase, or graphic that will be placed on the generic specialty license plate does not: (A) invoke connotations offensive to good taste and decency; (B) promote, advertise, or endorse a product, brand, or service provided for sale; (C) infringe or otherwise violate a trademark, trade name, service mark, copyright, or other proprietary or property right; or (D) obscure the generic specialty license plate letters or numbers that the department assigns as provided in 61-3-474(1)(c); (v) the organization's headquarters or base of operations is in this state or, if the organization is a chapter or branch of an international, national, or regional organization, the chapter or branch is in good standing and has authorization in writing from the parent organization to use the name and graphic of the parent organization; (vi) the organization is a Montana entity, including proof of the organization's Montana address, contact information for the organization's board of directors, and the organization's account with a Montana banking institution. The organization shall submit the information required under this subsection (1)(e)(vi) annually. (vii) the organization has an active telephone number listed under its name in at least one published Montana directory; and (viii) at least 75% of the donation fees collected will be spent in Montana. (2) The department may require a statement under oath from the officers of the organization that the organization is authorized to use the name, identifying phrase, and graphic submitted for display on a generic specialty license plate and that no infringement or violation of any property right exists, together with an agreement to defend and hold harmless the state of Montana, its employees, or its agents for any liability as a result of an infringement or violation of any property right. (3) The department's approval or rejection of an organization's application for generic specialty license plate sponsorship must be based on the requirements provided in 61-3-472 through 61-3-481. The department shall state in writing the reasons for its rejection of an organization's application. (4) An organization may apply for and be approved to sponsor only one generic specialty license plate design at any time. Once a minimum 4-year period has expired, an organization may apply to the department for approval of a new generic specialty license plate design along with submission of the fee required under 61-3-478(1). (5) If the department approves the organization's new generic specialty license plate design, issuance and renewal of the previously approved generic specialty license plate must be discontinued, effective on the date of the initial distribution of the newly approved generic specialty license plate design. History: En. Sec. 4, Ch. 402, L. 2001; amd. Sec. 9, Ch. 280, L. 2003; amd. Sec. 7, Ch. 295, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-476. Qualification and approval of governmental body as sponsor

61-3-476. Qualification and approval of governmental body as sponsor. (1) To qualify for sponsorship of a generic specialty license plate, a governmental body shall: (a) apply for sponsorship through the executive body of a tribal government, the state agency director or department head, the commission or council of a local government or political subdivision, or the board of trustees of a school district on a form or in a format approved by the department; (b) if the governmental body is a state agency, identify the statutory authority under which it is relying to seek sponsorship of a generic specialty license plate and specify the account in which any generic specialty license plate donations must be placed; (c) designate one of its officers or employees as the governmental body's generic specialty license plate liaison. The liaison is responsible for all communications with the department regarding the governmental body's sponsorship of generic specialty license plates and shall file the liaison's name, address, and telephone number with the department. (2) The legislature may designate a governmental body to be a successor to a governmental body that is terminated. The successor governmental body shall succeed to all rights and responsibilities of the original sponsor. History: En. Sec. 5, Ch. 402, L. 2001; amd. Sec. 10, Ch. 280, L. 2003; amd. Sec. 7, Ch. 223, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-477. Generic specialty license plate liaison -- responsibilities

61-3-477. Generic specialty license plate liaison -- responsibilities. (1) Upon the department's approval of an organization's or a governmental body's proposed sponsorship of a generic specialty license plate, the generic specialty license plate liaison designated under 61-3-475(1)(c) and 61-3-476(1)(c) shall submit to the department the sponsor's name, identifying phrase, and graphic that will

appear on the generic specialty license plate. (2) The generic specialty license plate liaison shall: (a) verify and approve in writing the prototype or mockup of the sponsor's generic specialty license plate before it may be manufactured or issued by the department; and (b) confirm, in writing, the donation fee established by the sponsor for initial purchase of the sponsor's generic specialty license plate and for renewal of the sponsor's generic specialty license plate if the fee is required on renewal. (3) Once a sponsor's generic specialty license plate has been approved for manufacture and distribution, the donation fee established by the sponsor and confirmed by the liaison may not be changed unless a new plate design is authorized in accordance with 61-3-475. History: En. Sec. 6, Ch. 402, L. 2001; amd. Sec. 11, Ch. 280, L. 2003; amd. Sec. 8, Ch. 223, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-478. Generic specialty license plate sponsor fee

61-3-478. Generic specialty license plate sponsor fee. (1) Upon approval of an organization's application to sponsor a generic specialty license plate and before a sponsor's generic specialty license plates may be manufactured, the department shall assess and the sponsor shall pay a \$4,000 fee to the department of corrections Montana correctional enterprises prison industries training program enterprise fund. The fee covers the initial costs incurred by Montana correctional enterprises in producing the generic specialty license plates for the sponsor. (2) The fee imposed in subsection (1) must be deposited in the Montana correctional enterprises license plate production operating account provided for in 53-30-134. History: En. Sec. 7, Ch. 402, L. 2001; amd. Sec. 12, Ch. 280, L. 2003; amd. Sec. 6, Ch. 312, L. 2009; amd. Sec. 16, Ch. 413, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-479. Issuance of generic specialty license plates -- qualifications

61-3-479. Issuance of generic specialty license plates -- qualifications. (1) (a) Except as provided in subsection (1)(b), the department shall issue: (i) a set of generic specialty license plates to a person who applies for a particular style of generic specialty license plates and pays the donation fee established by the plate sponsor and the administrative fee required in 61-3-480; or (ii) a set of USS Montana specialty license plates to a person serving or retired from serving aboard the USS Montana who applies and pays the donation fee established by the plate sponsor and the administrative fee required in 61-3-480. (b) If the sponsor of a generic specialty license plate is not listed on the county collection report published by the state and required under 15-1-504 as of the initial distribution date for the sale of the sponsor's plates, the department shall require the sponsor to collect the initial donation fee from, and issue a special certificate of registration to, a person who is eligible to receive the sponsor's generic specialty license plates. The person shall present the special certificate of registration upon application for the generic specialty license plates. (2) A set of generic specialty license plates may be issued for any motor vehicle except a motorcycle or a quadricycle. (3) (a) Except as provided in 61-3-472 through 61-3-481 and 61-3-562, a person who receives generic specialty license plates is subject to the same rules and laws as those that govern standard license plates. (b) Except as provided in 61-3-472 through 61-3-481 and 61-3-562, the department is subject to the same rules and laws that govern the issuance of standard license plates. (c) Generic specialty license plates issued under 61-3-472 through 61-3-481 are not subject to any maximum issuance or use limitation that may be imposed on standard license plates. (4) A person may combine an application for a generic specialty license plate with an application for a license plate with a design bearing a representation of a wheelchair as the symbol of a person with a disability as provided in 61-3-332(9). History: En. Sec. 8, Ch. 402, L. 2001; amd. Sec. 1, Ch. 248, L. 2003; amd. Sec. 13, Ch. 280, L. 2003; amd. Sec. 108, Ch. 542, L. 2005; amd. Sec. 87, Ch. 596, L. 2005; amd. Sec. 2, Ch. 392, L. 2007; amd. Sec. 4, Ch. 663, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 4. Special Registration 61-3-480. Fees for generic specialty license plates -- disposition

61-3-480. Fees for generic specialty license plates -- disposition. (1) In addition to the other fees and taxes imposed by law, an eligible person who applies for a generic specialty license plate shall pay an administrative fee of \$20 and, except as provided in 61-3-479(1)(b), the donation fee specified by the sponsor. (2) The county treasurer or an authorized agent shall, upon receipt of the fees: (a) deposit \$5 of the \$20 administrative fee in the county general fund; (b) notwithstanding any other provisions of Title 7, Title 17, or this title and unless otherwise provided in 61-3-479(1)(b), accept the donation fee paid by the plate purchaser; and (c) as provided in 15-1-504, once each month, transmit to the state for distribution: (i) \$10 of the \$20 administrative fee for deposit in the account provided in 61-6-158; (ii) \$5 of the administrative fee to the state general fund; and (iii) all donation fees provided for in subsections (1) and (3), along with a schedule showing the number and type of generic specialty license plates issued and total donations received for the benefit of each sponsor of a generic specialty license plate issued or renewed, to each respective sponsor. (3) If the donation fee is required by a sponsor upon renewal of generic specialty license plates, the fee must be paid to the county treasurer or an authorized agent upon renewal of registration and transmitted to the state as prescribed in subsection (2). (4) Once each month, the state shall distribute to the generic specialty license plate liaison designated by a sponsor under 61-3-475(1)(c) or 61-3-476(1)(c) an amount equal to the total donations credited to that sponsor and transferred to the department of revenue by the county treasurers during the preceding month. History: En. Sec. 9, Ch. 402, L. 2001; amd. Sec. 47, Ch. 257, L. 2001; amd. Sec. 14, Ch. 280, L. 2003; amd. Sec. 9, Ch. 223, L. 2005; amd. Sec. 109, Ch. 542, L. 2005; amd. Sec. 17, Ch. 413, L. 2009; amd. Sec. 13, Ch. 196, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor

VehiclesPart 4. Special Registration61-3-481. Generic specialty license plates -- restrictions on use

61-3-481. Generic specialty license plates -- restrictions on use.(1) Generic specialty license plates may be issued by the department in conjunction with the registration of any motor vehicle except a motorcycle or a quadricycle. The department may not issue generic specialty license plates without the motor vehicle having been registered. (2) Generic specialty license plates may be used only as the official license plates for a motor vehicle. History: En. Sec. 10, Ch. 402, L. 2001; amd. Sec. 15, Ch. 280, L. 2003; amd. Sec. 110, Ch. 542, L. 2005; amd. Sec. 88, Ch. 596, L. 2005; amd. Sec. 3, Ch. 392, L. 2007.

2024 Montana Code AnnotatedTitle 61. Motor VehiclesChapter 3. Certificates of Title, Registration, and Taxation of Motor VehiclesPart 5. Taxes, Fees, and Fees in Lieu of Taxes61-3-501. When motor vehicle taxes and fees are due

61-3-501. When motor vehicle taxes and fees are due.(1) Motor vehicle registration fees, local option vehicle taxes or fees, fees in lieu of tax, and other fees must be paid on the date of registration or renewal of registration of the motor vehicle. (2) Motor vehicle registration fees, fees in lieu of tax, and local option taxes or fees imposed under this chapter do not accrue after ownership of the motor vehicle has been transferred to another person. (3) (a) For purposes of this chapter and except as provided in subsection (3)(b), the age of a motor vehicle is determined by subtracting the manufacturer's designated model year from the current calendar year. (b) If the purchase year of a motor home precedes the designated model year of the motor home and the motor home is originally titled in Montana, then the purchase year is considered the model year for calculating the age of the motor home. History: (1), (2)En. 53-159 by Sec. 6, Ch. 74, L. 1975; Sec. 53-159, R.C.M. 1947; (3)En. 53-161 by Sec. 8, Ch. 74, L. 1975; amd. Sec. 2, Ch. 183, L. 1977; Sec. 53-161, R.C.M. 1947; R.C.M. 1947, 53-159, 53-161; amd. Sec. 12, Ch. 712, L. 1979; amd. Sec. 29, Ch. 614, L. 1981; amd. Sec. 22, Ch. 516, L. 1985; amd. Sec. 24, Ch. 611, L. 1987; amd. Sec. 22, Ch. 496, L. 1997; amd. Sec. 17, Ch. 409, L. 1999; amd. Sec. 13, Ch. 191, L. 2001; amd. Sec. 1, Ch. 261, L. 2001; amd. Sec. 111, Ch. 542, L. 2005; amd. Sec. 89, Ch. 596, L. 2005.

2024 Montana Code AnnotatedTitle 61. Motor VehiclesChapter 3. Certificates of Title, Registration, and Taxation of Motor VehiclesPart 5. Taxes, Fees, and Fees in Lieu of Taxes61-3-503. Assessment -- definition

61-3-503. Assessment -- definition.(1) (a) Except as provided in 61-3-520, light vehicles subject to a local option motor vehicle tax under 61-3-537 must be assessed the tax as of the first day of the registration period, using the depreciated value of the manufacturer's suggested retail price as determined in subsection (2). (b) If the depreciated value is less than \$500, the department shall value the motor vehicle at \$500. (2) (a) Except as provided in subsections (2)(c) and (2)(d), the depreciated value for the taxation of light vehicles is computed by multiplying the manufacturer's suggested retail price by a percentage multiplier based on the type and age of the light vehicle determined from the following table: (b) The age for the light vehicle is determined under 61-3-501. (c) If the value of the light vehicle determined under subsection (2)(a) is \$500 or less, the value of the light vehicle is \$500 and the value must remain at that amount as long as the light vehicle is registered. (d) The depreciated value of a light vehicle that is 17 years old or older is computed by depreciating the value obtained for the vehicle at 16 years old, as determined under subsection (2)(a), by 10% a year until a minimum value of \$500 is attained. The value must remain at that amount as long as the light vehicle is registered. (3) (a) For the purposes of this section, "manufacturer's suggested retail price" means the price suggested by the manufacturer for each given type, style, or model of light vehicle produced and first made available for retail sale by the manufacturer. (b) The manufacturer's suggested retail price is based on standard equipment of a light vehicle and does not contain price additions or deductions for optional accessories. (c) When a manufacturer's suggested retail price is unavailable for a motor vehicle, the department shall determine an alternative valuation for the motor vehicle. History: Ap. p. Sec. 5, Ch. 75, L. 1917; amd. Sec. 1, Ch. 207, L. 1919; re-en. Sec. 1759, R.C.M. 1921; amd. Sec. 22, Ch. 113, L. 1925; amd. Sec. 2, Ch. 181, L. 1929; amd. Sec. 1, Ch. 158, L. 1931; amd. Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1937; amd. Sec. 1, Ch. 195, L. 1953; amd. Sec. 1, Ch. 256, L. 1955; amd. Sec. 1, Ch. 223, L. 1957; amd. Sec. 1, Ch. 245, L. 1963; amd. Sec. 1, Ch. 290, L. 1967; amd. Sec. 9, Ch. 296, L. 1967; amd. Sec. 3, Ch. 214, L. 1971; amd. Sec. 12, Ch. 74, L. 1975; amd. Sec. 1, Ch. 55, L. 1977; amd. Sec. 1, Ch. 521, L. 1977; amd. Sec. 43, Ch. 566, L. 1977; Sec. 53-114, R.C.M. 1947; Ap. p. Sec. 9, Ch. 74, L. 1975; Sec. 53-162, R.C.M. 1947; R.C.M. 1947, 53-114(2), (5), 53-162; amd. Sec. 39, Ch. 421, L. 1979; amd. Sec. 14, Ch. 712, L. 1979; amd. Sec. 2, Ch. 262, L. 1981; amd. Sec. 31, Ch. 614, L. 1981; amd. Sec. 23, Ch. 516, L. 1985; amd. Sec. 26, Ch. 611, L. 1987; amd. Sec. 1, Ch. 349, L. 1989; amd. Sec. 5, Ch. 525, L. 1989; amd. Sec. 1, Ch. 8, Sp. L. June 1989; amd. Sec. 7, Ch. 604, L. 1991; amd. Sec. 133, Ch. 27, Sp. L. November 1993; amd. Sec. 9, Ch. 580, L. 1995; amd. Sec. 23, Ch. 200, L. 1997; amd. Sec. 23, Ch. 496, L. 1997; amd. Sec. 32, Ch. 515, L. 1999; amd. Sec. 112, Ch. 542, L. 2005; amd. Sec. 90, Ch. 596, L. 2005; amd. Sec. 32, Ch. 329, L. 2007.

2024 Montana Code AnnotatedTitle 61. Motor VehiclesChapter 3. Certificates of Title, Registration, and Taxation of Motor VehiclesPart 5. Taxes, Fees, and Fees in Lieu of Taxes61-3-507. Exemption

61-3-507. Exemption.A motor vehicle, trailer, semitrailer, or pole trailer that is exempt from taxation and registration fees under 15-6-215 or subject to the provisions of 61-3-520 is exempt from all other taxes and fees generally imposed on a motor vehicle, trailer, semitrailer, or pole trailer by this part. History: En. Sec. 5, Ch. 75, L. 1917; amd. Sec. 1, Ch. 207, L. 1919; re-en. Sec. 1759, R.C.M. 1921; amd. Sec. 22, Ch. 113, L. 1925; amd. Sec. 2, Ch. 181, L. 1929; amd. Sec. 1, Ch. 158, L. 1931; amd. Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759, R.C.M. 1935; amd. Sec. 1, Ch. 72, L. 1937; amd. Sec. 1, Ch. 195, L. 1953; amd. Sec. 1, Ch. 256, L. 1955; amd. Sec. 1, Ch. 223, L. 1957; amd. Sec. 1, Ch. 245, L. 1963; amd. Sec. 1, Ch. 290, L. 1967; amd. Sec. 9, Ch. 296, L. 1967; amd.

Sec. 3, Ch. 214, L. 1971; amd. Sec. 12, Ch. 74, L. 1975; amd. Sec. 1, Ch. 55, L. 1977; amd. Sec. 1, Ch. 521, L. 1977; amd. Sec. 43, Ch. 566, L. 1977; R.C.M. 1947, 53-114(9); amd. Sec. 33, Ch. 614, L. 1981; amd. Sec. 7, Ch. 525, L. 1989; amd. Sec. 17, Ch. 724, L. 1991; amd. Sec. 26, Ch. 496, L. 1997; amd. Sec. 14, Ch. 191, L. 2001; amd. Sec. 114, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-509. Disposition of fees -- responsibility for dishonored payments

61-3-509. Disposition of fees -- responsibility for dishonored payments. (1) Except as otherwise provided in 61-3-321, all registration fees imposed by 61-3-321 on light vehicles, motor homes, motorcycles, quadricycles, buses, motor vehicles having a manufacturer's rated capacity of more than 1 ton, and truck tractors for which a license is sought must be remitted to the state as provided in 15-1-504 every 30 days. The payments must be deposited in the state general fund. (2) (a) The department, its authorized agent, or a county treasurer is responsible for pursuing remedies available under 27-1-717 or otherwise provided by law when a check, draft, converted check, electronic funds transfer, or order for the payment of money is dishonored: (i) for lack of funds or credit; (ii) because the issuer does not have an account with the entity from which the funds are to be drawn; or (iii) because the issuer stops payment with the intent to defraud the payee of the check or the payee named on the issued check, draft, converted check, electronic funds transfer, or order for the payment of money. (b) Once fees have been remitted to the state under this section, adjustments may be made only for dishonored instruments if less than 1 year has elapsed from the date of remittance. History: En. Subd. 4, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.3, R.C.M. 1935; amd. Sec. 4, Ch. 72, L. 1937; amd. Sec. 1, Ch. 154, L. 1943; amd. Sec. 1, Ch. 200, L. 1945; amd. Sec. 29, Ch. 121, L. 1965; R.C.M. 1947, 53-117; amd. Sec. 16, Ch. 712, L. 1979; amd. Sec. 34, Ch. 614, L. 1981; amd. Sec. 25, Ch. 516, L. 1985; amd. Sec. 1, Ch. 685, L. 1985; amd. Sec. 1, Ch. 702, L. 1985; amd. Sec. 2, Ch. 1, Sp. L. 1985; amd. Sec. 3, Ch. 416, L. 1987; amd. Sec. 29, Ch. 611, L. 1987; amd. Sec. 46, Ch. 16, L. 1991; amd. Sec. 5, Ch. 330, L. 1993; amd. Sec. 11, Ch. 580, L. 1995; amd. Sec. 6, Ch. 121, L. 1997; amd. Sec. 51, Ch. 422, L. 1997; amd. Sec. 27, Ch. 496, L. 1997; amd. Sec. 34, Ch. 515, L. 1999; amd. Sec. 170(2), Ch. 584, L. 1999; amd. Secs. 11, 16(2), Ch. 11, Sp. L. May 2000; amd. Sec. 28, Ch. 257, L. 2001; amd. Sec. 173, Ch. 574, L. 2001; amd. Sec. 115, Ch. 542, L. 2005; amd. Sec. 6, Ch. 41, L. 2009; amd. Sec. 3, Ch. 231, L. 2015; amd. Sec. 9, Ch. 250, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-513. through 61-3-517 reserved

61-3-513 through 61-3-517 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-520. Fees on motor vehicles used exclusively in filming motion pictures or television commercials

61-3-520. Fees on motor vehicles used exclusively in filming motion pictures or television commercials. (1) A motor vehicle, trailer, semitrailer, or pole trailer used exclusively in the filming of motion pictures or television commercials that has been in the state for a period exceeding 180 consecutive days in a calendar year is subject to applicable registration fees, including one-time registration fees for vehicles subject to permanent registration under this chapter as if the motor vehicle, trailer, semitrailer, or pole trailer were not used exclusively for filming motion pictures or television commercials, but the registration fees must be prorated as provided in subsection (2). (2) (a) The registration fees imposed under subsection (1) must be prorated by dividing the number of days in excess of 180 consecutive days in the calendar year by 365. (b) Fees on a motor vehicle, trailer, semitrailer, or pole trailer imposed pursuant to this section must be collected as provided in this chapter. History: En. Sec. 3, Ch. 525, L. 1989; amd. Sec. 28, Ch. 496, L. 1997; amd. Sec. 35, Ch. 515, L. 1999; amd. Sec. 116, Ch. 542, L. 2005; amd. Sec. 91, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-529. Schedule of fees for buses, motor vehicles having rated capacity of more than 1 ton, and truck tractors -- proration -- exemption

61-3-529. Schedule of fees for buses, motor vehicles having rated capacity of more than 1 ton, and truck tractors -- proration -- exemption. (1) (a) There is an annual fee in lieu of property tax imposed on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors. The fee is in addition to annual registration fees. (b) The fee imposed by subsection (1)(a) is not required to be paid by a dealer of buses, trucks, or truck tractors that constitute inventory of the dealership. (2) Subject to the conditions of subsection (4), the owner of a bus, truck with a manufacturer's rated capacity of more than 1 ton, or truck tractor shall pay a fee in lieu of tax based on the age and manufacturer's rated capacity of the motor vehicle according to the following schedule: (3) The age of the motor vehicle must be determined under 61-3-501. (4) (a) The manufacturer's rated capacity for a bus or truck with a manufacturer's rated capacity of more than 1 ton is the manufacturer's rated gross vehicle weight. (b) The manufacturer's rated capacity for a truck tractor is the manufacturer's rated gross combined weight. (5) Except as provided in 61-3-520, the fee in lieu of tax on a motor vehicle subject to this section that is brought or driven into this state by a nonresident person for hire, compensation, or profit must be prorated as determined and paid under 61-3-701. (6) The fee in lieu of tax may not be refunded. History: En. Sec. 33, Ch. 496, L. 1997; amd. Secs. 2, 3, 4, Ch. 500, L. 2001; amd. Sec. 118, Ch. 542, L. 2005; amd. Sec. 94, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-535. Motor vehicle registration renewal -- reminder notice and renewal by mail

61-3-535. Motor vehicle registration renewal -- reminder notice and renewal by mail. (1) The owner of a motor vehicle subject to renewal of registration under 61-3-312 may renew the registration of a motor vehicle by mail or by electronic methods when the value, age, length, weight, or other criteria used to determine the tax or fee for a particular type of motor vehicle are available to the department by electronic means. (2) Any mail renewal procedure developed by the department may: (a) include a procedure to facilitate automated handling of mail renewal, including issuance of replacement plates when required by statute; (b) include a procedure to verify compliance with 61-6-301 using the system provided in 61-6-157; or (c) provide for a reminder notice to the owner of a motor vehicle of the requirement to renew the vehicle's registration. History: En. Sec. 5, Ch. 614, L. 1981; amd. Sec. 1, Ch. 32, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 1, Ch. 420, L. 1987; amd. Sec. 33, Ch. 611, L. 1987; amd. Sec. 3, Ch. 450, L. 1991; amd. Sec. 8, Ch. 604, L. 1991; amd. Sec. 3, Ch. 365, L. 1993; amd. Sec. 12, Ch. 580, L. 1995; amd. Sec. 11, Ch. 121, L. 1997; amd. Sec. 30, Ch. 496, L. 1997; amd. Sec. 43, Ch. 592, L. 2003; amd. Sec. 119, Ch. 542, L. 2005; amd. Sec. 95, Ch. 596, L. 2005; amd. Sec. 18, Ch. 413, L. 2009; amd. Sec. 11, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-537. Local option motor vehicle tax

61-3-537. Local option motor vehicle tax. (1) A county may impose a local option motor vehicle tax on motor vehicles subject to the registration fee imposed under 61-3-321(2) or 61-3-562 at a rate of up to 0.7% of the value determined under 61-3-503 or a local flat fee, in addition to the fee imposed under 61-3-321(2) or 61-3-562. (2) A local option motor vehicle tax or flat fee is payable at the same time and in the same manner as the fee imposed under 61-3-321(2) or 61-3-562. The tax or fee is distributed as follows: (a) 50% to the county; and (b) the remaining 50% to the county and the incorporated cities and towns within the county, apportioned on the basis of population. The distribution to a city or town is determined by multiplying the amount of money available by the ratio of the population of the city or town to the total county population. The distribution to the county is determined by multiplying the amount of money available by the ratio of the population of unincorporated areas within the county to the total county population. (3) The governing body of a county may impose, revise, or revoke a local option motor vehicle tax or flat fee if the imposition, revision, or revocation of the tax or fee is approved by the electorate of the county. The imposition, revision, or revocation of the tax or fee is effective on January 1 following its approval by the electorate. The county governing body by resolution may provide for the distribution of the local option motor vehicle tax or flat fee. History: En. Sec. 36, Ch. 611, L. 1987; amd. Sec. 2, Ch. 749, L. 1991; amd. Sec. 1, Ch. 217, L. 1995; amd. Sec. 31, Ch. 496, L. 1997; amd. Sec. 4, Ch. 180, L. 1999; amd. Sec. 37, Ch. 515, L. 1999; amd. Sec. 16(3), Ch. 11, Sp. L. May 2000; amd. Sec. 16, Ch. 191, L. 2001; amd. Sec. 19, Ch. 13, Sp. L. August 2002; amd. Sec. 120, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-538. through 61-3-540 reserved

61-3-538 through 61-3-540 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-543. through 61-3-549 reserved

61-3-543 through 61-3-549 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-550. Motor vehicle information technology system account

61-3-550. Motor vehicle information technology system account. (1) There is a motor vehicle information technology system account in the state special revenue fund provided for in 17-2-102. (2) (a) Until June 30, 2019, \$4 of the fee received by the department pursuant to 61-3-103(8) for a security interest or other lien must be deposited in the account. (b) Until June 30, 2026, fees received by the department pursuant to 61-3-103(9) and \$5 of each fee received under 61-3-203 or 61-3-204 for a certificate of title must be deposited in the account. (3) The money in the motor vehicle information technology system account must be appropriated by the legislature to the department of justice and must be used by the department for the purpose of: (a) repaying any indebtedness or loan incurred for the creation of a new information technology system for motor vehicles; or (b) payment of costs directly incurred in the creation and support of the new motor vehicle information technology system. History: En. Sec. 4, Ch. 394, L. 2001; amd. Sec. 47, Ch. 257, L. 2001; amd. Secs. 9, 12(2), Ch. 562, L. 2003; amd. Sec. 1, Ch. 610, L. 2003; amd. Sec. 6, Ch. 50, L. 2007; amd. Sec. 4, Ch. 398, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-551. Terminated

61-3-551. Terminated. Sec. 39(5), Ch. 15, Sp. L. July 1992. History: En. Sec. 33, Ch. 15, Sp. L. July 1992.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-552. through 61-3-559 reserved

61-3-552 through 61-3-559 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-562. Permanent registration -- transfer of light vehicle ownership -- rules

61-3-562. Permanent registration -- transfer of light vehicle ownership -- rules. (1) (a) The owner of a light vehicle 11 years old or older subject to the registration fee, as provided in 61-3-321(2), may permanently register the light vehicle upon payment of an \$87.50 registration fee, the applicable registration and license fees under 61-3-412, if applicable, the administrative fee and the annual one-time-only donation fee for a generic specialty license plate under 61-3-480 or collegiate license plates under 61-3-465, the fee provided for in 61-3-573 for an electric vehicle or a plug-in hybrid electric vehicle, if applicable, and an amount equal to five times the local option motor vehicle tax or flat fee on vehicles under 61-3-537 and, as applicable, either: (i) (A) the original fee and four times the renewal fee for personalized plates; or (B) five times the renewal fees for personalized plates; or (ii) if a new set of license plates is not being issued, an insurance verification fee of \$5, which must be deposited in the account established under 61-6-158. (b) The following series of license plates may not be used for purposes of permanent registration of a light vehicle: (i) Montana national guard license plates issued under 61-3-458(2)(b); (ii) reserve armed forces license plates issued under 61-3-458(2)(c); and (iii) amateur radio operator license plates issued under 61-3-422. (2) In addition to the fees described in subsection (1), an owner of a truck with a manufacturer's rated capacity of 1 ton or less that is permanently registered shall pay five times the applicable fees imposed under 61-10-201. (3) The owner of a motor vehicle that is permanently registered under this section is not subject to additional registration fees or to other motor vehicle registration fees described in this section for as long as the owner owns the vehicle. (4) The county treasurer shall once each month remit to the state the amounts collected under this section, other than the local option motor vehicle tax or flat fee and the fee collected pursuant to 61-3-573, for the purposes of 61-3-321(2) and 61-10-201. The county treasurer shall retain the local option motor vehicle tax or flat fee. The county treasurer or an authorized agent shall transmit the fee collected pursuant to 61-3-573 to the state as provided in 15-1-504 for deposit to the credit of the department in the highway restricted account provided for in 15-70-126. (5) (a) The permanent registration of a light vehicle allowed by this section may not be transferred to a new owner. If the light vehicle is transferred to a new owner, the department shall cancel the light vehicle's permanent registration. (b) Upon transfer of a light vehicle registered under this section to a new owner, the new owner shall apply for a certificate of title under 61-3-201 and 61-3-216 and register the light vehicle under 61-3-303. History: En. Sec. 3, Ch. 515, L. 1999; amd. Sec. 18, Ch. 191, L. 2001; amd. Sec. 47, Ch. 257, L. 2001; amd. Sec. 7, Ch. 337, L. 2001; amd. Sec. 20, Ch. 13, Sp. L. August 2002; amd. Sec. 3, Ch. 143, L. 2003; amd. Sec. 16, Ch. 280, L. 2003; amd. Sec. 70, Ch. 477, L. 2003; amd. Sec. 9, Ch. 464, L. 2005; amd. Sec. 121, Ch. 542, L. 2005; amd. Sec. 98, Ch. 596, L. 2005; amd. Sec. 33, Ch. 329, L. 2007; amd. Sec. 4, Ch. 392, L. 2007; amd. Sec. 19, Ch. 413, L. 2009; amd. Sec. 4, Ch. 393, L. 2013; amd. Sec. 2, Ch. 562, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-563. through 61-3-569 reserved

61-3-563 through 61-3-569 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-570. Local option flat fee

61-3-570. Local option flat fee. (1) A local option flat fee for each light vehicle may be imposed within a county by the board of county commissioners by adoption of a resolution and referral to the electorate. The imposition of the local option flat fee must be approved by the majority of the electorate voting in the election. (2) The local option flat fee is: (a) applicable annually for light vehicles that are registered annually; and (b) a one-time fee for light vehicles registered under 61-3-562. (3) Fees collected under this section must be distributed as provided in 61-3-537. History: En. Sec. 38, Ch. 515, L. 1999; amd. Sec. 114, Ch. 114, L. 2003; amd. Sec. 45, Ch. 592, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-571. Definitions

61-3-571. Definitions. As used in this part, unless the context clearly indicates otherwise, the following definitions apply: (1) "Class 1 vehicle" means a vehicle having an unladen gross weight of less than 6,000 pounds. (2) "Class 2 vehicle" means a vehicle having an unladen gross weight of at least 6,000 pounds but not more than 10,000 pounds. (3) "Class 3 vehicle" means a vehicle having an unladen gross weight of greater than 10,000 pounds but not greater than 26,000 pounds. (4) "Class 4 vehicle" means a vehicle having an unladen gross weight in excess of 26,000 pounds. (5) (a) "Electric vehicle" means a vehicle that: (i) is originally equipped with a 100%-electric motor that draws propulsion energy solely from a battery with at least 20 kilowatt hours of capacity that can be recharged from an external source of electricity; (ii) has at least four wheels; and (iii) is manufactured primarily for use on public streets, roads, and highways. (b) The term does not include: (i) a low-speed electric vehicle; or (ii) a medium-speed electric vehicle.

(6) "Plug-in hybrid electric vehicle" means a vehicle that: (a) is originally equipped so that the vehicle draws propulsion from an internal combustion engine and a battery with at least 5 kilowatt hours of capacity that can be recharged from an external source of electricity; (b) has at least four wheels; and (c) is manufactured primarily for use on public streets, roads, and highways. History: En. Sec. 1, Ch. 164, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-572. Additional electric vehicle registration fees -- disposition

61-3-572. Additional electric vehicle registration fees -- disposition. In addition to the registration fees required pursuant to the provisions of Title 61, chapter 3, at the time of initial and renewal registration for an electric vehicle, there is an additional fee based on the weight of the electric vehicle as provided: (1) The annual registration fees for electric vehicles other than plug-in hybrid electric vehicles is as follows: (a) \$130 for class 1 vehicles; (b) \$190 for class 2 vehicles; (c) \$340 for class 3 vehicles; and (d) \$1,100 for class 4 vehicles. (2) The annual registration fees for plug-in hybrid electric vehicles is as follows: (a) \$70 for class 1 vehicles; (b) \$100 for class 2 vehicles; (c) \$210 for class 3 vehicles; and (d) \$700 for class 4 vehicles. (3) The county treasurer or an authorized agent shall transmit the fees provided for in this section to the state as provided in 15-1-504 for deposit to the credit of the department in the highway restricted account provided for in 15-70-126. History: En. Sec. 2, Ch. 164, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 5. Taxes, Fees, and Fees in Lieu of Taxes 61-3-573. Gross vehicle weight permanent registration fee -- electric vehicles -- plug-in hybrid electric vehicles

61-3-573. Gross vehicle weight permanent registration fee -- electric vehicles -- plug-in hybrid electric vehicles. (1) The permanent registration fee for an electric vehicle is based on unladen gross weight as follows: (a) for a class 1 vehicle, \$260; (b) for a class 2 vehicle, \$380. (2) The permanent registration fee for a plug-in hybrid electric vehicle is based on gross vehicle weight as follows: (a) for a class 1 vehicle, \$140; (b) for a class 2 vehicle, \$200. History: En. Sec. 1, Ch. 562, L. 2023; amd. sec. 4, Ch. 562, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 6. Penalties -- Enforcement 61-3-601. Penalty for violations

61-3-601. Penalty for violations. Except as otherwise provided, a violation of any of the provisions of this chapter is a misdemeanor and is punishable by a fine not exceeding \$500. Nothing in this section prevents the prosecution of a person for an offense committed under any other law. History: En. Sec. 2, Ch. 158, L. 1931; re-en. Sec. 1755.1, R.C.M. 1935; amd. Sec. 1, Ch. 122, L. 1961; amd. Sec. 2, Ch. 256, L. 1965; R.C.M. 1947, 53-102(part); amd. Sec. 42, Ch. 421, L. 1979; amd. Sec. 12, Ch. 724, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 6. Penalties -- Enforcement 61-3-602. Enforcement

61-3-602. Enforcement. It is mandatory upon all police and peace officers of the state, of the counties of the state, and of towns, cities, and villages to carry out the provisions of chapter 4, part 1, and this chapter. History: En. Sec. 2, Ch. 158, L. 1931; re-en. Sec. 1755.1, R.C.M. 1935; amd. Sec. 1, Ch. 122, L. 1961; amd. Sec. 2, Ch. 256, L. 1965; R.C.M. 1947, 53-102(part); amd. Sec. 43, Ch. 421, L. 1979; amd. Sec. 20, Ch. 409, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 6. Penalties -- Enforcement 61-3-603. Penalty for alteration or forgery of certificate of ownership or certificate of title -- assignment

61-3-603. Penalty for alteration or forgery of certificate of ownership or certificate of title -- assignment. A person who alters or forges or causes to be altered or forged any motor vehicle, trailer, semitrailer, or pole trailer certificate of ownership or certificate of title or any assignment of a certificate of ownership or certificate of title or who holds or uses any certificate or assignment knowing that the certificate has been altered or forged is guilty of a felony. Upon a conviction of a violation of this section, the offender is subject to a fine of not more than \$5,000, to imprisonment for a period of not more than 10 years, or both. History: En. Sec. 12, Ch. 113, L. 1925; re-en. Sec. 1763.4, R.C.M. 1935; amd. Sec. 1, Ch. 334, L. 1969; R.C.M. 1947, 53-136; amd. Sec. 44, Ch. 421, L. 1979; amd. Sec. 71, Ch. 477, L. 2003; amd. Sec. 122, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 6. Penalties -- Enforcement 61-3-604. Penalty for altering identification number

61-3-604. Penalty for altering identification number. (1) A person who willfully removes or falsifies an identification number of a motor vehicle, trailer, semitrailer, pole trailer, or motor vehicle engine is punishable by a fine of not more than \$5,000 or imprisonment in the state prison for a period of not more than 10 years, or both. (2) Any person or persons, firm, or corporation that sells or offers for sale in this state a motor vehicle, trailer, semitrailer, or pole trailer the original vehicle identification number of which has been destroyed, removed, altered, covered, or defaced, with the exception of motor vehicles, trailers, semitrailers, or pole trailers bearing a state-assigned identification number in accordance with 61-3-107, is punishable by a fine of not less than \$200 or more than \$500 and by imprisonment in the county jail for a term of not less than 30 days or more than 180 days. Upon a second or

subsequent conviction under this subsection, the punishment shall be imprisonment in the state prison for a term of not less than 1 year or more than 5 years or a fine in an amount not to exceed \$50,000, or both. History: (1)En. Sec. 1, Ch. 256, L. 1969; Sec. 53-139.1, R.C.M. 1947; (2)En. Sec. 15, Ch. 113, L. 1925; re-en. Sec. 1763.7, R.C.M. 1935; amd. Sec. 31, Ch. 121, L. 1965; Sec. 53-139, R.C.M. 1947; R.C.M. 1947, 53-139(part), 53-139.1; amd. Sec. 45, Ch. 421, L. 1979; amd. Sec. 7, Ch. 198, L. 1981; amd. Sec. 3, Ch. 272, L. 1991; amd. Sec. 13, Ch. 724, L. 1991; amd. Sec. 123, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 6. Penalties -- Enforcement 61-3-607. Penalty for tampering with odometer or violating odometer statement requirements

61-3-607. Penalty for tampering with odometer or violating odometer statement requirements. (1) It is unlawful for a person to tamper with the odometer of a motor vehicle. It is considered tampering if a person removes, turns back, or changes the reading on the odometer, except when repairing or replacing a defective odometer and setting it anew to show the true mileage, or if a person sells, offers for sale, uses, installs, or causes to be installed any device that causes the odometer to register a mileage reading other than the true mileage for the purpose of deceiving a prospective purchaser. For purposes of this section, the true mileage is that driven by the motor vehicle as registered by the odometer within the manufacturer's designed tolerance. (2) A person who purposely or knowingly violates the provisions of 61-3-206 or subsection (1) of this section is punishable by a fine of not more than \$5,000 or imprisonment in the state prison for a period of not more than 10 years, or both. If that person is a motor vehicle dealer, the department shall revoke the dealer's license. Action by the department under this subsection must conform to the contested case procedures in Title 2, chapter 4. History: En. Sec. 3, Ch. 324, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 4, Ch. 272, L. 1991; amd. Sec. 124, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-701. Out-of-state vehicles used in gainful occupation to be registered -- reciprocity -- decal fee

61-3-701. Out-of-state vehicles used in gainful occupation to be registered -- reciprocity -- decal fee. (1) A person may not operate a motor vehicle, trailer, semitrailer, or pole trailer that is registered in another jurisdiction on the highways of this state if the vehicle is used for hire, compensation, or profit or if the person is engaged in gainful occupation or business enterprise in the state, including highway work, unless the motor vehicle, trailer, semitrailer, or pole trailer is registered at the office of a county treasurer or an authorized agent of the department. Upon satisfactory evidence of ownership submitted to the county treasurer or the department's authorized agent and the payment of fees in lieu of taxes or registration fees, if appropriate, as required by 61-3-321, 61-3-529, or 61-3-537, the treasurer or authorized agent shall enter the vehicle for registration purposes only on the electronic registry maintained by the department under 61-3-101. One-fourth of the annual fees or taxes due on the motor vehicle, trailer, semitrailer, or pole trailer subject to registration under this section must be paid for each calendar quarter or portion of a calendar quarter for the year that the vehicle will be located or operated in Montana. (2) Upon payment of the fees or taxes, the treasurer or the department's authorized agent shall issue to the owner of the motor vehicle, trailer, semitrailer, or pole trailer a registration receipt and a registration decal indicating the calendar quarter and year for which the motor vehicle, trailer, semitrailer, or pole trailer is registered. The registration decal must at all times be displayed on the rear of the motor vehicle, trailer, semitrailer, or pole trailer when operated or driven upon roads and highways of this state during the registration period indicated on the receipt and may not be obstructed from plain view. (3) The registration receipt does not constitute evidence of ownership but may be used only for registration purposes. A Montana certificate of title may not be issued for a motor vehicle, trailer, semitrailer, or pole trailer registered under this section. (4) This section is not applicable to: (a) a motor vehicle covered by a valid and existing reciprocal agreement or declaration entered into under Montana law; or (b) a motor vehicle that is: (i) registered in another jurisdiction by an insurance company licensed to conduct business in this state; (ii) being used by an employee of the insurance company to assist residents of this state with insurance claims; and (iii) operated on the highways of this state for no more than 90 consecutive days. (5) In addition to the fees and taxes required for registration, a fee of \$10 must be collected when a decal required under subsection (2) is issued. For each \$10 fee collected, \$8 must be deposited in the account established under 61-6-158 and \$2 must be deposited in the general fund. History: En. Sec. 7, Ch. 121, L. 1929; amd. Sec. 7, Ch. 126, L. 1933; re-en. Sec. 1760.7, R.C.M. 1935; amd. Sec. 1, Ch. 93, L. 1939; amd. Sec. 1, Ch. 296, L. 1947; amd. Sec. 3, Ch. 195, L. 1953; amd. Sec. 1, Ch. 143, L. 1955; amd. Sec. 26, Ch. 206, L. 1963; amd. Sec. 2, Ch. 290, L. 1967; R.C.M. 1947, 53-129; amd. Sec. 46, Ch. 421, L. 1979; amd. Sec. 35, Ch. 614, L. 1981; amd. Sec. 13, Ch. 140, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 26, Ch. 516, L. 1985; amd. Sec. 34, Ch. 611, L. 1987; amd. Sec. 37, Ch. 496, L. 1997; amd. Sec. 39, Ch. 515, L. 1999; amd. Sec. 72, Ch. 477, L. 2003; amd. Sec. 125, Ch. 542, L. 2005; amd. Secs. 99, 157, Ch. 596, L. 2005; amd. Sec. 1, Ch. 153, L. 2015; amd. Sec. 6, Ch. 323, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-702. Foreign vehicles to display license plates

61-3-702. Foreign vehicles to display license plates. All foreign registered and licensed motor vehicles, trailers, semitrailers, or pole trailers must carry in plain sight on the motor vehicle, trailer, semitrailer, or pole trailer the license plates or device from the other state or foreign country. History: En. Sec. 8, Ch. 121, L. 1929; amd. Sec. 8, Ch. 126, L. 1933; re-en. Sec. 1760.8, R.C.M. 1935; R.C.M. 1947, 53-130; amd. Sec. 126, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-703. Purpose

61-3-703. Purpose. Sections 61-3-701 and 61-3-702 are solely for the purpose of taxation, registration, and identification of motor vehicles, trailers, semitrailers, or pole trailers operated in this state that have paid a license fee in another state or foreign country and other than as specifically set forth in 61-3-701 and 61-3-702 may not be construed as a repeal of any laws or parts of laws having to do with the registration or licensing of motor vehicles, trailers, semitrailers, or pole trailers within the state. History: En. Sec. 10, Ch. 121, L. 1929; amd. Sec. 9, Ch. 126, L. 1933; re-en. Sec. 1760.9, R.C.M. 1935; R.C.M. 1947, 53-131; amd. Sec. 4, Ch. 598, L. 1981; amd. Sec. 127, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-704. Penalty

61-3-704. Penalty. Any person operating a motor vehicle, trailer, semitrailer, or pole trailer in violation of the intent and purpose of 61-3-701 or 61-3-702 is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 or more than \$50, confined in the county jail for not more than 30 days, or both. History: En. Sec. 11, Ch. 121, L. 1929; amd. Sec. 10, Ch. 126, L. 1933; re-en. Sec. 1760.10, R.C.M. 1935; R.C.M. 1947, 53-132; amd. Sec. 128, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-705. and 61-3-706 reserved

61-3-705 and 61-3-706 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-707. Health care professional exception

61-3-707. Health care professional exception. (1) Before a motor vehicle exempted pursuant to 15-6-217 may be operated in Montana, the person responsible for the motor vehicle shall apply for and obtain a window decal from the county treasurer. The fee for the decal is \$2, which must be remitted to the state and deposited in the state general fund. The department shall supply the decals to the county treasurers. (2) An application approved by the department must include a verification from the employer that the person is employed by a Montana health care facility that is located in an area that has been: (a) designated by the secretary of the federal department of health and human services as a health professional shortage area, as provided in 42 U.S.C. 254(e); or (b) determined to have a critical shortage of nurses, as provided in 42 U.S.C. 297n(a)(3). (3) Decals expire each year on December 31 of the year in which issued, and application for renewal of registration must be filed with the county treasurer no later than February 15 of each year. Decals must be color-coded to distinguish the year. (4) A current window decal must be displayed on the lower right-hand corner of the windshield. History: En. Sec. 3, Ch. 598, L. 1981; amd. Sec. 3, Ch. 246, L. 1999; amd. Sec. 40, Ch. 515, L. 1999; amd. Sec. 2, Ch. 436, L. 2001; amd. Sec. 176, Ch. 574, L. 2001; amd. Sec. 100, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-708. Cooperative or reciprocal registration -- filing of insurance -- fee

61-3-708. Cooperative or reciprocal registration -- filing of insurance -- fee. (1) The department may enter into written agreements with agencies of other states to allow for the cooperative or reciprocal state registration of intrastate, interstate, or international motor carriers, private motor carriers, and freight forwarder and broker industries and may authorize the agency of a participating state to: (a) issue interstate motor carrier registrations, stamps, and permits; (b) accept filings of insurance, financial responsibility, and orders; (c) collect and disburse fees; (d) share and exchange information for audit, reporting, and enforcement purposes; and (e) perform any other function that the department determines is justified to facilitate the cooperative or reciprocal registration. (2) (a) The department may impose a fee set by rule on a motor carrier or freight forwarder or broker industry registered under an agreement entered into as provided in this section. The fee must be paid on each motor vehicle, trailer, semitrailer, or pole trailer operated by the motor carrier on the public highways of this state. At the time of initial registration and in each succeeding year at a time set by the department, the motor carrier shall pay the fee to the department. (b) The department shall remit the fee to the state treasurer for deposit in the state special revenue fund for use by the department for motor carrier safety assistance. History: En. Sec. 1, Ch. 358, L. 1995; amd. Sec. 130, Ch. 542, L. 2005; amd. Sec. 1, Ch. 400, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-710. Rulemaking authority

61-3-710. Rulemaking authority. The department of transportation may adopt and enforce rules for the administration of cooperative or reciprocal vehicle registration, including the setting of a fee, and for other matters necessary to carry out the provisions of 61-3-708. History: En. Sec. 5, Ch. 358, L. 1995; amd. Sec. 1, Ch. 16, L. 2009; amd. Sec. 1, Ch. 89, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-711. Declaration of policy

61-3-711. Declaration of policy. It is the policy of this state to promote and encourage the fullest possible use of its highway system

by authorizing the making and execution of reciprocal or proportional registration agreements, arrangements, and declarations with other states, provinces, territories, and countries with respect to motor vehicles, trailers, semitrailers, or pole trailers registered in this and other states, provinces, territories, and countries thus contributing to the economic and social development and growth of this state. History: En. Sec. 1, Ch. 206, L. 1963; R.C.M. 1947, 53-701; amd. Sec. 132, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-712. Definitions

61-3-712. Definitions. As used in 61-3-711 through 61-3-733 the following definitions apply: (1) "Apportionable motor vehicle" means a motor vehicle, trailer, semitrailer, or pole trailer that is used or intended for use in more than one jurisdiction and that is used for the transportation of persons for hire, compensation, or profit or designed or used primarily for the transportation of property. (2) "Fleet" means one or more apportionable motor vehicles. (3) "Jurisdiction" means and includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country. (4) "Legal residence" means a jurisdiction where the person lives or conducts business. This residence need not be coupled with the intent to live or conduct the business there on a permanent basis. The use of the word "residence" in 61-3-711 through 61-3-733 must be confined to the definition given and may not be confused with the word "domicile". This definition of "residence" further recognizes that a person may have several residences, but only one domicile. (5) "Preceding year" means a period of 12 consecutive months fixed by the department of transportation, which period must be within 18 months immediately preceding the commencement of the registration or license year for which proportional registration is sought. The department in fixing the period shall conform the period to the terms, conditions, and requirements of any applicable agreement or arrangements for the proportional registration of motor vehicles, trailers, semitrailers, or pole trailers. (6) (a) "Properly registered", as applied to place of registration, means: (i) the jurisdiction where the person registering the motor vehicle, trailer, semitrailer, or pole trailer has the person's legal residence; (ii) in the case of an apportionable motor vehicle, the jurisdiction in which it is registered if the enterprise in which the motor vehicle, trailer, semitrailer, or pole trailer is used has a place of business in the jurisdiction and if the motor vehicle, trailer, semitrailer, or pole trailer is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from the place of business and the motor vehicle, trailer, semitrailer, or pole trailer has been assigned to the place of business; or (iii) in the case of an apportionable motor vehicle, the jurisdiction where because of an agreement or arrangement between two or more jurisdictions or pursuant to a declaration the motor vehicle, trailer, semitrailer, or pole trailer has been registered as required by that jurisdiction. (b) In case of doubt or dispute as to the proper place of registration of a motor vehicle, trailer, semitrailer, or pole trailer, the transportation commission shall make the final determination, but in making the determination, the commission may confer with departments of the other jurisdictions affected. History: En. Sec. 2, Ch. 206, L. 1963; amd. Sec. 190, Ch. 316, L. 1974; R.C.M. 1947, 53-702(1), (2), (4) thru (6), (10); amd. Sec. 1, Ch. 36, L. 1981; amd. Sec. 1, Ch. 414, L. 1983; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 6, Ch. 75, L. 1995; amd. Sec. 133, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-713. Authority of department of transportation

61-3-713. Authority of department of transportation. The department of transportation may execute or make arrangements, agreements, or declarations to carry out 61-3-711 through 61-3-733. History: En. Sec. 4, Ch. 206, L. 1963; amd. Sec. 191, Ch. 316, L. 1974; R.C.M. 1947, 53-704; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-714. Authority for reciprocity agreements, provisions, reciprocity standards

61-3-714. Authority for reciprocity agreements, provisions, reciprocity standards. The department of transportation may enter into an agreement or arrangement with the duly authorized representatives of other jurisdictions, granting to motor vehicles, trailers, semitrailers, or pole trailers or to owners of motor vehicles, trailers, semitrailers, or pole trailers that are properly registered or licensed in those jurisdictions and for which evidence of compliance is supplied, benefits, privileges, and exemptions from payment, wholly or partially, of any taxes, fees, or other charges imposed upon those motor vehicles, trailers, semitrailers, or pole trailers or owners with respect to the operation or ownership of the motor vehicles, trailers, semitrailers, or pole trailers under the laws of this state. The agreement or arrangement must provide that vehicles properly registered or licensed in this state, when operated upon highways of those other jurisdictions, must receive exemptions, benefits, and privileges of a similar kind or to a similar degree as are extended to motor vehicles, trailers, semitrailers, or pole trailers properly registered or licensed in the jurisdiction when operated in this state. The agreement or arrangement must, in the judgment of the department, be in the best interests and fair and equitable to this state and its citizens determined on the basis and recognition of the benefits that accrue to the economy of this state from the uninterrupted flow of commerce. History: En. Sec. 5, Ch. 206, L. 1963; amd. Sec. 192, Ch. 316, L. 1974; R.C.M. 1947, 53-705; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 134, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-715. Base state registration reciprocity

61-3-715. Base state registration reciprocity. An agreement or arrangement entered into or a declaration issued under the authority of 61-3-711 through 61-3-733 may contain provisions authorizing the registration or licensing in another jurisdiction of motor vehicles, trailers, semitrailers, or pole trailers located in or operated from a base in the other jurisdiction for motor vehicles, trailers, semitrailers, or pole trailers that would be required to be registered or licensed in this state. The exemptions, benefits, and privileges extended by the agreement, arrangement, or declaration apply to motor vehicles, trailers, semitrailers, or pole trailers when properly licensed or registered in the base jurisdiction. History: En. Sec. 6, Ch. 206, L. 1963; R.C.M. 1947, 53-706; amd. Sec. 135, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-716. Proportional registration of fleet motor vehicles

61-3-716. Proportional registration of fleet motor vehicles. (1) If a jurisdiction permits or requires the licensing of fleets of motor vehicles, trailers, semitrailer, or pole trailers in interstate or combined interstate and intrastate commerce and payment of registration fees, license fees, taxes, or other fixed fees on those motor vehicles, trailers, semitrailers, or pole trailers on an apportionment basis commensurate with and determined by the miles traveled on and the use made of the jurisdiction's highways as compared with the miles traveled on and the use made of other jurisdiction's highways or any other equitable basis of apportionment and if the jurisdiction exempts motor vehicles, trailers, semitrailers, or pole trailers registered in any other jurisdiction under this apportionment basis from the requirements of full payment of its own registration, license fees, taxes, or other fixed fees, then the department may, by agreement, adopt exemptions with respect to motor vehicles, trailers, semitrailers, or pole trailers of these fleets, whether owned by residents or nonresidents of this state and regardless of where they are based. An agreement, under the terms, conditions, or restrictions that the department considers proper, may provide that owners of motor vehicles, trailers, semitrailers, or pole trailers operated in interstate or combined interstate and intrastate commerce in this state be permitted to pay registration, license fees, taxes, or other fixed fees on an apportionment basis commensurate with and determined by the miles traveled on and the use made of the highways of this state as compared with the use made of the highways of other jurisdictions or any other equitable basis of apportionment. This agreement may not authorize or be construed to authorize a motor vehicle, trailer, semitrailer, or pole trailer so registered to be operated in intrastate commerce in this state unless the owner of the motor vehicle, trailer, semitrailer, or pole trailer has been granted intrastate authority or rights by the public service commission if a grant is otherwise required by law. (2) The department of transportation may adopt rules that it considers necessary to carry out and administer this section, and the registration of fleet motor vehicles, trailers, semitrailers, or pole trailers under 61-3-711 through 61-3-733 is subject to the rights, terms, and conditions granted by or contained in any applicable agreement, arrangement, or declaration made by the department. The department of transportation shall adopt rules providing for a change of registration period for a fleet in a case in which the owner of the fleet requests that the registration period be changed to coincide with the registration period of one or more other fleets in the same ownership. History: En. Sec. 7, Ch. 206, L. 1963; amd. Sec. 1, Ch. 88, L. 1965; amd. Sec. 193, Ch. 316, L. 1974; R.C.M. 1947, 53-707; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 4, Ch. 42, L. 1995; amd. Sec. 136, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-717. Declarations of extent of reciprocity

61-3-717. Declarations of extent of reciprocity. In the absence of an agreement or arrangement with another jurisdiction, the department may examine the laws and requirements of the jurisdiction and declare the extent and nature of exemptions, benefits, and privileges to be extended to motor vehicles, trailers, semitrailers, or pole trailers properly registered or licensed in the other jurisdiction or to the owners of the motor vehicles, trailers, semitrailers, or pole trailers that are in the judgment of the department in the best interests and fair and equitable to this state and its citizens determined on the basis and recognition of the benefits that accrue to the economy of this state from the uninterrupted flow of commerce. History: En. Sec. 8, Ch. 206, L. 1963; amd. Sec. 194, Ch. 316, L. 1974; R.C.M. 1947, 53-708; amd. Sec. 137, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-718. Extension of reciprocal privileges to lessees authorized

61-3-718. Extension of reciprocal privileges to lessees authorized. An agreement or arrangement entered into or a declaration issued under the authority of 61-3-711 through 61-3-733 may contain provisions under which a leased motor vehicle, trailer, semitrailer, or pole trailer properly registered by the lessor may be entitled, subject to terms and conditions stated in the agreement, arrangement, or declaration, to the exemptions, benefits, and privileges extended by the agreement, arrangement, or declaration. History: En. Sec. 9, Ch. 206, L. 1963; R.C.M. 1947, 53-709; amd. Sec. 138, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-719. Automatic reciprocity

61-3-719. Automatic reciprocity. If an agreement, arrangement, or declaration is not in effect with respect to another jurisdiction as authorized by 61-3-711 through 61-3-733, any motor vehicle, trailer, semitrailer, or pole trailer properly registered or licensed in another jurisdiction and for which evidence of compliance is supplied must receive, when operated in this state, the same exemptions, benefits, and privileges granted by the other jurisdictions to motor vehicles, trailers, semitrailers, or pole trailers

properly registered in this state. Reciprocity extended under this section applies to commercial motor vehicles, trailers, semitrailers, or pole trailers only when engaged exclusively in interstate commerce. History: En. Sec. 10, Ch. 206, L. 1963; R.C.M. 1947, 53-710; amd. Sec. 139, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-720. Proportional registration not exclusive

61-3-720. Proportional registration not exclusive. Sections 61-3-711 through 61-3-733 relating to proportional registration of fleet motor vehicles, trailers, semitrailers, or pole trailers may not be construed as requiring any motor vehicle, trailer, semitrailer, or pole trailer to be proportionally registered if it is otherwise registered in this state for the operation in which it is engaged, including but not limited to regular registration, temporary registration, or trip permit or registration. History: En. Sec. 11, Ch. 206, L. 1963; R.C.M. 1947, 53-711; amd. Sec. 140, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-721. Proportional registration of motor fleet vehicles, registration periods, application, fee formula, and payment -- permanent registration of trailer and semitrailer fleets -- transfer of ownership -- transfer of license plates -- definition

61-3-721. Proportional registration of motor fleet vehicles, registration periods, application, fee formula, and payment -- permanent registration of trailer and semitrailer fleets -- transfer of ownership -- transfer of license plates -- definition. (1) An owner of one or more fleets may register and license each fleet for operation in this state by filing an application with the department of transportation. The application must contain the information pertinent to motor vehicle, trailer, semitrailer, or pole trailer registration that is required by the department of transportation. If an electronic record of title has not been created for or a certificate of title issued for an apportionable vehicle in the fleet, the department of transportation, as an authorized agent of the department of justice, may also process the application for certificate of title for the vehicle as provided in 61-3-203 and 61-3-217. (2) Except as provided in 61-3-318(1) and subsection (6) of this section, each fleet subject to the provisions of 61-3-711 through 61-3-733 must be registered for an annual registration period based upon the date that the fleet is first registered in this state. (3) There are four annual registration periods, each of which begins on the first day of a calendar quarter. As used in this subsection, "calendar quarter" means the period of 3 consecutive months ending March 31, June 30, September 30, or December 31. The periods are: (4) Registration of a fleet of apportionable motor vehicles under subsection (2) must be renewed on or before the last day of the month for the designated annual registration period unless a different registration period has been authorized pursuant to 61-3-716(2). The department shall provide for simultaneous registration of multiple fleets of apportionable motor vehicles in common ownership. (5) Except as provided in subsection (6), the application for each fleet may be accompanied by a fee payment computed by: (a) dividing in-state miles by total fleet miles as defined in the applicable agreement, arrangement, or declaration entered into pursuant to 61-3-711 through 61-3-733; (b) determining the total amount necessary to register each motor vehicle, trailer, semitrailer, or pole trailer in the fleet for which registration is requested, based on the regular annual registration fees prescribed by 61-3-321 and chapter 10, part 2, and the property taxes that are due on the fleet; (c) multiplying the sum obtained under subsection (5)(b) by the fraction obtained under subsection (5)(a). (6) Upon renewal or new registration, each trailer, semitrailer, or pole trailer fleet must be permanently registered and assessed a registration fee of \$82.50. Each trailer, semitrailer, or pole trailer in the fleet must be issued a permanent license plate and registration decal. (7) The fee assessed in subsection (6) is a one-time fee except upon transfer of ownership of a trailer, semitrailer, or pole trailer. (8) If the owner of a fleet removes a trailer, semitrailer, or pole trailer from the fleet, the owner shall surrender the registration and license plate assigned to the trailer, semitrailer, or pole trailer to the department of transportation. The owner may not transfer the license plate and registration decal to a trailer, semitrailer, or pole trailer that is added to the fleet. (9) Applications submitted with fees may be recomputed by the department of transportation. The department of transportation shall furnish a statement showing the overpayment or balance due. (10) Applications submitted without fees must be computed by the department of transportation. The department of transportation shall furnish a statement showing the amount of fees due. History: En. Sec. 12, Ch. 206, L. 1963; amd. Sec. 2, Ch. 88, L. 1965; amd. Sec. 195, Ch. 316, L. 1974; amd. Sec. 1, Ch. 144, L. 1977; R.C.M. 1947, 53-712; amd. Sec. 2, Ch. 36, L. 1981; amd. Sec. 2, Ch. 414, L. 1983; amd. Sec. 5, Ch. 42, L. 1995; amd. Sec. 5, Ch. 88, L. 1995; amd. Sec. 3, Ch. 72, L. 1997; amd. Sec. 83, Ch. 51, L. 1999; amd. Sec. 1, Ch. 315, L. 2005; amd. Sec. 141, Ch. 542, L. 2005; amd. Secs. 101, 159, Ch. 596, L. 2005; amd. Sec. 61, Ch. 44, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-722. Registration and identification of proportionally registered motor vehicles -- fees -- effect of registration

61-3-722. Registration and identification of proportionally registered motor vehicles -- fees -- effect of registration. (1) The department shall register each proportionally registered motor vehicle, trailer, semitrailer, or pole trailer and issue a license plate or plates, a distinctive registration decal, or other suitable identification device for each motor vehicle, trailer, semitrailer, or pole trailer described in the application upon payment of the appropriate fees and property taxes, as provided by law, for the application and for the license plates, registration decals, or devices issued. A fee of \$2 must be paid for each license plate, each registration decal, and each device issued for each proportionally registered motor vehicle, trailer, semitrailer, or pole trailer. A fee of \$5 must be paid for each motor vehicle, trailer, semitrailer, or pole trailer receiving temporary registration as authorized by section 704 of the

international registration plan of the American association of motor vehicle administrators, adopted in April 1988. A registration card must be issued for each proportionally registered motor vehicle, trailer, semitrailer, or pole trailer. The registration card must, in addition to other information required by chapter 3, show the number of the license, registration decal, or other device issued for the proportionally registered motor vehicle, trailer, semitrailer, or pole trailer and must be carried in the motor vehicle, trailer, semitrailer, or pole trailer at all times. (2) Fleet motor vehicles, trailers, semitrailers, or pole trailers registered and identified as fleet motor vehicles are considered fully licensed and registered in this state for any type of movement or operation, except that, in those instances in which a grant of authority is required for intrastate movement or operation, the motor vehicle, trailer, semitrailer, or pole trailer may not be operated in intrastate commerce in this state unless the owner has been granted intrastate authority by the public service commission and unless the motor vehicle, trailer, semitrailer, or pole trailer is being operated in conformity with that authority. History: En. Sec. 13, Ch. 206, L. 1963; amd. Sec. 3, Ch. 88, L. 1965; amd. Sec. 196, Ch. 316, L. 1974; R.C.M. 1947, 53-713; amd. Sec. 1, Ch. 32, L. 1993; amd. Sec. 6, Ch. 42, L. 1995; amd. Sec. 68, Ch. 130, L. 2005; amd. Sec. 142, Ch. 542, L. 2005; amd. Sec. 2, Ch. 540, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-723. Proportional registration not applicable in a single jurisdiction

61-3-723. Proportional registration not applicable in a single jurisdiction. The right to the privilege and benefits of proportional registration of fleet motor vehicles, trailers, semitrailers, or pole trailers extended by 61-3-711 through 61-3-733 or by any contract, agreement, arrangement, or declaration made under the authority of 61-3-711 through 61-3-733 is subject to the condition that each fleet motor vehicle, trailer, semitrailer, or pole trailer proportionally registered under the authority of 61-3-711 through 61-3-733 must also be proportionally or otherwise properly registered in at least one other jurisdiction during the period for which it is proportionally registered in this state. History: En. Sec. 14, Ch. 206, L. 1963; R.C.M. 1947, 53-714; amd. Sec. 143, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-724. Registration of additional fleet motor vehicles

61-3-724. Registration of additional fleet motor vehicles. Motor vehicles, trailers, semitrailers, or pole trailers acquired by the owner after the commencement of the registration period and subsequently added to a proportionally registered fleet must be proportionally registered by applying the mileage percentage used in the original application for the fleet for the registration period to the regular registration fees due with respect to the motor vehicle, trailer, semitrailer, or pole trailer for the remainder of the registration period. History: En. Sec. 15, Ch. 206, L. 1963; R.C.M. 1947, 53-715; amd. Sec. 7, Ch. 42, L. 1995; amd. Sec. 144, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-725. Withdrawal of fleet motor vehicles -- procedure, credits, and accounting

61-3-725. Withdrawal of fleet motor vehicles -- procedure, credits, and accounting. (1) If a motor vehicle, trailer, semitrailer, or pole trailer is withdrawn from a proportionally registered fleet during the period for which it is registered, the owner of the fleet shall notify the department of transportation of that fact on forms prescribed by the department. The department may require the owner to surrender proportional registration cards and other identification devices that have been issued with respect to that motor vehicle, trailer, semitrailer, or pole trailer. If a motor vehicle, trailer, semitrailer, or pole trailer is permanently withdrawn from a proportionally registered fleet because it has been destroyed, sold, or otherwise completely removed from the service of the registrant, the unused portion of the gross vehicle weight fees paid with respect to that motor vehicle, trailer, semitrailer, or pole trailer must be credited to the proportional registration account of the owner. This unused portion equals the amount paid with respect to the motor vehicle, trailer, semitrailer, or pole trailer when it was first proportionally registered in the registration period, reduced by one-twelfth of the total annual gross vehicle weight fee of the motor vehicle, trailer, semitrailer, or pole trailer for each calendar month and fraction of a month elapsing between the first day of the month of the current period in which the motor vehicle, trailer, semitrailer, or pole trailer was registered and the date the notice of withdrawal is received by the department. This credit must be applied against liability for additional fees due during the registration period or for additional fees due upon audit under 61-3-728. If a credit is less than \$5, it may not be made or entered. A credit may not be taken against fees other than those for the registration period and is not subject to refund. (2) If the owner replaces a motor vehicle, trailer, semitrailer, or pole trailer withdrawn from the fleet at the same time as the withdrawal and the replacement motor vehicle, trailer, semitrailer, or pole trailer is of the same or of a lesser weight category than the one withdrawn, the gross vehicle weight fees are transferable to the replacement motor vehicle, trailer, semitrailer, or pole trailer. If the transfer is to a smaller motor vehicle, trailer, semitrailer, or pole trailer, a credit may not be given or entered. History: En. Sec. 16, Ch. 206, L. 1963; amd. Sec. 197, Ch. 316, L. 1974; R.C.M. 1947, 53-716; amd. Sec. 3, Ch. 36, L. 1981; amd. Sec. 3, Ch. 414, L. 1983; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 8, Ch. 42, L. 1995; amd. Sec. 145, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-726. New fleet -- estimated mileage

61-3-726. New fleet -- estimated mileage. The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If operations were not conducted with this fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in this state and other jurisdictions. The department shall determine the in-state and total fleet miles to be used in computing the fee payment for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to the correctness of the estimate. History: En. Sec. 17, Ch. 206, L. 1963; amd. Sec. 198, Ch. 316, L. 1974; R.C.M. 1947, 53-717.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-727. Fleet registration -- denial when no reciprocity

61-3-727. Fleet registration -- denial when no reciprocity. The department may refuse to accept proportional registration applications for the registration of motor vehicles, trailers, semitrailers, or pole trailers based in another jurisdiction or owned by residents of another jurisdiction if the department finds that the other jurisdiction does not grant similar registration privileges to fleet motor vehicles, trailers, semitrailers, or pole trailers based in or owned by residents of this state. History: En. Sec. 18, Ch. 206, L. 1963; amd. Sec. 199, Ch. 316, L. 1974; R.C.M. 1947, 53-718; amd. Sec. 146, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-728. Preservation of proportional registration records

61-3-728. Preservation of proportional registration records. An owner whose application for proportional registration has been accepted shall preserve the records on which the application is based for a period of 4 years following the year or period upon which the application is based. Upon request of the department, the owner shall make these records available to the department for audit as to accuracy of computations and payments or pay the reasonable costs of an audit at the owner's home office by an appointed representative of the department. The department may make arrangements with agencies of other jurisdictions administering motor vehicle, trailer, semitrailer, or pole trailer registration laws for joint audits of the owner. History: En. Sec. 19, Ch. 206, L. 1963; amd. Sec. 200, Ch. 316, L. 1974; R.C.M. 1947, 53-719; amd. Sec. 147, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-729. Relation to other state laws

61-3-729. Relation to other state laws. The provisions of 61-3-711 through 61-3-733 are authority for the registration of fleet motor vehicles, trailers, semitrailers, or pole trailers upon a proportional registration basis without reference to or application of any other statutes of this state. History: En. Sec. 20, Ch. 206, L. 1963; R.C.M. 1947, 53-720; amd. Sec. 148, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-730. Suspension of reciprocity benefits

61-3-730. Suspension of reciprocity benefits. The department may suspend or cancel the exemptions, benefits, or privileges granted under 61-3-711 through 61-3-733 to a person who violates any of the conditions or terms of the agreements, arrangements, or declarations or violates the laws of this state relating to motor vehicles, trailers, semitrailers, or pole trailers or rules adopted under those laws. History: En. Sec. 21, Ch. 206, L. 1963; amd. Sec. 201, Ch. 316, L. 1974; R.C.M. 1947, 53-721; amd. Sec. 4, Ch. 36, L. 1981; amd. Sec. 149, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-731. Agreements to be written, filed, and available for distribution

61-3-731. Agreements to be written, filed, and available for distribution. All agreements, arrangements, or declarations, or amendments thereto, shall be in writing and shall be filed with the department, and the department shall provide copies for public distribution upon request. History: En. Sec. 22, Ch. 206, L. 1963; amd. Sec. 202, Ch. 316, L. 1974; R.C.M. 1947, 53-722.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-732. Continued validity of existing reciprocity agreements

61-3-732. Continued validity of existing reciprocity agreements. All reciprocity and proportional registration agreements, arrangements, and declarations relating to motor vehicles, trailers, semitrailers, or pole trailers in force and effect as of March 7, 1963, continue in force and effect until specifically amended or revoked as provided by law or by the agreements, arrangements, or declarations. History: En. Sec. 23, Ch. 206, L. 1963; R.C.M. 1947, 53-723; amd. Sec. 150, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-733. Laws supplemental to motor vehicle, trailer, semitrailer, or pole trailer registration laws

61-3-733. Laws supplemental to motor vehicle, trailer, semitrailer, or pole trailer registration laws. Sections 61-3-711 through 61-3-732 are supplemental to the motor vehicle, trailer, semitrailer, or pole trailer registration laws of this state. History: En. Sec. 24, Ch. 206, L. 1963; amd. Sec. 203, Ch. 316, L. 1974; R.C.M. 1947, 53-724; amd. Sec. 151, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-734. and 61-3-735 reserved

61-3-734 and 61-3-735 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-736. Assessment of proportionally registered interstate motor vehicle fleets -- payment of fees required for registration

61-3-736. Assessment of proportionally registered interstate motor vehicle fleets -- payment of fees required for registration. (1) (a) The department of transportation shall determine the fee for the purpose of imposing the fee in lieu of tax as provided in 61-3-529 on buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors and the light vehicle registration fee under 61-3-321(2) on light vehicles in interstate motor vehicle fleets that are proportionally registered under the provisions of 61-3-711 through 61-3-733. The fee must be apportioned on the ratio of total miles traveled to in-state miles traveled as prescribed by 61-3-721. The fee in lieu of tax or registration fee on interstate motor vehicle, trailer, semitrailer, or pole trailer fleets is imposed upon application for proportional registration and must be paid by the persons who own or claim the fleet or in whose possession or control the fleet is at the time of the application. (b) With respect to an original application for a fleet that has a situs in Montana for the purpose of the fee in lieu of tax or registration fee under this part or any other provision of the laws of Montana, the fee in lieu of tax or registration fee on fleet motor vehicles, trailers, semitrailers, or pole trailers must be prorated according to the ratio that the remaining number of months in the year bears to the total number of months in the year. (c) Motor vehicles subject to the light vehicle registration fee as part of a fleet under this subsection (1) are not subject to the local option motor vehicle tax or flat fee imposed under 61-3-537 or 61-3-570. (2) With respect to a renewal application for a fleet, the fee in lieu of tax and the light vehicle registration fee are imposed for a full year. The department of transportation shall prorate the new fee in lieu of tax in 61-3-529 for motor vehicles, trailers, semitrailers, or pole trailers that are proportionally registered, as provided in 61-3-721, and whose annual registration period does not coincide with the calendar year. (3) Motor vehicles, trailers, semitrailers, or pole trailers contained in a fleet for which current fees have been assessed and paid may not be assessed or charged fees under this section upon presentation to the department of proof of payment of fees for the current registration year. The payment of fleet motor vehicle, trailer, semitrailer, or pole trailer fees in lieu of tax, light vehicle registration fees, and license fees is a condition precedent to proportional registration or reregistration of an interstate motor vehicle, trailer, semitrailer, or pole trailer fleet. (4) All fees collected on motor vehicle, trailer, semitrailer, or pole trailer fleets under this chapter must be deposited and distributed as provided in 61-3-738. History: En. Sec. 34, Ch. 496, L. 1997; amd. Sec. 41, Ch. 515, L. 1999; amd. Sec. 19, Ch. 191, L. 2001; amd. Sec. 6, Ch. 500, L. 2001; amd. Sec. 115, Ch. 114, L. 2003; amd. Sec. 152, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-737. Situs in state of proportionally registered fleets -- collection of fees

61-3-737. Situs in state of proportionally registered fleets -- collection of fees. (1) For the purposes of this part, any motor vehicle previously registered or that has had application for registration made under the provisions of 61-3-711 through 61-3-733 has a situs in Montana for the purposes of the light vehicle registration fee or the fee in lieu of tax. (2) The department of transportation shall collect the fleet motor vehicle, trailer, semitrailer, or pole trailer registration fees, fees in lieu of tax, and license fees prescribed in this part. History: En. Sec. 35, Ch. 496, L. 1997; amd. Sec. 42, Ch. 515, L. 1999; amd. Sec. 20, Ch. 191, L. 2001; amd. Sec. 153, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 3. Certificates of Title, Registration, and Taxation of Motor Vehicles Part 7. Registration of Foreign Vehicles 61-3-738. Deposit and distribution of fees on proportionally registered fleets

61-3-738. Deposit and distribution of fees on proportionally registered fleets. The light vehicle registration fees, fees in lieu of tax, and license fees collected under this part must be deposited with the state treasurer in the highway nonrestricted account provided for in 15-70-125. History: En. Sec. 36, Ch. 496, L. 1997; amd. Sec. 43, Ch. 515, L. 1999; amd. Sec. 21, Ch. 191, L. 2001; amd. Sec. 177, Ch. 574, L. 2001; amd. Sec. 17, Ch. 267, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-101. Types of licenses and terms -- common application -- bonds -- zoning

61-4-101. Types of licenses and terms -- common application -- bonds -- zoning. (1) Except as provided in 61-4-120 and 61-4-125, a person may not engage in the business of buying, selling, exchanging, accepting on consignment, or acting as a broker of a motor vehicle, trailer, travel trailer, semitrailer, pole trailer, motorcycle, quadricycle, motorboat, personal watercraft, snowmobile, off-highway vehicle, or special mobile equipment that is not registered in the person's name unless the person is the holder of a license issued by the department under this part. (2) (a) The department may issue a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license to any person it determines is qualified to hold the license under the provisions of this section. (b) A new dealer's license authorizes the holder to sell: (i) any new motor vehicle, new power sports vehicle, or new trailer that is covered under a franchise agreement between the holder and the manufacturer, importer, or distributor of the line of vehicle or trailer offered for sale; and (ii) any used motor vehicle, used power sports vehicle, or used trailer. (c) A used

dealer license authorizes the holder to sell any used motor vehicle, used power sports vehicle, or used trailer. (d) A broker's license authorizes the holder to negotiate the purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer from a dealer or another person upon behalf of a client when the broker does not store, display, or take ownership of the motor vehicle, power sports vehicle, or trailer being purchased, sold, or exchanged. (e) Except as provided in 61-4-120, an auto auction license authorizes the holder to take possession of a used vehicle owned by another person through consignment, bailment, or any other arrangement and to sell to the highest bidder when all bidders are licensed vehicle dealers, wholesalers, or wrecking facilities. (f) A wholesaler license authorizes the holder to sell used vehicles to a new or used vehicle dealer, an auto auction, or another wholesaler. (3) Dealer license expiration dates must be staggered throughout the year. (4) Subject to the provisions of 61-4-120, 61-4-124, and 61-4-125, a license issued by the department is valid until: (a) voluntarily returned to the department for surrender and cancellation upon the cessation of the licensee's business operations; or (b) suspended or revoked for a violation of this chapter or any other laws relating to the sale of motor vehicles, power sports vehicles, or trailers. (5) (a) An applicant for a new dealer's license, a used dealer's license, a broker's license, an auto auction license, or a wholesaler license shall submit a written application to the department. The application must be signed by the applicant and contain a verification by the applicant, under penalty of law, that the information contained in the application is true and correct. Any information provided in the license application process is subject to independent verification by the department or an authorized representative of the department. (b) After examining a license application and conducting an investigation necessary to verify the information contained in the application and if the department is satisfied that the applicant qualifies for the issuance of a license under the provisions of this chapter, the department may issue the license. The department may refuse, after examination and investigation, to issue a license to an applicant who is not qualified for licensure or whose prior financial or other activities or criminal record, as determined by the department: (i) poses a threat to the effective regulation of dealers, wholesalers, or auto auctions; (ii) poses a threat to the public interest of the state; or (iii) creates a danger of illegal or deceptive practices being used in the conduct of the proposed dealership, wholesaler, or auto auction. (6) To be qualified for licensure, an applicant shall provide to the department the following information: (a) the name under which the applicant intends to conduct business and the applicant's name, the street address and, if different, mailing address for the business, and customer identification number; (b) the name, date of birth, and social security number of any person who: (i) possesses or will possess an ownership interest in the business for which the license is sought; (ii) is a corporate officer or the managing member of a business entity applying for the license; or (iii) is or will be designated by the applicant to manage or oversee the applicant's business; (c) for each person subject to the provisions of subsection (6)(b), information concerning whether the person has: (i) an ownership interest in a vehicle dealership, an auto auction, or a wholesaler business in Montana or any other state and, if so, the name and address of each dealership, auto auction, or wholesaler; and (ii) been found guilty of, or pleaded guilty to, a felony in this or any other jurisdiction and, if so, shall provide a summary of the conduct resulting in the felony charge, including the dates of the conduct and any court proceedings pertaining to the conduct and the name and address of any court in which the matter was heard; (d) the name, address, and telephone number of the insurance carrier from whom the applicant has acquired general liability insurance, naming the department as a certificate holder of the policy, and the name, address, and telephone number of the local insurance agent for the carrier and the applicant's policy number. The insurance must cover any motor vehicle bearing dealer or demonstrator license plates and any motorboat, snowmobile, or off-highway vehicle displaying a dealer's identification card that is offered for demonstration or loan to a customer or otherwise operated by a customer in the regular course of the applicant's business and must be for a minimum of 1 year; (e) the geographic location of the physical lot or lots upon which vehicles will be displayed for sale, if applicable, and of a permanent nonresidential building, with no more than three other wholesale, broker, auction, or retail vehicle dealers in the same building or at the same location, that will be maintained to store the actual physical or electronic records resulting from the purchase, sale, trade, or consignment of vehicles for which licensure is sought. An applicant may use more than one location to display vehicles for sale if the maximum distance between each display lot does not exceed 200 feet and if the distance between a display lot and the building in which vehicle sales records are stored does not exceed 1,000 feet. (f) for each geographic location specified in the application, evidence of the applicant's compliance with applicable local land use planning, zoning, and business permitting requirements, if any. Evidence of compliance may be documented by means of a written verification of compliance signed by the authorized representative of the local land use planning or zoning board or the local business-permitting agency. (g) a diagram or plat showing the geographic location, lot dimensions, if applicable, and building and sign placement for the applicant's proposed established place of business, along with two or more photographs of the geographic location, building premises, and sign, as prescribed by the department; (h) if the applicant is seeking a new motor vehicle dealer's license: (i) the name and address of the manufacturer, importer, or distributor with whom the applicant has a written new motor vehicle, power sports vehicle, or trailer franchise or sales agreement, the term of the agreement, and the name and make of all motor vehicles, power sports vehicles, or trailers to be handled by the applicant; (ii) the geographic location or locations, specified in writing, upon which the applicant will provide and maintain a permanent building to display and sell new motor vehicles, power sports vehicles, or trailers and offer and maintain a bona fide service department for the repair, service, and maintenance of the motor vehicles, power sports vehicles, or trailers; and (iii) verification that the applicant otherwise meets the requirements of part 2 of this chapter. (7) If an applicant wants to maintain more than one established place of business, the applicant shall file a separate license application for each proposed place of business and otherwise qualify for licensure at each place separately. (8) Each application under this section must be accompanied by the following fees: (a) for a new or used dealer's license, a broker's license, or a wholesaler's license, \$30; and (b) for an auto auction license, the fee provided for in 61-4-120. (9) (a) Except as provided in subsection (9)(b), an applicant for a dealer's license, broker's license, wholesaler's license, or auto auction license shall also file with the application a bond of \$50,000.

(b) An applicant whose business will be restricted to the sale of motorcycles or quadricycles shall file a bond of \$15,000. An applicant whose business will be restricted to the sale of motorboats, personal watercraft, snowmobiles, or off-highway vehicles, other than motorcycles originally equipped for use on the highway, shall file a bond of \$5,000. (c) All bonds must be conditioned that the applicant shall conduct the business in accordance with the requirements of the law. All bonds must be approved by the department, must be filed in its office, and must be renewed annually. History: En. Subd. 5, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.4, R.C.M. 1935; amd. Sec. 2, Ch. 72, L. 1937; amd. Sec. 2, Ch. 245, L. 1955; amd. Sec. 3, Ch. 256, L. 1965; amd. Sec. 1, Ch. 354, L. 1969; amd. Sec. 2, Ch. 226, L. 1971; amd. Sec. 2, Ch. 244, L. 1971; amd. Sec. 1, Ch. 535, L. 1977; R.C.M. 1947, 53-118(part); amd. Sec. 1, Ch. 73, L. 1979; amd. Sec. 47, Ch. 421, L. 1979; amd. Sec. 2, Ch. 443, L. 1981; amd. Sec. 1, Ch. 282, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 27, Ch. 516, L. 1985; amd. Sec. 1, Ch. 179, L. 1989; amd. Sec. 1, Ch. 523, L. 1989; amd. Sec. 2, Ch. 383, L. 1991; amd. Sec. 14, Ch. 724, L. 1991; amd. Sec. 9, Ch. 482, L. 1993; amd. Sec. 1, Ch. 220, L. 1997; amd. Sec. 1, Ch. 221, L. 1997; amd. Sec. 84, Ch. 51, L. 1999; amd. Sec. 21, Ch. 409, L. 1999; amd. Sec. 1, Ch. 201, L. 2001; amd. Sec. 4, Ch. 385, L. 2001; amd. Sec. 3, Ch. 299, L. 2003; amd. Sec. 154, Ch. 542, L. 2005; amd. Sec. 102, Ch. 596, L. 2005; amd. Sec. 34, Ch. 329, L. 2007; amd. Sec. 7, Ch. 323, L. 2017; amd. Sec. 2, Ch. 143, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-102. Dealer plates -- restriction of use -- fees

61-4-102. Dealer plates -- restriction of use -- fees. (1) Except as provided in subsection (2), the department shall furnish a dealer licensed under this part with one or more sets of numbered dealer plates in accordance with the provisions of this section. (2) Dealer plates may not be issued to a new or used dealer whose business is restricted to the sale of motorcycles, power sports vehicles, or trailers. (3) (a) In addition to the fees required under the provisions of 61-4-101 and 61-4-124, an applicant for a dealer's license shall pay an annual fee of \$25 for each set of numbered dealer plates requested and issued. (b) The number of dealer plates that may be issued to a dealer must be determined as follows: (i) a dealer is entitled to one set of dealer plates upon the issuance of an original license or a renewed license; (ii) an applicant qualified for a license renewal is entitled to additional sets of numbered plates based on the following formula: (A) 5% of the first 100 motor vehicle sales for the previous year; plus (B) 3% of the next 100 motor vehicle sales for the previous year; plus (C) 2% of motor vehicle sales in excess of 200 for the previous year; and (iii) a dealer is entitled to additional sets of dealer plates during a license term as the dealer's sales incrementally meet or exceed the requirements of the formula established in subsection (3)(b)(ii). However, the aggregate number of sets of dealer plates issued to a dealer under this subsection (3)(b)(iii) may not exceed the combined number allowed under subsections (3)(b)(i) and (3)(b)(ii). (4) (a) A dealer is authorized to use and display dealer plates on a motor vehicle, except a motorcycle, held for bona fide sale by the dealer and that is operated by or under the control of the dealer, the dealer's spouse, officers, or employees. (b) For purposes of this subsection (4): (i) the term "officers" includes only the persons listed on the manufacturer's franchise agreement or the importer's distribution agreement and the term "employees" means persons upon whom the dealer has paid social security taxes as a full-time employee; and (ii) the display of a Monroney label or a buyer's guide label, as required by 61-4-123(2), on a motor vehicle bearing dealer plates is prima facie evidence that the motor vehicle is offered for bona fide sale by the dealer. (5) Dealer plates may not be used or displayed on motor vehicles used for hire, lease, or rental. (6) (a) A dealer is accountable for each set of numbered dealer plates issued and, except as provided in subsection (6)(b), shall file an annual report with the department certifying the disposition of each set of dealer plates assigned to the dealer and specifying the name, address, and occupation of the person primarily using each set of plates. (b) Upon reassignment of one or more sets of dealer plates to another person, within 15 days of the reassignment, the dealer shall notify the department, in a manner prescribed by the department, of the name, address, and occupation of the person to whom the plates were assigned. History: Ap. p. Subd. 5, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.4, R.C.M. 1935; amd. Sec. 2, Ch. 72, L. 1937; amd. Sec. 2, Ch. 245, L. 1955; amd. Sec. 3, Ch. 256, L. 1965; amd. Sec. 1, Ch. 354, L. 1969; amd. Sec. 2, Ch. 226, L. 1971; amd. Sec. 2, Ch. 244, L. 1971; amd. Sec. 1, Ch. 535, L. 1977; Sec. 53-118, R.C.M. 1947; Ap. p. Sec. 6, Ch. 75, L. 1917; amd. Sec. 2, Ch. 207, L. 1919; amd. Sec. 1, Ch. 199, L. 1921; re-en. Sec. 1760, R.C.M. 1921; amd. Sec. 1, Ch. 107, L. 1923; amd. Sec. 1, Ch. 88, L. 1927; amd. Sec. 1, Ch. 182, L. 1929; amd. Sec. 1, Ch. 103, L. 1933; amd. Sec. 1, Ch. 38, Ex. L. 1933; re-en. Sec. 1760, R.C.M. 1935; amd. Sec. 1, Ch. 138, L. 1937; amd. Sec. 1, Ch. 125, L. 1939; amd. Sec. 2, Ch. 154, L. 1943; amd. Sec. 2, Ch. 200, L. 1945; amd. Sec. 1, Ch. 201, L. 1945; amd. Sec. 1, Ch. 221, L. 1951; amd. Sec. 1, Ch. 215, L. 1953; amd. Sec. 1, Ch. 41, L. 1955; amd. Sec. 228, Ch. 147, L. 1963; amd. Sec. 1, Ch. 178, L. 1963; amd. Sec. 30, Ch. 121, L. 1965; amd. Sec. 12-105, Ch. 197, L. 1965; amd. Sec. 4, Ch. 226, L. 1971; amd. Sec. 2, Ch. 243, L. 1977; Sec. 53-122, R.C.M. 1947; R.C.M. 1947, 53-118(part), 53-122(part); amd. Sec. 1, Ch. 228, L. 1979; amd. Sec. 3, Ch. 443, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 28, Ch. 516, L. 1985; amd. Sec. 3, Ch. 383, L. 1991; amd. Sec. 22, Ch. 409, L. 1999; amd. Sec. 4, Ch. 299, L. 2003; amd. Sec. 155, Ch. 542, L. 2005; amd. Sec. 103, Ch. 596, L. 2005; amd. Sec. 35, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-104. Record of purchase or sale

61-4-104. Record of purchase or sale. (1) (a) A dealer, wholesaler, or auto auction licensed under this part shall keep: (i) a book or record of the purchases, sales or exchanges, or receipts for the purpose of sale of used vehicles; and (ii) for each used vehicle, a description of the vehicle, the date of purchase, sale, or consignment of the vehicle, and the name and address of: (A) the person from whom the dealer or wholesaler acquired the vehicle's ownership or, if consigned, possessory interest in the vehicle; (B) the person to whom the dealer, wholesaler, or auto auction assigned the vehicle; and (C) a secured party with a perfected security

interest in the vehicle to which the dealer's, wholesaler's, or auto auction's interest is subordinate, if any. (b) If the vehicle is a trailer, semitrailer, pole trailer, or special mobile equipment, the record must include the manufacturer's number and other numbers or identification marks that appear on the vehicle. (c) The vehicle description must also include the vehicle identification number, if any, and must include a statement that a number has been obliterated, defaced, or changed if that has occurred. (2) (a) Except as provided in subsection (2)(b), a dealer, wholesaler, or auto auction must also have the actual or a readily accessible photocopy, electronic copy, or digital copy of the actual assigned certificate of ownership, certificate of title, or manufacturer's certificate of origin from the owner of each vehicle in which the dealer, wholesaler, or auto auction acquires a property interest that transfers ownership of the vehicle to the dealer, wholesaler, or auto auction from the time the vehicle is delivered to the dealer, wholesaler, or auto auction until it has been disposed of by the dealer, wholesaler, or auto auction. (b) A dealer may offer for sale or may sell or exchange a vehicle without having the assigned certificate of ownership, certificate of title, or manufacturer's certificate of origin if: (i) the dealer has applied for the title as provided in Title 61, chapter 3, part 2; or (ii) the vehicle is financed by the dealer as inventory through a financial institution, the financial institution holds the certificate of ownership, certificate of title, or manufacturer's certificate of origin as collateral, and the dealer has a readily accessible photocopy, electronic copy, or digital copy of the certificate of ownership, certificate of title, or manufacturer's certificate of origin. (3) It is a violation of this part for a dealer, wholesaler, or auto auction to fail to: (a) take assignment of the certificate of ownership, certificate of title, or manufacturer's certificate of origin for a vehicle acquired by the dealer, wholesaler, or auto auction; or (b) assign the certificate of ownership, certificate of title, or manufacturer's certificate of origin for any vehicle sold in which the dealer, wholesaler, or auto auction has a property interest. (4) (a) Except as provided in subsection (4)(b), all records required to be kept in accordance with this section and the odometer disclosure information required to be retained under 61-3-206(5) must be physically located and maintained at or readily accessible within the building referred to in 61-4-101. (b) A dealer, wholesaler, or auto auction that does not maintain the actual certificate of ownership, certificate of title, or manufacturer's certificate of origin at the building referred to in 61-4-101 shall maintain a readily accessible record of the certificate of ownership, certificate of title, or manufacturer's certificate of origin at the building. (c) For the purposes of this section, "readily accessible" means available in paper form or in an electronic or digital format. (5) An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter. History: En. Subd. 5, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.4, R.C.M. 1935; amd. Sec. 2, Ch. 72, L. 1937; amd. Sec. 2, Ch. 245, L. 1955; amd. Sec. 3, Ch. 256, L. 1965; amd. Sec. 1, Ch. 354, L. 1969; amd. Sec. 2, Ch. 226, L. 1971; amd. Sec. 2, Ch. 244, L. 1971; amd. Sec. 1, Ch. 535, L. 1977; R.C.M. 1947, 53-118(4); amd. Sec. 48, Ch. 421, L. 1979; amd. Sec. 3, Ch. 282, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 5, Ch. 383, L. 1991; amd. Sec. 2, Ch. 221, L. 1997; amd. Sec. 24, Ch. 409, L. 1999; amd. Sec. 5, Ch. 299, L. 2003; amd. Sec. 73, Ch. 477, L. 2003; amd. Sec. 156, Ch. 542, L. 2005; amd. Sec. 36, Ch. 329, L. 2007; amd. Sec. 4, Ch. 231, L. 2015; amd. Sec. 1, Ch. 254, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-105. Criminal penalty -- civil penalty imposed by agency

61-4-105. Criminal penalty -- civil penalty imposed by agency. (1) Except as provided in 61-4-143, a person violating the provisions of this part is guilty of a misdemeanor and subject to a fine in an amount of not less than \$250 and not more than \$500. For the purposes of this section, every sale of a vehicle in violation of the provisions of this part is a separate offense. (2) In addition to all other penalties created by this part, the department is authorized to take appropriate enforcement action on its own initiative. Except as provided in 61-4-143, a person violating the provisions of this part may be subject to administrative action, in accordance with the contested case procedures of Title 2, chapter 4, as follows: (a) a civil penalty not to exceed \$1,000 for each violation; (b) suspension of the dealer, broker, wholesaler, or auto auction license not to exceed 7 days; (c) revocation of the dealer, broker, wholesaler, or auto auction license; or (d) any combination of subsections (2)(a) through (2)(c). History: En. Subd. 5, Sec. 1, Ch. 158, L. 1933; re-en. Sec. 1759.4, R.C.M. 1935; amd. Sec. 2, Ch. 72, L. 1937; amd. Sec. 2, Ch. 245, L. 1955; amd. Sec. 3, Ch. 256, L. 1965; amd. Sec. 1, Ch. 354, L. 1969; amd. Sec. 2, Ch. 226, L. 1971; amd. Sec. 2, Ch. 244, L. 1971; amd. Sec. 1, Ch. 535, L. 1977; R.C.M. 1947, 53-118(part); amd. Sec. 4, Ch. 282, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 3, Ch. 523, L. 1989; amd. Sec. 6, Ch. 383, L. 1991; amd. Sec. 25, Ch. 409, L. 1999; amd. Sec. 5, Ch. 385, L. 2001; amd. Sec. 6, Ch. 299, L. 2003; amd. Sec. 37, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-106. Transfer of license

61-4-106. Transfer of license. A registered dealer, broker, auto auction, or wholesaler who sells or disposes of the dealer's, broker's, auto auction's, or wholesaler's entire business to another person or seeks to change the applicant's name, ownership interest in the business, corporate officer or managing member of the business entity, or a person designated by the applicant to manage or oversee the applicant's business shall file with the department a statement containing the name of the registered dealer, broker, auto auction, or wholesaler, the number under which the business is registered, the name of the purchaser, and the location of the place of business sold. Upon the filing of the statement, and a new license application form as originally required under 61-4-101, along with a filing fee of \$2, the department shall examine the license application of the purchaser as required under 61-4-101. History: En. Sec. 6, Ch. 75, L. 1917; amd. Sec. 2, Ch. 207, L. 1919; amd. Sec. 1, Ch. 199, L. 1921; re-en. Sec. 1760, R.C.M. 1921; amd. Sec. 1, Ch. 107, L. 1923; amd. Sec. 1, Ch. 88, L. 1927; amd. Sec. 1, Ch. 182, L. 1929; amd. Sec. 1, Ch. 103, L. 1933; amd. Sec. 1, Ch. 38, Ex. L. 1933; re-en. Sec. 1760, R.C.M. 1935; amd. Sec. 1, Ch. 138, L. 1937; amd. Sec. 1, Ch. 125, L. 1939; amd. Sec. 2, Ch. 154, L. 1943; amd. Sec. 2, Ch. 200, L. 1945; amd. Sec. 1, Ch. 201, L. 1945; amd. Sec. 1, Ch. 221, L. 1951; amd. Sec. 1, Ch. 215, L. 1953;

amd. Sec. 1, Ch. 41, L. 1955; amd. Sec. 228, Ch. 147, L. 1963; amd. Sec. 1, Ch. 178, L. 1963; amd. Sec. 30, Ch. 121, L. 1965; amd. Sec. 12-105, Ch. 197, L. 1965; amd. Sec. 4, Ch. 226, L. 1971; amd. Sec. 2, Ch. 243, L. 1977; R.C.M. 1947, 53-122(part); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 7, Ch. 383, L. 1991; amd. Sec. 1940, Ch. 56, L. 2009; amd. Sec. 3, Ch. 143, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-107. Cease and desist order

61-4-107. Cease and desist order. (1) When the department has reasonable cause to believe, from information furnished to it or from an investigation made by it, that a person is engaged in any business regulated by this part without being licensed as required or if a dealer licensed under this part is conducting an off-premises sale without a permit, as required by 61-4-123(4), it shall immediately issue and serve upon the person, in person or by certified mail, a cease and desist order requiring the person to cease and desist from further engaging in that business or from conducting an off-premises sale without a permit. If the person fails to comply with the order, the department shall file an action in the district court of the county in which the conduct occurred to restrain and enjoin the person from engaging in the business. The court shall proceed in the action as in other actions for injunctions. (2) When the department has reasonable cause to believe, from an investigation made by it or information furnished to it by a law enforcement officer, that a dealer or wholesaler has been improperly licensed, has used a dealer's license in a manner other than as authorized in this title, has provided a material misstatement of fact in an application for a license, is not qualified as a dealer or wholesaler under the requirements of this title, or has engaged in criminal conduct that renders the dealer or wholesaler unfit for licensure, the department may revoke the dealer's or wholesaler's license. History: En. Sec. 1, Ch. 49, L. 1989; amd. Sec. 26, Ch. 409, L. 1999; amd. Sec. 7, Ch. 299, L. 2003; amd. Sec. 23, Ch. 535, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-108. Exemptions

61-4-108. Exemptions. (1) This part does not require licensure of, or restrict or prohibit a financial institution, as defined in 32-6-103: (a) in the selling of collateral repossessed on default of a loan made by the financial institution; (b) in the conduct of a motor vehicle sales promotion in affiliation with one or more licensed dealers; or (c) in the conduct of a motor vehicle sales promotion in affiliation with a person regularly engaged in a bona fide vehicle rental business if the purpose of the sale is to dispose of used motor vehicles used in the rental business. (2) This part does not require licensure of an auctioneer whose business consists primarily of the sale of personal property other than motor vehicles. (3) This part does not require licensure of a licensed real estate broker or agent lawfully buying, selling, exchanging, taking on consignment, or acting as a broker of mobile homes. History: En. Sec. 2, Ch. 523, L. 1989; amd. Sec. 27, Ch. 409, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-109. Privileges incident to license -- withdrawal upon certain conditions

61-4-109. Privileges incident to license -- withdrawal upon certain conditions. (1) The privileges of a dealer licensed under the provisions of this part to use and display a set of dealer plates or a demonstrator plate on a motor vehicle or trailer held for sale by the dealer, to use and display an identification card on a power sports vehicle held for sale, and to issue a temporary registration permit, under the authority of 61-4-111 or 61-4-112, upon the sale of a motor vehicle, a power sports vehicle, or a trailer by the dealer are specifically conditioned on the dealer's satisfaction of the bond requirements of 61-4-101 and the general liability insurance coverage requirements of 61-4-123, without interruption or lapse. (2) If the department is notified or determines that a dealer's bond or general liability insurance has lapsed or been canceled, all dealer plates, demonstrator plates, and identification cards issued to the dealer are subject to immediate confiscation and the dealer's authority, as an authorized agent, to issue temporary registration permits is subject to immediate withdrawal, upon demand, by the department or by a compliance specialist on behalf of the department. The dealer plates, demonstrator plates, and identification cards may not be returned to the dealer until the bond and general liability insurance requirements have been satisfied. (3) A dealer whose privileges are withdrawn under this section may otherwise engage in the dealer's business operations during the period of withdrawal. (4) If the lapse of bond or general liability insurance is not corrected within 30 days, the department may initiate administrative action to suspend or revoke the dealer's license under 61-4-105(2). History: En. Sec. 1, Ch. 299, L. 2003; amd. Sec. 157, Ch. 542, L. 2005; amd. Sec. 62, Ch. 44, L. 2007; amd. Sec. 38, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-110. Obligation of dealer to pay off liens on motor vehicles accepted in trade, purchase, or consignment -- duties of dealer and secured party

61-4-110. Obligation of dealer to pay off liens on motor vehicles accepted in trade, purchase, or consignment -- duties of dealer and secured party. (1) (a) If a dealer accepts a motor vehicle in trade or purchase from a customer and there is an outstanding loan balance owing on the traded or purchased motor vehicle, the dealer shall remit payment to the secured party to whom the balance on the traded or purchased motor vehicle is owed in an amount sufficient to satisfy the perfected security interest on the traded or purchased motor vehicle by the earlier of the following dates: (i) 21 days from the date of acceptance of the motor vehicle in trade; or (ii) 15 days from the date of the receipt by the dealer of payment in full from the sale of the traded motor vehicle. (b) If a dealer

accepts a motor vehicle from an owner for sale upon consignment and there is an outstanding loan balance owing on the consigned motor vehicle, the dealer shall remit payment to the secured party to whom the balance on the consigned motor vehicle is owed in an amount sufficient to satisfy the perfected security interest on the consigned motor vehicle within 15 days from the date of the receipt by the dealer of payment in full for sale of the consigned motor vehicle. (2) A secured party who has been paid in full by a dealer in accordance with the terms of this section shall forward to the department a properly executed release within: (a) 15 business days after the business day on which the funds are received when the funds are in cash, cashier's check, certified check, teller's check, or other certified source of funds; (b) 18 business days after the business day on which the funds are received when the funds are in the form of a check drawn on a local originating depository institution; or (c) 21 business days after the business day on which the funds are received when the funds are in the form of a check drawn on a nonlocal originating depository institution. (3) For purposes of this section, "business day" means a weekday, excluding any weekday upon which a legal holiday falls. History: En. Sec. 2, Ch. 299, L. 2003; amd. Sec. 158, Ch. 542, L. 2005; amd. Sec. 4, Ch. 143, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-111. Used vehicles -- transfer to and from dealers

61-4-111. Used vehicles -- transfer to and from dealers. (1) Except as provided in 61-4-124(6), a dealer or wholesaler who intends to resell a used motor vehicle, power sports vehicle, or trailer and who operates the motor vehicle, power sports vehicle, or trailer only for demonstration purposes: (a) is exempt from registration under 23-2-515, 23-2-616, 23-2-804, or 61-3-302(3) when applying for a certificate of title; and (b) may transfer or receive ownership of a motor vehicle, power sports vehicle, or trailer by use of a dealer reassignment section on a certificate of title. However, when the allotted number of dealer reassignment sections on a certificate of title has been completed, ownership of the motor vehicle, power sports vehicle, or trailer may not be transferred until an application for a certificate of title has been submitted by the dealer or an authorized agent to an authorized agent or the department and a new certificate of title has been issued. (2) Upon the transfer of a used motor vehicle, power sports vehicle, or trailer to a person other than a dealer or wholesaler, a temporary registration permit may be issued under 61-3-224 to the person to whom the used motor vehicle, power sports vehicle, or trailer was transferred if the dealer is an authorized agent, as defined in 61-1-101. In addition, the following acts are required of the dealer on or before the times set forth in this subsection: (a) Within 30 calendar days following the date of delivery of the motor vehicle, power sports vehicle, or trailer or within 120 calendar days if a temporary registration permit is issued pursuant to 61-3-303(4)(b), the dealer shall forward to an authorized agent or to the county treasurer of the county where the owner of the motor vehicle, power sports vehicle, or trailer is domiciled: (i) the assigned certificate of title or, if a certificate of title for the motor vehicle, power sports vehicle, or trailer has not been issued in this state, a copy of the then-current registration receipt or certificate in the dealer's possession; and (ii) an application for a certificate of title executed by the new owner in accordance with the provisions of 61-3-216 and 61-3-220. (b) Transmission of the documents by the dealer to the county treasurer or an authorized agent may be accomplished either by personal delivery, by first-class mail, or by electronic means, as authorized by the department. (c) If the dealer is unable to forward the certificate of title or, if applicable, registration receipt within the time set forth in subsection (2)(a), the dealer is subject to the provisions of 61-4-119. (3) Upon compliance by the dealer with the requirements in this section, title to the motor vehicle, power sports vehicle, or trailer is considered to have passed to the purchaser as of the date of the delivery of the motor vehicle, power sports vehicle, or trailer to the purchaser by the dealer, and the dealer has no further liability or responsibility with respect to the processing of registration. History: En. Sec. 3, Ch. 138, L. 1971; amd. Sec. 2, Ch. 399, L. 1977; R.C.M. 1947, 53-109.1; amd. Sec. 1, Ch. 118, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 342, L. 1995; amd. Sec. 8, Ch. 299, L. 2003; amd. Sec. 74, Ch. 477, L. 2003; amd. Secs. 104, 160, Ch. 596, L. 2005; amd. Sec. 39, Ch. 329, L. 2007; amd. Sec. 14, Ch. 196, L. 2013; amd. Sec. 5, Ch. 435, L. 2017; amd. Sec. 12, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-112. New motor vehicles -- transfers by dealers

61-4-112. New motor vehicles -- transfers by dealers. (1) When a dealer transfers a new motor vehicle, power sports vehicle, or trailer to a purchaser or other recipient, the dealer shall, within 30 calendar days following the date of delivery of the new motor vehicle, power sports vehicle, or trailer forward to an authorized agent or the county treasurer of the county where the owner of the motor vehicle, power sports vehicle, or trailer is domiciled: (a) an application for a certificate of title with a notice of security interest, if any, executed by the purchaser or recipient; and (b) a manufacturer's certificate of origin that shows that the motor vehicle, power sports vehicle, or trailer has not previously been registered or owned, except as otherwise provided in this section, by any person other than a dealer holding a franchise or distribution agreement from the manufacturer, distributor, or importer of the new motor vehicle, power sports vehicle, or trailer. (2) If the dealer is an authorized agent, a temporary registration permit may be issued under 61-3-224 to the person to whom the new motor vehicle, power sports vehicle, or trailer was transferred. History: En. Sec. 4, Ch. 138, L. 1971; R.C.M. 1947, 53-109.2; amd. Sec. 1, Ch. 428, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 5, Ch. 517, L. 1989; amd. Sec. 3, Ch. 342, L. 1995; amd. Sec. 55, Ch. 509, L. 1995; amd. Sec. 44, Ch. 515, L. 1999; amd. Sec. 75, Ch. 477, L. 2003; amd. Secs. 105, 161, Ch. 596, L. 2005; amd. Sec. 40, Ch. 329, L. 2007; amd. Sec. 15, Ch. 196, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-113. New motor vehicles towed into state to be labeled

61-4-113. New motor vehicles towed into state to be labeled. (1) Any firm, person, corporation, or association or any of its

employees offering for sale or carrying on the business of selling new motor vehicles in the state of Montana is required to prominently label any motor vehicle that has been driven under its own power, pushed, towed, or propelled by any other means to sufficiently identify it from other new motor vehicles that have not been driven, pushed, or towed and is required to furnish the purchaser of the motor vehicle with a certificate, on a printed form to be furnished by the department upon request by the dealers, showing the actual number of miles the motor vehicle has been driven under its own power and the number of miles the motor vehicle has been pushed, towed, or otherwise propelled upon its own wheels. Any firm, person, corporation, or association or any of its employees who fail to prominently label and issue the certificate or who knowingly issue a certificate that is untrue and calculated to mislead the purchaser are guilty of a misdemeanor. (2) The provisions of this section do not apply to motor vehicles during the period of time that the motor vehicles are used for bona fide demonstrating purposes. History: En. Secs. 1, 2, Ch. 26, L. 1937; R.C.M. 1947, 53-301, 53-302; amd. Sec. 49, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 161, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-119. Penalty

61-4-119. Penalty. A person violating a provision of 61-4-111 or 61-4-112 is guilty of a misdemeanor and subject to a fine of not less than \$250 and not more than \$500. Every violation of 61-4-111 and 61-4-112 is considered a separate offense. History: En. Sec. 2, Ch. 118, L. 1981; amd. Sec. 8, Ch. 383, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-120. Auto auction -- restrictions -- annual report -- issuance, use, and fees for demonstrator plates

61-4-120. Auto auction -- restrictions -- annual report -- issuance, use, and fees for demonstrator plates. (1) (a) An auto auction may not sell used motor vehicles by retail sale. (b) An auto auction licensed under this part may auction a new motor vehicle only if the auto auction is authorized by a new motor vehicle manufacturer, importer, distributor, or representative, for the purpose of conducting a closed-factory fleet sale to dispose of new motor vehicles by the franchisor (manufacturer, distributor, or importer) to franchisee purchasers when the purchasers are licensed new motor vehicle dealers purchasing new motor vehicle line-makes authorized by their respective franchise, sales, or distributor agreements. An auto auction licensed under the provisions of this section shall notify and update the department with current fleet sale agreements between the auto auction and franchisor. An auto auction may not conduct a factory fleet sale unless authorized or appointed by a franchisor licensed under part 2 of this chapter. (2) (a) On or before the 15th day of the month prior to the dealer license expiration month, an auto auction shall submit an annual report, in a form or manner prescribed by the department, to the department to advise the department of any changes that may have occurred in that calendar year affecting the information originally filed under 61-4-101 and any other relevant information requested by the department. The fee required for each first-time applicant is \$500, and when the annual report is filed in subsequent years, it must be accompanied by a filing fee of \$100. (b) If an auto auction seeks to change the applicant's name, ownership interest in the business, corporate officer or managing member of the business entity, or a person designated by the applicant to manage or oversee the applicant's business, the auto auction shall also provide a new license application form as originally required under 61-4-101 and the department shall examine the license application as required under 61-4-101. (3) An auto auction that is an authorized agent may issue a temporary registration permit to a person who buys a motor vehicle, power sports vehicle, or trailer at the auction, pursuant to 61-3-224. Within 30 days following the date of delivery of the motor vehicle, power sports vehicle, or trailer, the auto auction shall provide the purchaser with the assigned certificate of title or, if a certificate of title for the motor vehicle, power sports vehicle, or trailer has not been issued in this state, a copy of the then-current registration receipt or the certificate and any related documents for each motor vehicle, power sports vehicle, or trailer. It is unlawful for the auto auction to issue more than one temporary registration permit for each motor vehicle, power sports vehicle, or trailer sale. (4) (a) Upon the issuance of an auto auction license and payment of a \$5 fee for each plate, the department shall furnish to the auto auction one or more demonstrator plates that may be used to transport inventory motor vehicles to and from a point of storage or a point of delivery in this state and to and from the auto auction's place of business, for road testing authorized motor vehicles, or for moving motor vehicles for purposes of repairing, painting, upholstering, polishing, and related activities. One license plate is required to be conspicuously displayed on the rear of the motor vehicle. (b) Auto auctions may appoint designated persons, service stations, or repair garages to use the license plate only when conducting work for the auto auction involving repairing, painting, upholstering, polishing, or performing similar types of work upon a motor vehicle. (c) When applying for license plates, an auto auction shall submit a sworn affidavit on a form prescribed by the department, listing each authorized person designated by the auction to use the license plates. The auto auction is responsible for reporting any changes to the affidavit within 72 hours after the change has occurred. (d) An auto auction licensed under the provisions of this section is liable for the proper use of the license plates, which may not be used for private purposes. The department may revoke an auto auction's temporary registration permit and license plate privileges if an auto auction issues, authorizes the use of, or uses a temporary registration permit or an auto auction license plate in violation of the provisions of this section. (5) (a) An auto auction licensed under this section shall validate the sale of a motor vehicle, a power sports vehicle, or a trailer through its auction by stamping its name and license number upon the certificate of title at a location on the certificate of title, at the margin in the assignment section as executed between the transferor and transferee. An auto auction's stamp must be legible and may not interfere with the information recorded on the certificate of title between the transferor and transferee. If the certificate of title lacks adequate space for the auto auction to place its stamp, the auction may provide the transferee a copy of the auction

invoice bearing the: (i) name and license number of the auction, along with an indication of the year, make, model, and identification number of the motor vehicle, power sports vehicle, or trailer; (ii) name, address, and signature of the transferor; (iii) name, license number, and signature of the transferee; and (iv) date the motor vehicle was sold through the auction. (b) The invoice must be attached to the certificate of title and must be presented to the department with any application for title. History: En. Sec. 10, Ch. 383, L. 1991; amd. Sec. 74, Ch. 10, L. 1993; amd. Sec. 3, Ch. 221, L. 1997; amd. Sec. 28, Ch. 409, L. 1999; amd. Sec. 2, Ch. 201, L. 2001; amd. Sec. 9, Ch. 299, L. 2003; amd. Sec. 76, Ch. 477, L. 2003; amd. Sec. 162, Ch. 542, L. 2005; amd. Sec. 41, Ch. 329, L. 2007; amd. Sec. 8, Ch. 323, L. 2017; amd. Sec. 5, Ch. 143, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-121. Temporary registration permit -- limitation on issuance and transfer -- violation -- penalty

61-4-121. Temporary registration permit -- limitation on issuance and transfer -- violation -- penalty. (1) If the dealer is an authorized agent, as defined in 61-1-101, the dealer may not issue more than one temporary registration permit under 61-4-111 or 61-4-112 for each motor vehicle sale. (2) A dealer who violates the provisions of subsection (1) is subject to revocation of the privilege to issue temporary registration permits for a period of time determined by the department. History: En. Sec. 11, Ch. 383, L. 1991; amd. Sec. 4, Ch. 221, L. 1997; amd. Sec. 77, Ch. 477, L. 2003; amd. Sec. 163, Ch. 542, L. 2005; amd. Sec. 106, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-122. Compliance specialists as peace officers

61-4-122. Compliance specialists as peace officers. (1) The department may designate and train civilian employees as compliance specialists within the motor vehicle division. Each compliance specialist is a peace officer whose jurisdiction is limited to enforcement of violations of Title 61, chapter 3, parts 1, 2, 3, 4, and 6, and chapter 4. (2) As a peace officer, a trained compliance specialist may: (a) issue citations and make arrests; (b) issue summonses; (c) accept bail; (d) serve warrants of arrest; (e) make reasonable inspections of the established place of business and, if applicable, vehicle inventory of a dealer, broker, wholesaler, or auto auction; and (f) require production of documents relating to the sale, purchase, exchange, or consignment of any motor vehicle, power sports vehicle, or trailer currently or previously in the inventory of or displayed for sale by a dealer, broker, wholesaler, or auto auction or relating to any obligation imposed on a dealer, broker, wholesaler, or auto auction under this title. History: En. Sec. 4, Ch. 409, L. 1999; amd. Sec. 164, Ch. 542, L. 2005; amd. Sec. 42, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-123. Dealer requirements and restrictions

61-4-123. Dealer requirements and restrictions. (1) A used dealer may not sell a new motor vehicle, a new power sports vehicle, or a new trailer. (2) A dealer may not display at the dealer's established place of business or any approved off-premises sale location a motor vehicle offered for sale, trade, or consignment unless the Monroney label required for new motor vehicles pursuant to 15 U.S.C. 1232 or the buyer's guide label required for used motor vehicles pursuant to 16 CFR, part 455, is affixed to the side window of the motor vehicle or is conspicuously displayed within the motor vehicle in a fashion that is readily readable by a customer. (3) (a) Except as provided in subsection (4), a dealer may not sell or display a motor vehicle, power sports vehicle, or trailer offered for sale at any geographic location other than that of the dealer's established place of business as listed on the dealer's license. (b) A dealer may park a motor vehicle in a storage lot if: (i) local zoning regulations permit that type of use; (ii) the lot is in the county where the dealer's established place of business is located; (iii) the dealer does not sell or advertise the sale of the motor vehicle at the lot; and (iv) if applicable, the placement of the motor vehicle complies with the dealer's franchise agreement. (4) (a) Upon prior notice to the department, a dealer may conduct an off-premises display and sale at a geographic location other than that of the dealer's established place of business as listed on the dealer's license if the dealer obtains a permit from the department. The department may require proof from the dealer that the location proposed for the off-premises display and sale is in compliance with local zoning ordinances. An off-premises display and sale must be conducted within the county of the dealer's licensed location unless the off-premises display and sale are restricted to recreational vehicles or power sports vehicles. A new motor vehicle dealer whose area of responsibility under the dealer's franchise agreement includes a county different from the county in which the dealer's established place of business is located may conduct an off-premises display and sale, subject to the agreement, in the other county if there is no other new motor vehicle dealer with an established place of business in that county. The display and sale authorized by this subsection (4)(a) may not exceed 10 consecutive days, and a licensed dealer may not conduct more than 10 off-premises displays and sales during any 1 calendar year. (b) A dealer may display one or more motor vehicles, power sports vehicles, or trailers inside an airport terminal or shopping mall without obtaining an off-premises display and sale permit if no actual sales are made, or could be made, at the terminal or mall. (c) Upon prior written notice to the department, a dealer may display one motor vehicle, power sports vehicle, or trailer at a geographic location other than that of the dealer's established place of business as listed on the dealer's license if no actual sales are made, or could be made, at the display location and the display: (i) conspicuously promotes or supports an event or a program sponsored by a nonprofit corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes and the motor vehicle, power sports vehicle, or trailer is displayed at a location where the event is being held or the program is being promoted; or (ii) conspicuously promotes a joint commercial endeavor between the dealer and another clearly identified business entity and the motor vehicle, power sports vehicle, or trailer is displayed on premises owned or leased by the other business entity and where the other entity regularly conducts its business. A

display under this subsection (4)(c)(ii) may not exceed 90 days in a calendar year. (5) If more than one dealer displays motor vehicles, power sports vehicles, or trailers at the same geographic location as another dealer's established place of business, each dealer shall ensure that all records, office facilities, and inventory, if applicable, are physically segregated from those of the other dealer and clearly identified and attributed to the appropriate dealer. (6) A dealer shall install and maintain telephone service at the dealer's established place of business. The telephone service must be listed in the directory assistance that applies to the area in which the business is located, or if a cellular service is used, the dealer's cell phone number must be posted at the dealer's established place of business. (7) A dealer shall conspicuously post at the dealer's established place of business written notice indicating the regular and customary office hours maintained by the dealer. (8) (a) A dealer shall carry and continuously maintain a general liability insurance policy that covers any motor vehicle bearing a set of dealer plates or a demonstrator plate and any power sports vehicle displaying a dealer's identification card that is offered for demonstration or loan to a customer or that otherwise may be operated by a customer in the regular course of the dealer's business operations. (b) A dealer shall ensure that the department is named as a certificate holder on any general liability insurance policy held by the dealer, that the minimum term of the policy is 1 year, and that a lapse of insurance does not occur as a result of cancellation or termination of a previously certified policy. (c) This subsection (8) does not relieve a dealer of the mandatory motor vehicle liability insurance obligation imposed under chapter 6 of this title. (9) A dealer shall display at the dealer's established place of business at least one sign stating the name of the business and indicating that motor vehicles, power sports vehicles, or trailers are offered for sale, trade, or consignment. The letters of the sign must be at least 6 inches in height and clearly visible and readable to the major avenue of traffic at a minimum distance of 150 feet. History: En. Sec. 5, Ch. 409, L. 1999; amd. Sec. 6, Ch. 385, L. 2001; amd. Sec. 10, Ch. 299, L. 2003; amd. Sec. 165, Ch. 542, L. 2005; amd. Sec. 2, Ch. 20, L. 2007; amd. Sec. 1, Ch. 218, L. 2007; amd. Sec. 43, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-124. Annual report -- filing fees -- grace period for dealer and demonstrator plates -- restrictions imposed upon failure to file

61-4-124. Annual report -- filing fees -- grace period for dealer and demonstrator plates -- restrictions imposed upon failure to file. (1) On or before the 15th day of the month prior to the dealer license expiration month, a dealer shall submit an annual report, in a form or manner prescribed by the department, to the department to advise the department of any changes that may have occurred in that calendar year affecting the information originally filed under 61-4-101 and to provide any other relevant information requested by the department. (2) (a) The department may require a dealer to submit one or more current photographs of the dealer's established place of business or the signage for the business with the dealer's annual report. (b) If a dealer seeks to change the applicant's name, ownership interest in the business, corporate officer or managing member of the business entity, or a person designated by the applicant to manage or oversee the applicant's business, the dealer shall also provide a new license application form as originally required under 61-4-101 and the department shall examine the license application as required under 61-4-101. (c) If a dealer seeks to change the geographic location of the dealer's established place of business, the dealer shall also provide information concerning local land use planning, zoning, and business permitting compliance, if applicable, and a diagram or plat for the proposed location, consistent with the requirements of 61-4-101. (3) Except as provided in subsection (4)(c), the annual report must be accompanied by a \$30 filing fee. (4) (a) Except as provided in subsections (4)(b) and (4)(c), a used dealer shall also certify, under penalty of law, to the retail sale of 12 or more used motor vehicles, power sports vehicles, or trailers during the calendar year for which the annual report is filed. A used dealer licensed for less than a full calendar year in the year for which the report is filed shall certify, under penalty of law, to the retail sale of an average of at least one used motor vehicle, power sports vehicle, or trailer for each calendar month or portion of a calendar month that the license was in effect. (b) (i) A used dealer who cannot certify, under penalty of law, to the number of retail sales required under subsection (4)(a) in a calendar year for which the report is filed must pay a fee of \$25 in addition to the filing fee required in subsection (3). (ii) A used dealer who is also a qualified tow truck operator, as defined in 61-8-903, and who, in the dealer's annual report, cannot certify, under penalty of law, to the retail sale of five or more used motor vehicles, power sports vehicles, or trailers during the calendar year for which the report is filed shall pay a fee of \$25 in addition to the filing fee required in subsection (3). (iii) A dealer licensed as a motor vehicle wrecking facility under Title 75, chapter 10, part 5, is exempt from the minimum retail sales reporting requirements of this subsection (4). (5) A dealer whose annual report is received by the department on or before the 15th day of the month prior to the dealer license expiration month may display or use dealer or demonstrator plates or identification cards assigned and registered until the dealer license expiration date. (6) On or after the first day following the dealer license expiration date, the department: (a) may not renew dealer or demonstrator plates or identification cards for a dealer who has not filed the annual report and paid the fees due under this section; (b) may not issue or transfer a title under the provisions of 61-4-111(1) to or from a dealer who has not filed the annual report and paid the fees due under this section; (c) may not allow issuance of a temporary registration permit under the provisions of 61-3-224 for a dealer who has not filed the annual report and paid the fees due under this section; and (d) shall initiate an administrative action under the provisions of 61-4-105(2) to revoke the dealer's license unless the dealer voluntarily surrenders the license, along with any previously assigned dealer and demonstrator plates or identification cards, to the department for cancellation. History: En. Sec. 6, Ch. 409, L. 1999; amd. Sec. 7, Ch. 385, L. 2001; amd. Sec. 11, Ch. 299, L. 2003; amd. Sec. 44, Ch. 329, L. 2007; amd. Sec. 9, Ch. 323, L. 2017; amd. Sec. 6, Ch. 143, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1.

Dealers61-4-125. Wholesaler restrictions -- demonstrator plates -- annual report

61-4-125. Wholesaler restrictions -- demonstrator plates -- annual report.(1) The retail sale of used vehicles by a wholesaler is prohibited. (2) Wholesalers may not be issued or use dealer plates, as provided in 61-4-102. However, a wholesaler may be issued demonstrator plates, as provided in 61-4-129, for use on any type of motor vehicle or trailer that a wholesaler is authorized to sell. To the extent not inconsistent with this section, use of wholesaler demonstrator plates is otherwise governed by 61-4-129. (3) (a) On or before the 15th day of the month prior to the dealer license expiration month, a wholesaler shall submit an annual report, in a form or manner prescribed by the department, to the department to advise the department of any changes that may have occurred in that calendar year affecting the information originally filed under 61-4-101. The report must contain information concerning owner identity, other ownership interests, felony conduct, general liability insurance status, surety bond filings, and any other relevant information requested by the department. A \$30 filing fee must be submitted with the report. (b) If a wholesaler seeks to change the applicant's name, ownership interest in the business, corporate officer or managing member of the business entity, or a person designated by the applicant to manage or oversee the applicant's business, the wholesaler shall also provide a new license application as originally required under 61-4-101 and the department shall examine the license application as required under 61-4-101. (c) Additionally, the wholesaler shall certify, under penalty of law, that the wholesaler sold 12 or more motor vehicles, power sports vehicles, or trailers to a dealer, an auto auction, or another wholesaler during the calendar year for which the annual report is filed. A wholesaler who was licensed for less than a full calendar year shall certify, under penalty of law, to the sale of an average of at least one motor vehicle, power sports vehicle, or trailer a calendar month or portion of a calendar month during which the license was in effect. (d) A wholesaler who cannot, under penalty of law, certify the number of motor vehicle sales required under subsection (3)(c) shall pay a fee of \$25 in addition to the filing fee required in subsection (3)(a). History: En. Sec. 7, Ch. 409, L. 1999; amd. Sec. 3, Ch. 201, L. 2001; amd. Sec. 8, Ch. 385, L. 2001; amd. Sec. 12, Ch. 299, L. 2003; amd. Sec. 166, Ch. 542, L. 2005; amd. Sec. 45, Ch. 329, L. 2007; amd. Sec. 10, Ch. 323, L. 2017; amd. Sec. 7, Ch. 143, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1.

Dealers61-4-126. Claims against dealer, broker, wholesaler, or auto auction bonds

61-4-126. Claims against dealer, broker, wholesaler, or auto auction bonds.(1) A person who suffers loss or damage because of the unlawful conduct of a dealer, broker, wholesaler, or auto auction licensed under this title shall obtain a judgment from a court of competent jurisdiction prior to collecting on the bond of the dealer, broker, wholesaler, or auto auction. The judgment must set out a specific loss or damage amount and establish that the licensee's unlawful conduct caused the loss or damage, before payment on the bond is required. (2) If claim is made on a bond by two or more persons who have obtained a judgment against a dealer, broker, wholesaler, or auto auction based on the unlawful conduct of the dealer, broker, wholesaler, or auto auction and the judgments in the aggregate exceed the amount of the bond, the proceeds of the bond must be divided between or among the claimants on a pro rata basis. History: En. Sec. 8, Ch. 409, L. 1999; amd. Sec. 46, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1.

Dealers61-4-127. Broker requirements -- restrictions -- annual report -- fees

61-4-127. Broker requirements -- restrictions -- annual report -- fees.(1) A broker may not display a motor vehicle, power sports vehicle, or trailer at the broker's established place of business. (2) A broker shall install and maintain telephone service at the broker's established place of business. The telephone service must be listed in the directory assistance that applies to the area in which the business is located, or if a cellular service is used, the broker's cell phone number must be posted at the broker's established place of business. (3) (a) A broker shall maintain a record of every purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer negotiated by the broker for compensation upon behalf of a client. The record must include the name, address, and customer identification number of: (i) the broker's client; (ii) the dealer or person from whom the client purchased, sold, or exchanged a motor vehicle, power sports vehicle, or trailer; and (iii) the financial institution, if any, that financed the client's purchase, sale, or exchange of a motor vehicle, power sports vehicle, or trailer. (b) The broker shall also maintain a record of each motor vehicle, power sports vehicle, or trailer for which a deal was brokered, including a description of the vehicle, power sports vehicle, or trailer, its identification number, and the source or sources of compensation received by the broker for each deal. (c) All records must be physically located and maintained within the building referred to in 61-4-101. Records must be preserved for at least 5 years after the date of the purchase, sale, or exchange negotiated by the broker. An authorized representative of the department, upon presentation of the representative's credentials, may inspect and have access to and copy any records required under this chapter. (4) (a) On or before the 15th day of the month prior to the dealer license expiration month, a broker shall submit an annual report, in a form or manner prescribed by the department, to the department pertaining to any changes concerning owner identity, other ownership interests, felony conduct, or surety bond filings, as originally required under 61-4-101, that may have occurred during that calendar year and providing any other relevant information required by the department. (b) If a broker seeks to change the applicant's name, ownership interest in the business, corporate officer or managing member of the business entity, or a person designated by the applicant to manage or oversee the applicant's business, the broker shall also provide a new license application as originally required under 61-4-101 and the department shall examine the license application as required under 61-4-101. (5) The annual report must be accompanied by a \$30 filing fee. The annual report must include the number of purchases, sales, or exchanges negotiated by the broker during the calendar year for which the annual report is filed. History: En. Sec. 3, Ch.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-128. Common standards -- dealer plates -- demonstrator plates -- loaner plates -- identification cards -- fees

61-4-128. Common standards -- dealer plates -- demonstrator plates -- loaner plates -- identification cards -- fees. (1) (a) Dealer, demonstrator, loaner, and courtesy license plates authorized under this part must be designed by the department in a manner that is similar to standard license plates furnished under 61-3-332, but the word "dealer", "demonstrator", "loaner", or "courtesy" must be included in the plate design. (b) Dealer, demonstrator, loaner, and courtesy license plates must be numbered in a manner that is readily distinguishable from other plate styles issued by the department. The numbering system for dealer plates must contain the distinctive license number assigned by the department to a dealer and a number or alphanumeric identification mark that relates to the assignment of sets of dealer plates to a dealer. The numbering system for demonstrator and loaner plates may be sequential and unrelated to the number of demonstrator plates or the distinctive license number assigned to a dealer, wholesaler, or auto auction. (c) Dealer, demonstrator, loaner, and courtesy plates issued under this part must be replaced on the same cycle that is required for standard license plates under 61-3-332. (d) Except as provided in 61-4-124, dealer, demonstrator, loaner, and courtesy plates must display a registration decal, affixed as prescribed by the department, for the calendar year for which use of the plate or plates is authorized under this part. (2) (a) Identification cards must be designed by the department and furnished to dealers to authorize the demonstration of a motorboat or personal watercraft, a snowmobile, or an off-highway vehicle by a dealer licensed under this part or a customer of a dealer licensed under this part. Each identification card must include the dealer's name and address and the license number assigned by the department to the dealer and must designate the type of power sports vehicle for which its use is authorized, such as a motorboat or personal watercraft, snowmobile, or off-highway vehicle. (b) The department may use the same numbering system for identification cards as it uses for demonstrator and loaner plates. (3) (a) Upon issuance of a license to a dealer whose business includes the sale of motorboats or personal watercraft, snowmobiles, or off-highway vehicles, the department shall furnish identification cards to a dealer as follows: (i) for a dealer who sells motorboats or personal watercraft, one identification card; (ii) for a dealer who sells snowmobiles, two identification cards; and (iii) for a dealer who sells off-highway vehicles, two identification cards. (b) The dealer may obtain additional identification cards for \$2, as needed, and upon submitting justification for the need to the department. (4) (a) An identification card issued to a dealer who sells motorboats or personal watercraft may be displayed on a dealer's motorboat or personal watercraft while the motorboat or personal watercraft is operating for a purpose related to the buying, selling, exchanging, or performance testing of the motorboat or personal watercraft by the dealer, manufacturer, or potential buyer. (b) An identification card issued to a dealer who sells snowmobiles must be carried by the dealer when demonstrating the dealer's snowmobiles or by the dealer's customer. (c) An identification card issued to a dealer who sells off-highway vehicles must be carried by the dealer when the dealer's off-highway vehicles are being demonstrated for sale purposes or by the dealer's customer. (5) (a) All dealer, demonstrator, loaner, and courtesy plates and identification cards issued under this part are expired on the first day following the dealer license expiration date of the year of issue and must be renewed annually. (b) A dealer, wholesaler, or auto auction that files the annual report as required under 61-4-120, 61-4-124, or 61-4-125 may display or use dealer or demonstrator plates and identification cards assigned for the prior calendar year until the dealer license expiration date. History: En. Sec. 4, Ch. 329, L. 2007; amd. Sec. 92, Ch. 2, L. 2009; amd. Sec. 12, Ch. 323, L. 2017; amd. Sec. 13, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-129. Assignment of demonstrator plates

61-4-129. Assignment of demonstrator plates. (1) (a) A dealer or wholesaler may purchase demonstrator plates at a fee of \$5 a plate. (b) Demonstrator plates may not be issued to a new or used dealer whose business is restricted to the sale of power sports vehicles. (2) (a) Except as provided in subsection (2)(c), demonstrator plates may be used on a motor vehicle displaying a Monroney label or a buyer's guide label, as required by 61-4-123(2), or on a truck, truck tractor, truck tractor pulling a laden or unladen semitrailer, or travel trailer that is: (i) being demonstrated and offered for sale to a dealership customer for not more than 72 hours when operated by an individual holding a valid operator's license; (ii) owned by the dealership when operated by an officer or bona fide full-time employee of the dealer or wholesaler and used to transport the dealer's or wholesaler's own tools, parts, and equipment; (iii) being tested for repair; (iv) being moved to or from a dealer's place of business for sale; (v) being moved to or from service and repair facilities before sale; and (vi) being moved to or from exhibitions within the state, provided the exhibition does not exceed a period of 20 days. (b) Demonstrator plates may be used: (i) on trailers being hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer; (ii) on travel trailers held for sale to demonstrate the towing capability of the motor vehicle, for not more than 72 hours; (iii) on any motor vehicle owned by the dealer that is used only to move a travel trailer that is in the dealer's inventory; and (iv) on trailers being moved to or from exhibitions within the state if the exhibition does not exceed a period of 20 days. (c) Extra demonstrator plates may be made available to dealers eligible for demonstrator plates under subsection (2)(a) to provide to one or more service repair facilities to be used when moving a motor vehicle in the dealer's inventory to and from the dealer's place of business and the service and repair facility prior to sale. A motor vehicle displaying demonstrator plates under this subsection is not required to have a Monroney label or a buyer's guide label as required by 61-4-123(2). (d) A motor vehicle being operated in accordance with this subsection (2) need only display one demonstrator plate conspicuously on the rear of the motor vehicle. History: En. Sec. 23, Ch. 409, L. 1999; amd. Sec. 13, Ch. 299, L. 2003; amd. Secs. 1, 2, Ch. 258, L. 2005; amd. Sec. 167, Ch. 542, L. 2005; amd. Sec. 47, Ch. 329, L. 2007; amd. Sec. 1, Ch. 129, L.

2011; amd. Sec. 1, Ch. 86, L. 2013; amd. Sec. 14, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-130. Courtesy license plates -- issuance -- restrictions on use

61-4-130. Courtesy license plates -- issuance -- restrictions on use. (1) Upon application and payment of an annual fee of \$150 a set, the department may issue up to two sets of courtesy plates to a dealer. (2) Courtesy license plates may be displayed only on a motor vehicle that the dealer loans, without charge or fee, exclusively for religious, charitable, scientific, or educational purposes. A loan of a vehicle displaying courtesy license plates may not exceed 30 days in a year. (3) A dealer shall maintain records detailing to whom a vehicle bearing courtesy plates has been loaned, the date of the loan, the date on which the vehicle bearing courtesy plates is to be returned, and the actual date of the vehicle's return. These records must include the name, address, and telephone number of the person or entity to whom the vehicle has been loaned and the name of a contact person who will oversee the actual operation and use of the vehicle. The records are subject to audit by the department. (4) It is the dealer's responsibility to ensure that courtesy plates are not used by an eligible person or entity for more than 30 days in a year. (5) It is the responsibility of the person or entity to whom the vehicle bearing courtesy plates was loaned to carry, while operating or in actual physical control of the vehicle, adequate proof of the status of the person or entity under this section. (6) If a dealer allows a person or entity to operate or retain actual physical control of a vehicle bearing courtesy plates in violation of this section, the department may suspend the right to use the courtesy plates for a period not to exceed 6 months. History: En. Sec. 2, Ch. 385, L. 2001; amd. Sec. 48, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-131. Definitions

61-4-131. Definitions. As used in this part, the following definitions apply: (1) "Broker" means a person: (a) who engages in the business of offering to procure or procuring a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle on behalf of another; or (b) who represents to the public through solicitation, advertisement, or otherwise that the person is one who offers to procure or procures a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle by negotiating purchases, contracts, sales, or exchanges on behalf of another and who does not store, display, or take ownership of a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle. (2) (a) "Dealer", except as provided in subsection (2)(b), includes a new dealer or a used dealer licensed under this part. (b) For purposes of 61-4-132 through 61-4-135, 61-4-137, and 61-4-150, the term is limited to a new motor vehicle dealer as defined in 61-4-201. (3) (a) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a new motor vehicle dealer, as defined in 61-4-201, who: (i) in the case of a deceased dealer: (A) is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will or under the laws of intestate succession of this state; or (B) has otherwise been designated in writing by a deceased dealer to succeed the deceased in the motor vehicle dealership; or (ii) in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. (b) The term includes the appointed and qualified personal representative and the testamentary trustee of a deceased dealer. (4) (a) "Established place of business" means the geographic location upon which a permanent building is located that is actually occupied either continuously or at regular periods by a person licensed under this part. A building is actually occupied if the licensee's books and records are kept in the building and, except for approved off-premises sales, the licensee's business is transacted within the building. (b) A licensee's established place of business may also include the geographic location of one or more physical lots upon which vehicles are displayed for sale, as long as the requirements of 61-4-101(6)(e) regulating the distance between display lots and the recordkeeping building are met. (c) The geographic location of the permanent building actually occupied by the licensee or the geographic location of the physical lots upon which vehicles are displayed for sale may be identified by street address, legal description, or other reasonably identifiable description, as prescribed by the department. (5) "New", when describing a motor vehicle, power sports vehicle, or trailer, means that the motor vehicle, power sports vehicle, or trailer has not been the subject of a retail sale. (6) "Parking", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading. (7) (a) "Power sports vehicle" includes a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle. (b) A motorcycle or quadricycle must be treated as an off-highway vehicle if the motorcycle or quadricycle is not originally equipped for use on a highway. (c) A sailboat that is 12 feet in length or longer is treated as a motorboat. (8) (a) "Trailer" has the meaning provided in 61-1-101 but does not include a trailer that has an unloaded weight of less than 500 pounds. (b) A travel trailer, semitrailer, or pole trailer is treated as a trailer under this part. (9) "Used", when describing a motor vehicle, power sports vehicle, or trailer, means that title to the motor vehicle, power sports vehicle, or trailer has been transferred because of a prior retail sale. History: En. 51-609 by Sec. 1, Ch. 381, L. 1977; R.C.M. 1947, 51-609(1), (3); amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 5, Ch. 221, L. 1997; amd. Sec. 1, Ch. 335, L. 2003; amd. Sec. 168, Ch. 542, L. 2005; amd. Sec. 49, Ch. 329, L. 2007; amd. Sec. 2, Ch. 93, L. 2017; amd. Sec. 13, Ch. 323, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-132. Right of designated family member to succeed in dealership ownership

61-4-132. Right of designated family member to succeed in dealership ownership. (1) Any designated family member of a retiring, deceased, or incapacitated dealer may succeed the dealer in the ownership or operation of the dealership under the existing franchise

or distribution agreement upon the retiring dealer or the family member of a deceased or incapacitated dealer giving the manufacturer, factory branch, distributor, or importer of new motor vehicles written notice of the intention to succeed the dealer in the ownership or operation of the dealership within 120 days prior to the dealer's expected date of retirement or within 120 days after the death or incapacity of the dealer. The manufacturer, factory branch, distributor, or importer may refuse to honor the notice of succession only for good cause in the manner provided for in 61-4-133. (2) The manufacturer, factory branch, distributor, or importer may request, and the designated family member shall provide, on request, personal and financial data that is reasonably necessary to determine whether the succession should be honored. The designated family member must meet the manufacturer's, factory branch's, distributor's, or importer's reasonable, uniformly applied written requirements to be a dealer. If the designated family member lacks experience required to meet those requirements, then the manufacturer shall allow the successor a reasonable amount of time to meet those requirements provided that during the period, the successor employs an individual who is qualified and experienced as a general manager to manage the day-to-day operations of the motor vehicle dealership. History: En. 51-610 by Sec. 2, Ch. 381, L. 1977; R.C.M. 1947, 51-610; amd. Sec. 1941, Ch. 56, L. 2009; amd. Sec. 11, Ch. 283, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-133. Refusal to honor succession to ownership -- notice required

61-4-133. Refusal to honor succession to ownership -- notice required. (1) If a manufacturer, factory branch, distributor, or importer believes that good cause exists for refusing to honor the succession to the ownership and operation of a dealership by a designated family member under the existing franchise agreement as provided for in this part, the manufacturer, factory branch, distributor, or importer may, within 30 days of receipt of notice of the designated family member's intent to succeed the dealer in the ownership and operation of the dealership, serve upon the designated family member and the department notice of its refusal to honor the succession and of its intent to discontinue the existing franchise agreement with the dealership no sooner than 90 days from the date the notice is served. (2) The notice must state the specific grounds for the refusal to honor the succession and of its intent to discontinue the existing franchise agreement with the dealership no sooner than 90 days from the date the notice is served. (3) If notice of refusal and discontinuance is not timely served upon the designated family member and the department or if the department rules in favor of the designated family member in a hearing held pursuant to 61-4-134, the franchise agreement must continue in effect subject to termination only as otherwise permitted by law. (4) In the event that a manufacturer, factory branch, distributor, or importer refuses to honor the family member's succession to the ownership and operation of the dealership without complying with this part, the designated family member may commence a proceeding before the department for declaratory judgment against the manufacturer, factory branch, distributor, or importer for an order that the designated family member's right to succession be recognized. The burden of proof, rights, and remedies in the action are the same as if the designated family member had filed a notice of objection to a notice of refusal and discontinuance filed by a manufacturer, factory branch, distributor, or importer. History: En. 51-611 by Sec. 3, Ch. 381, L. 1977; R.C.M. 1947, 51-611; amd. Sec. 6, Ch. 221, L. 1997; amd. Sec. 12, Ch. 283, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-134. Procedure to determine right to succeed

61-4-134. Procedure to determine right to succeed. (1) Any designated family member who receives notice of the manufacturer's, factory branch's, distributor's, or importer's refusal to honor the family member's succession to the ownership and operation of the dealership may, within the 90-day period, file a written complaint with the department for a hearing and determination by the department as to whether good cause exists for refusal to honor the designated family member's succession to the operation and ownership of the dealership. (2) The manufacturer, factory branch, distributor, or importer must establish good cause for refusal by showing that the designated family member failed to comply with the provisions of 61-4-132(2) or that the succession would be detrimental to the public interest. (3) The franchise agreement must continue in effect until the final adjudication by the department on the written complaint and the exhaustion of all appellate remedies available to the designated family member. The manufacturer, factory branch, distributor, or importer and the designated family member shall abide by the terms of the franchise agreement and the laws of Montana during adjudication by the department and the appeals process. (4) If the manufacturer, factory branch, distributor, or importer prevails, the department shall include in its order approving the termination of the franchise agreement reasonable conditions affording the designated family member an opportunity to receive fair and reasonable compensation for the value of the dealership. (5) Any decision by the department may be reviewed pursuant to Title 2, chapter 4, part 7. History: En. 51-612 by Sec. 4, Ch. 381, L. 1977; R.C.M. 1947, 51-612; amd. Sec. 7, Ch. 221, L. 1997; amd. Sec. 13, Ch. 283, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-135. Written designation of succession unaffected

61-4-135. Written designation of succession unaffected. Sections 61-4-132 through 61-4-137 do not preclude a new dealer from designating any person as the new dealer's successor by written instrument filed with the manufacturer, factory branch, distributor, or importer. History: En. 51-613 by Sec. 5, Ch. 381, L. 1977; R.C.M. 1947, 51-613; amd. Sec. 50, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-136. Violation -- penalty

61-4-136. Violation -- penalty. Any person violating the provisions of 61-4-132 through 61-4-137 shall upon conviction be fined no more than \$5,000. History: En. 51-614 by Sec. 6, Ch. 381, L. 1977; R.C.M. 1947, 51-614; amd. Sec. 51, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-137. Civil damages

61-4-137. Civil damages. Any new dealer suffering pecuniary loss because of a violation of 61-4-132 through 61-4-136, upon prevailing in a civil action for a violation, is entitled to damages equal to three times the pecuniary loss, together with court costs and reasonable attorney fees. History: En. 51-615 by Sec. 7, Ch. 381, L. 1977; R.C.M. 1947, 51-615; amd. Sec. 52, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-138. through 61-4-140 reserved

61-4-138 through 61-4-140 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-142. reserved

61-4-142 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-143. Unlawful curbstoning of vehicle for sale

61-4-143. Unlawful curbstoning of vehicle for sale. (1) Except as provided in 61-4-123, a person may not display or park a motor vehicle offered or posted for sale on real property in which the person does not have a legal interest if the primary purpose of displaying or parking the vehicle on the property is to promote or effect the sale of the vehicle. (2) This section does not prohibit the display or parking of a motor vehicle offered or posted for sale when: (a) the display or parking of the motor vehicle is incidental to actual operation and immediate use of the motor vehicle by the motor vehicle owner; (b) the motor vehicle owner obtains the written consent of the real property owner, lessee, or agent of the owner or lessee on whose property the motor vehicle is displayed and posts the written consent or a copy of the written consent in the front or rear window of the motor vehicle; or (c) unless otherwise prohibited by local ordinance, the motor vehicle is displayed on a public street that is adjacent to real property in which the person offering the motor vehicle for sale has a legal interest. (3) A person who violates subsection (1): (a) is subject to a written warning for the first violation; and (b) for a second or subsequent violation, is guilty of a misdemeanor and upon conviction may be fined an amount not less than \$250 and not more than \$500. (4) Each violation of subsection (1) is considered a separate offense. History: En. Sec. 1, Ch. 385, L. 2001; amd. Sec. 170, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-144. through 61-4-149 reserved

61-4-144 through 61-4-149 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 1. Dealers 61-4-150. Sale, transfer, or exchange of dealership -- notice -- response to notice

61-4-150. Sale, transfer, or exchange of dealership -- notice -- response to notice. (1) A manufacturer of new motor vehicles, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of the persons or entities listed in this subsection may not unreasonably withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state who meets the state's statutory requirements for appointment as a dealer. (2) (a) A manufacturer or distributor shall respond to a dealer in writing within 60 days of receipt of the dealer's request, delivered by certified mail to the manufacturer or distributor, for consent to the sale, transfer, or exchange of the dealer's franchise submitted by the dealer to the manufacturer or distributor pursuant to the provisions of subsection (1). (b) The manufacturer shall acknowledge, in writing delivered by certified mail to the dealer and the buyer designated in the dealer's request for consent, receipt of the request. Failure to respond within the 60-day period established in subsection (2)(a) is approval of the request. (c) If the manufacturer or distributor requires additional information to complete its review, the manufacturer or distributor shall notify the buyer in writing delivered by certified mail within 15 business days of receipt of the dealer's request. If the manufacturer or distributor requests additional information, the 60-day time period for approval runs from the time of the receipt of the requested supplemental information. The manufacturer or dealer may request additional information only one time. History: En. Sec. 2, Ch. 177, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-201. Definitions

61-4-201. Definitions. As used in this part, the following definitions apply unless the context clearly indicates otherwise: (1) "Community" means the relevant market area of a franchise. For the purposes of this part, the relevant market area of a franchise is

the county or counties in which the franchisee is located. (2) "Distribute" means to sell new motor vehicles other than at retail or to enter into a franchise agreement authorizing a dealer to buy new motor vehicles for resale or to service motor vehicles under a manufacturer's or distributor's warranty. (3) "Distributor" or "wholesaler" means a person who sells or distributes a line-make of new motor vehicles to new motor vehicle dealers in this state or who maintains distributor representatives in this state. (4) "Distributor branch" means a branch office maintained or availed of by a distributor or wholesaler for the sale of a line-make of new motor vehicles to new motor vehicle dealers in this state for directing or supervising its representatives in this state. (5) "Factory branch" means a branch office maintained or availed of by a manufacturer for the sale of a line-make of new motor vehicles to distributors or for the sale of new motor vehicles to new motor vehicle dealers in this state or for directing or supervising its representatives in this state. (6) "Franchise" means a contract and any agreed-to amendments between or among two or more persons when all of the following conditions are included: (a) a commercial relationship of definite duration or continuing indefinite duration is involved; (b) the franchisee is granted the right to: (i) offer, sell, and service in this state new motor vehicles manufactured or distributed by the franchisor; or (ii) service motor vehicles pursuant to the terms of a franchise and a manufacturer's warranty; (c) the franchisee, as an independent and separate business, constitutes a component of the franchisor's distribution system; and (d) the operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of new motor vehicles, parts, and accessories. (7) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise and who offers, sells, and services the new motor vehicles to and for the general public. (8) "Franchisor" means a person who manufactures, imports, or distributes new motor vehicles and who may enter into a franchise. (9) "Importer" means a person who transports or arranges for the transportation of a foreign manufactured new motor vehicle into the United States for sale in this state. (10) "Line-make" means vehicles that are offered for sale, lease, or distribution under a common name, trademark, or service mark. (11) "Manufacturer" means a person who manufactures or assembles a line-make of new motor vehicles and distributes them directly or indirectly through one or more distributors to one or more new motor vehicle dealers in this state or who manufactures or installs on previously assembled truck chassis special bodies or equipment that, when installed, forms an integral part of the new motor vehicle and that constitutes a major manufacturing alteration, but does not include a person who installs a camper on a pickup truck. The term includes a central or principal sales corporation or other entity through which, by contractual agreement or otherwise, a manufacturer distributes its products. (12) "Motor vehicle" includes a motorboat and a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801. (13) "New motor vehicle" means a motor vehicle that has not been the subject of a retail sale regardless of the mileage of the vehicle. (14) "New motor vehicle dealer" means a person who buys, sells, exchanges, or offers or attempts to negotiate a sale or exchange or any interest in or who is engaged in the business of selling new motor vehicles under a franchise with the manufacturer of the new motor vehicles or used motor vehicles taken in trade on new motor vehicles. (15) (a) "Retail sale" means the sale of a new motor vehicle. (b) "Retail sale" does not mean a sale: (i) of a new motor vehicle to a purchaser who is acquiring the vehicle for the purposes of a resale; or (ii) that is the result of a transfer between two licensed new motor vehicle dealers. (16) "Transferee" means a person or entity that: (a) is in possession or control of a new motor vehicle dealer; (b) holds an ownership or signed contract interest in a new motor vehicle dealer; (c) is acting in a fiduciary capacity for a new motor vehicle dealer; or (d) is an heir, devisee, personal representative, beneficiary, successor, or assign of a new motor vehicle dealer. History: En. 51-601 by Sec. 1, Ch. 380, L. 1977; R.C.M. 1947, 51-601(1) thru (9), (11), (12); amd. Sec. 2, Ch. 274, L. 1981; amd. Sec. 1, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 8, Ch. 221, L. 1997; amd. Sec. 1, Ch. 313, L. 1999; amd. Sec. 4, Ch. 384, L. 1999; amd. Sec. 1, Ch. 308, L. 2009; amd. Sec. 15, Ch. 389, L. 2021; amd. Sec. 5, Ch. 362, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-202. License requirements

61-4-202. License requirements. (1) A new motor vehicle dealer, manufacturer, distributor, factory branch, distributor branch, importer, or franchisor may not engage in business in Montana except in accordance with the requirements of this part. The provisions of this part do not apply to a public officer engaged in the discharge of official duties or to a trustee, receiver, or other officer acting under the jurisdiction of a court, to financial institutions disposing of repossessed vehicles, or to a person disposing of a personal motor vehicle. The provisions of this part regulating and licensing new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors apply only to those new motor vehicle dealers, manufacturers, distributors, factory branches, distributor branches, importers, and franchisors of motor vehicles as defined by this part. (2) A manufacturer, distributor, factory branch, distributor branch, importer, or franchisor transacting business within Montana by offering, selling, trading, consigning, or otherwise transferring a new motor vehicle to a new motor vehicle dealer must be licensed by the state of Montana. The department shall issue licenses to qualified applicants upon receipt of a license fee in the amount of \$15 accompanied by the information required in this section. (3) The following information, if applicable, must be submitted by an applicant upon forms supplied by the department: (a) the name and address of the applicant; (b) the make and model of each new motor vehicle to be franchised; (c) the name and address of each of the applicant's franchisees within the state; (d) the name and address of each factory branch, distributor branch, agent, or representative within the state; and (e) a statement affirming that the relationship between the applicant and the new motor vehicle dealer is subject to the terms and conditions of a standard written franchise agreement applicable to all its new motor vehicle dealers in this state. A copy of the standard written franchise agreement, including all standard terms and conditions applicable to all franchised dealers or distributors in this state must be filed with the application unless the standard written franchise agreement is already on file with the department. Any revision of or additions to the

standard basic franchise agreement must be filed with the department within 30 days of dissemination to the new motor vehicle dealers in this state. (4) A license may be renewed each year if the applicant is in compliance with the provisions of this part, remits a renewal fee in the amount of \$15, and notifies the department of any changes in the information previously supplied. (5) (a) A new motor vehicle may not be sold in this state unless either the manufacturer on direct dealership of domestic motor vehicles, the importer of foreign manufactured motor vehicles on direct dealership, or the distributor on indirect dealerships of either domestic or foreign motor vehicles is licensed as provided in this part. (b) Notwithstanding any other licensing provision contained in Montana law, every new motor vehicle dealer shall obtain a license under part 1 of this chapter. (c) The obtaining of a license under Title 61, chapter 4, part 1, or this part conclusively establishes that a new motor vehicle dealer, manufacturer, distributor, or importer is subject to the laws of this state regulating new motor vehicle dealers, manufacturers, importers, and distributors. (6) When an objection to a proposal to terminate or not continue a franchise or a proposal to enter into a franchise establishing an additional new motor vehicle dealership of the same line-make is made pursuant to 61-4-206, a replacement license or new license may not be issued under this section to any replacement dealer or new dealer until adjudication by the department of the written objection filed pursuant to 61-4-206 and the exhaustion of all appellate remedies available to the objector. History: En. 51-602 by Sec. 2, Ch. 380, L. 1977; R.C.M. 1947, 51-602; amd. Sec. 1, Ch. 557, L. 1979; amd. Secs. 2, 3, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 5, Ch. 384, L. 1999; amd. Sec. 171, Ch. 542, L. 2005; amd. Sec. 53, Ch. 329, L. 2007; amd. Sec. 2, Ch. 308, L. 2009; amd. Sec. 6, Ch. 362, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-203. Administration

61-4-203. Administration. The department shall supervise and regulate all persons required by this part to be licensed. In the supervision and regulation thereof the department may: (1) make investigations it considers necessary; and (2) conduct hearings and compel attendance of witnesses at the hearings pursuant to the Montana Administrative Procedure Act. History: En. 51-603 by Sec. 3, Ch. 380, L. 1977; R.C.M. 1947, 51-603; amd. Sec. 2, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 12, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-204. Filing agreement -- product liability

61-4-204. Filing agreement -- product liability. (1) A franchisee shall, at the time of application for a new motor vehicle dealer license under the provisions of 61-4-101, file with the department a certified copy of the franchisee's written agreement with a manufacturer and a certificate of appointment as dealer or distributor. The certificate of appointment must be signed by an authorized agent of the manufacturer of domestic motor vehicles whenever there is a direct manufacturer dealer agreement or by an authorized agent of the distributor whenever the manufacturer is wholesaling through an appointed distributorship. The certificate must be signed by an authorized agent of the importer of foreign-made vehicles whenever there is a direct importer-dealer agreement or by an authorized agent of the distributor whenever there is an indirect distributor-dealer agreement. The distributor's certificate of appointment must be signed by an authorized agent of the manufacturer of domestically manufactured motor vehicles or by an authorized agent of the manufacturer or importer of foreign-made motor vehicles. (2) A franchisee need not file a written agreement or certificate of appointment if the manufacturer on direct dealerships or distributor on indirect dealerships or importer on direct dealerships uses the identical basic agreement for all its franchised dealers or distributors in this state and certifies in the certificate of appointment that the blanket agreement is on file and the written agreement with the particular dealer or distributor, respectively, is identical with the filed blanket agreement and that the franchisee has filed with the department one agreement together with a list of franchised dealers or distributors. (3) A franchisor shall notify the department within 30 days of any revision of or addition to the basic agreement on file or of any franchise supplement to the agreement. Annual renewal of a certificate filed as provided in this section is not required. (4) A manufacturer shall file with the department a copy of the delivery and preparation obligations required to be performed by a dealer prior to the delivery of a new motor vehicle to a buyer. These delivery and preparation obligations constitute the dealer's only responsibility for product liability as between the dealer and the manufacturer. Any mechanical, body, or parts defects arising from an express or implied warranty of the manufacturer constitute the manufacturer's product or warranty liability only. A manufacturer may not refuse a dealer's demand for defense and indemnity of a claim to which the dealer has been joined as a party, alleging manufacturer's negligence or breach of the manufacturer's warranty or product liability based on the mere allegations of the complaint without a reasonable investigation of the facts and determination that the dealer failed to perform the dealer's delivery and preparation obligations as required by this subsection or otherwise violated a legal duty owed to the claimant or manufacturer. However, this section may not affect the obligations of new motor vehicle dealers to perform warranty repair and maintenance that may be required by law or contract. Except with regard to household appliances, including but not limited to ranges, refrigerators, and water heaters, in a recreational vehicle and except with regard to a truck rated at more than 10,000 pounds gross vehicle weight, the manufacturer shall compensate an authorized dealer for labor, parts, and other expenses incurred by a dealer who performs work to rectify the manufacturer's product or warranty defect or for delivery and preparation obligations as provided in this part. (5) All claims made by the dealer for compensation for delivery, preparation, and recall service, including labor, parts, and other expenses, and claims made for incentives must be paid by the manufacturer within 30 days of receipt of the claim from the dealer, unless the claim is properly disapproved, except that a manufacturer of a motor home

shall pay any claim within 60 days of receipt from the dealer. (6) Notwithstanding the terms of any agreement, the franchisor may not refuse to allocate, sell, or deliver motor vehicles, may not penalize a dealer, may not charge back or withhold payments or other things of value for which the dealer is otherwise entitled under a sales promotion, program, or contest, and may not prevent the dealer from participating in any promotion, program, or contest based on the dealer's selling of a motor vehicle to a customer who was present at the dealership and that the dealer did not know or could not have reasonably known that the motor vehicle would be shipped to a foreign country. There is a rebuttable presumption that the dealer did not know or could not have reasonably known that the vehicle would be shipped to a foreign country if the motor vehicle is titled in the United States. (7) A franchisor may reasonably and periodically audit a motor vehicle dealer to determine the validity of paid claims or charge-backs for customer or dealer incentives. (8) A dealer has 60 days from the date of notification by a manufacturer of a denial or a charge-back to the dealer to resubmit a claim for payment or compensation if the claim was denied for a dealer's incidental failure as set forth in 61-4-213(12)(d), regardless of whether the denial or charge-back was a direct or an indirect transaction. (9) A dealer has 90 days after the expiration of a franchisor incentive program, or a longer time if provided by the franchise agreement, to submit a claim for payment or compensation under the program. (10) Notwithstanding the terms of a franchise agreement or other contract with a dealer, after the expiration of 1 year after the date of payment of a motor vehicle claim or 1 year from the end of a program that does not exceed 1 year in length, whichever is later, a franchisor may not: (a) charge back to a dealer, whether directly or indirectly, the amount of a claim that has been approved and paid by the franchisor under an incentive program; (b) charge back to a dealer, whether directly or indirectly, the cash value of a prize or other thing of value awarded to the dealer under an incentive program; or (c) audit the records of a dealer to determine compliance with the terms of an incentive program. (11) Subsection (10) does not prohibit a franchisor from making charge-backs to a dealer for fraud at any time as permitted by 27-2-203. (12) The dealer shall furnish the purchaser of a new motor vehicle with a signed copy of the manufacturer's delivery and preparation requirements indicating that each of those requirements has been performed. (13) Any violation of this section constitutes a prohibited practice. History: En. 51-604 by Sec. 4, Ch. 380, L. 1977; R.C.M. 1947, 51-604(1) thru (3), (5), (6); amd. Sec. 2, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 229, L. 1991; amd. Sec. 2, Ch. 313, L. 1999; amd. Sec. 6, Ch. 384, L. 1999; amd. Sec. 172, Ch. 542, L. 2005; amd. Sec. 54, Ch. 329, L. 2007; amd. Sec. 3, Ch. 308, L. 2009; amd. Sec. 14, Ch. 283, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-205. Limitations on cancellation and termination

61-4-205. Limitations on cancellation and termination. (1) Notwithstanding the terms, provisions, or conditions of any agreement or franchise, a franchisor may not cancel, terminate, or refuse to continue a franchise unless the franchisor has cause for termination or noncontinuance. (2) A franchisor may not enter into a franchise for the purpose of establishing an additional new motor vehicle dealership in any community in which the same line-make is then represented unless there is good cause for an additional new motor vehicle dealership under a franchise and it is in the public interest. (3) (a) If a franchisor seeks to terminate or not continue a franchise or seeks to enter into a franchise establishing an additional new motor vehicle dealership of the same line-make, the franchisor shall, not less than 60 days prior to the intended action, and the franchisee may, at any time, file a notice with the department of intention to terminate or not continue the franchise or to enter into a franchise for additional representation of the same line-make. A notice of intention to terminate or not continue a franchise is not required from a franchisor until the conclusion of any review proceeding of that intention offered to the franchisee under the franchise. This section does not apply to an intended termination or noncontinuance of a franchise that the franchisee elects voluntarily, pursuant to a plan established by a franchisor, to submit to binding arbitration. (b) The notice to be filed with the department of a franchisor's intention to enter into a franchise for additional representation of the same line-make must name the proposed additional franchisee and must identify by legal description or street address the additional location in the community. A change in the identity of the proposed additional franchisee or of the additional location in the community may only be accomplished by the withdrawal of the initial notice and the filing of a new notice. No more than one notice of intention to enter into a franchise for additional representation of the same line-make in the same community may be made by a franchisor within 3 calendar years of the date of final disposition of a notice of intention. (c) If good cause is not found under this part or if the franchisor withdraws or dismisses a proceeding under this part, a franchisee who objected to a proceeding initiated by a franchisor under this part is entitled to recover from the franchisor reasonable attorney fees, costs, and expenses, including expert witness and consultant fees incurred in resisting the proceeding. (4) Upon receiving a notice of intention under the provisions of subsection (3), the department shall, within 5 days of receipt of a notice of intention, send by certified mail, with return receipt requested, a copy of the notice to the franchisor and to the franchisee whose franchise the franchisor seeks to establish, terminate, or not continue. If the notice states an intent to establish an additional new motor vehicle dealership, a copy of the notice must be sent within 5 days of receipt to all franchisees in the community who are then engaged in the business of offering to sell or selling the same line-make. Copies of notices must be addressed to the principal place of business of each recipient and to the statutory agent of each corporate recipient. The department may also give a copy of the franchisor's notice to any other parties whom the department may consider interested persons. (5) In instances where the change in ownership has the effect of the sale of the franchise, the franchisor may not without good cause withhold its consent to the sale. Good cause relates only to the transferee's financial and managerial capabilities or to the inability of the transferee to comply with a state or federal law relating to new motor vehicle dealerships. The burden of establishing good cause is upon the franchisor. (6) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, in the event of the sale or transfer of ownership of the franchisee's dealership by sale or

transfer of the business or by stock transfer to the dealer's or wholesaler's spouse or child, the franchisor shall give effect to the sale or transfer of ownership in the franchise unless the transfer of the franchisee's new motor vehicle dealer's or wholesaler's license is denied or the new owner is unable to obtain a license under the laws of this state. (7) If a franchisor enters into or attempts to enter into a franchise, whether upon termination or refusal to continue another franchise or upon the establishment of an additional new motor vehicle dealership in a community where the same line-make is then represented, without first complying with the provisions of this part, a license under Title 23 or 61-4-101 may not be issued to that franchisee or proposed franchisee to engage in the business of selling new motor vehicles manufactured or distributed by that franchisor. (8) A franchisor shall, unless a new franchisor of the line-make continues or replaces the dealer's franchise under subsection (10), compensate the dealer as provided in subsection (9) if the franchisor renders itself incapable of performing under a franchise agreement or renders a distributor incapable of performing under a franchise agreement by: (a) selling or otherwise transferring some or all of the assets essential to the manufacture or distribution of the line-make covered by the franchise agreement; (b) ceasing production of the line-make; or (c) terminating, canceling, or not renewing the distributor's rights to distribute the line-make. (9) (a) A franchisor considered incapable of performing under subsection (8) shall compensate the affected dealer in an amount equal to the greater of: (i) the actual pecuniary loss that the dealer and its owners suffered as a result of the termination, cancellation, or failure to renew; or (ii) the higher of the fair market value of the franchise on the following dates: (A) the effective date of the termination, cancellation, or failure to renew; (B) the date 1 year prior to the effective date of termination, cancellation, or failure to renew; or (C) the day prior to the date on which the franchisor announces the action that results in the termination, cancellation, or failure to renew. (b) The compensation required by this subsection (9) must be paid to the dealer within 30 days of the affected parties' mutual agreement in writing as to the amount of the compensation. If an agreement on compensation is not reached within 90 days of the effective date of the termination, cancellation, or failure to renew, an affected dealer may bring an action for a determination of the amount of compensation due and for recovery of that amount, plus costs and attorney fees. (10) If, as a result of any of the circumstances described in subsection (8), an entity other than the original manufacturer or distributor of a line-make becomes the manufacturer or distributor for the line-make and intends to distribute motor vehicles of that line-make in this state, the entity shall honor the franchise agreements of the original franchisor and its dealers or offer those dealers a new franchise agreement for the line-make on substantially similar terms and conditions. (11) The franchisor that is terminating, canceling, or not renewing a franchise agreement pursuant to subsection (8) shall: (a) authorize the franchisee or another new motor vehicle dealer of the franchisor in the area to continue servicing and supplying parts, including service and parts pursuant to a warranty issued by the franchisor for any goods or services marketed by the franchisee pursuant to the motor vehicle franchise for a period of not less than 5 years from the effective date of the termination, cancellation, or nonrenewal; and (b) continue to reimburse the franchisee or another new motor vehicle dealer of the franchisor in the area for warranty parts and service in an amount and on terms not less favorable than those in effect prior to the termination, cancellation, or nonrenewal. (12) The franchisor shall continue to supply the franchisee whose agreement is terminated, canceled, or not renewed pursuant to subsection (8) or another new motor vehicle dealer of the franchisor in the area with replacement parts for any goods or services marketed by the franchisee pursuant to the franchise agreement for a period of not less than 5 years from the effective date of the termination, cancellation, or nonrenewal at the same price and terms as the franchisor supplies the parts, goods, or services to the remaining franchisees of the franchisor or if there are not any remaining franchisees, at a price and on terms not less favorable than those in effect prior to the termination, cancellation, or nonrenewal. (13) If the franchisee continues to service motor vehicles and sell parts after the termination, cancellation, or nonrenewal of the franchise agreement pursuant to subsection (8), the compensation paid to the franchisee pursuant to subsection (9) must be reduced to the extent, if any, of the fair market value of the right to continue to service motor vehicles and sell parts as of the effective date of the termination, cancellation, or nonrenewal. History: En. 51-605 by Sec. 5, Ch. 380, L. 1977; R.C.M. 1947, 51-605(1) thru (4), (11), (12), (14); amd. Sec. 2, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 12, Ch. 383, L. 1991; amd. Sec. 9, Ch. 221, L. 1997; amd. Sec. 7, Ch. 384, L. 1999; amd. Sec. 29, Ch. 409, L. 1999; amd. Sec. 4, Ch. 308, L. 2009; amd. Sec. 15, Ch. 283, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-206. Objections -- hearing

61-4-206. Objections -- hearing. (1) (a) Except as provided in subsection (1)(b), a person who receives or is entitled to receive a copy of a notice provided for in 61-4-205(4) may object to the approval of the proposed action by filing a written objection with the department within 15 days from the date the notice was received by the person entitled to receive the notice. If an objection is not filed within 15 days from the date the notice was received, the proposed action must be approved. (b) A franchisee of the same line-make established in the same community as the proposed additional franchise of the same line-make may not object under subsection (1)(a) if the proposed additional franchise was first terminated by a franchisor and the franchise was subsequently awarded back by a legal or administrative proceeding to the franchisee from whom the franchise was terminated. (2) If a timely objection has been filed, the department shall appoint a hearings officer to preside over and conduct a contested case hearing under the provisions of Title 2, chapter 4, part 6. Within 30 days of the order of appointment, the hearings officer shall enter an order fixing the time for a scheduling conference for the contested case and shall send to the parties by certified mail with return receipt requested a copy of the scheduling conference order and the notice provided for in 61-4-205(4). (3) Upon hearing or upon objection to the establishment of a new motor vehicle dealership, the franchisor has the burden of proof to establish that good cause exists to terminate, not continue, or not establish the franchise. (4) The rules of evidence for a hearing provided for in subsection (2) are the same as those found in Title 2, chapter 4. The department shall reasonably apportion all costs related to the contested case hearing

between the parties. (5) The department may issue subpoenas, administer oaths, and compel the attendance of witnesses and production of books, papers, documents, and all other evidence. The department may apply to the district court of the county in which the hearing is held for a court order enforcing this section. The hearing must be conducted pursuant to Title 2, chapter 4. (6) A transcript of the testimony of each witness taken at the hearing must be made and preserved. Within 60 days after the hearing, the department shall make written findings of fact and conclusions and enter a final order. (7) Any party to the hearing before the department may appeal pursuant to Title 2, chapter 4. (8) The franchise agreement must continue in effect until the adjudication by the department on the written complaint and the exhaustion of all appellate remedies available to the franchisee. The franchisor and the franchisee shall abide by the terms of the franchise and the laws of Montana during the appeals process. History: En. 51-605 by Sec. 5, Ch. 380, L. 1977; R.C.M. 1947, 51-605(5) thru (9), (13), (17), (18); amd. Sec. 2, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 10, Ch. 221, L. 1997; amd. Sec. 14, Ch. 299, L. 2003; amd. Sec. 1, Ch. 273, L. 2013; amd. Sec. 16, Ch. 283, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-207. Determination of good cause

61-4-207. Determination of good cause. (1) In determining whether good cause has been established for terminating or not continuing a franchise, the department shall take into consideration all the existing circumstances, including but not limited to: (a) the franchisee's sales in relation to the Montana market that are essential, reasonable, and not discriminatory and that take into account the franchisee's local market variations beyond adjusting for the local popularity of general vehicle types; (b) investment necessarily made and obligations incurred by the franchisee in the performance of the franchisee's part of the franchise; (c) permanency of the investment; (d) whether it is injurious to the public welfare for the business of the franchisee to be discontinued; (e) whether the franchisee has adequate new motor vehicle facilities, equipment, parts, and qualified management, sales, and service personnel to reasonably provide consumer care for the new motor vehicles sold at retail by the franchisee and any other new motor vehicle of the same line-make; (f) whether the franchisee refuses to honor warranties of the franchisor to be performed by the franchisee if the franchisor reimburses the franchisee for warranty work performed by the franchisee pursuant to this part; (g) except as provided in subsection (2), actions by the franchisee that result in a material breach of the written and uniformly applied requirements of the franchise that are determined by the department to be reasonable and material; and (h) the enforceability of the franchise from a public policy standpoint, including issues of the reasonableness of the franchise's terms and the parties' relative bargaining power. (2) Notwithstanding the terms, provisions, or conditions of an agreement or franchise, the following do not constitute good cause for the termination or noncontinuance of a franchise: (a) a change in ownership of the franchisee's dealership; (b) the fact that the franchisee refused to purchase or accept delivery of a new motor vehicle, part, accessory, or any other commodity or service not ordered by the franchisee; (c) the failure of a franchisee to change location of the dealership or to make substantial alterations to the use or number of franchises or the dealership premises or facilities; or (d) the desire of a franchisor or a franchisor's representative: (i) for greater market penetration; or (ii) to alter the number of the franchisor's or franchisor's representative's franchises or dealer locations. (3) In determining whether good cause has been established for entering into an additional franchise for the same line-make, the department shall take into consideration the existing circumstances, including but not limited to: (a) amount of business transacted by other existing franchisees of the same line-make in that community; (b) investment necessarily made and obligations incurred by other existing franchisees of the same line-make in that community in the performance of their part of their franchise agreements and the date of the investment made and the obligations incurred by the existing franchisees in relation to the date of appointment of the additional franchisee; (c) whether the other existing franchisees of the same line-make in that community are substantially compliant with reasonable manufacturer requirements for providing adequate consumer care, including satisfactory new motor vehicle dealer sales and service facilities, special and essential tools and equipment, replacement parts supply, and qualified management, sales, and service personnel, for the new motor vehicle products of the line-make; (d) whether the demographic characteristics, including population, of that community have changed sufficiently since the appointment of the other existing franchisees to support the economic viability of both the other existing franchisees and the additional franchisee; and (e) whether the franchisor's action is in good faith. History: En. 51-605 by Sec. 5, Ch. 380, L. 1977; R.C.M. 1947, 51-605(10), (15), (16); amd. Sec. 2, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 11, Ch. 221, L. 1997; amd. Sec. 5, Ch. 308, L. 2009; amd. Sec. 2, Ch. 273, L. 2013; amd. Sec. 1, Ch. 92, L. 2017; amd. Sec. 17, Ch. 283, L. 2019; amd. Sec. 16, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-208. Prohibited acts -- rights of franchisees

61-4-208. Prohibited acts -- rights of franchisees. (1) A manufacturer, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of the persons or entities listed may not: (a) coerce, attempt to coerce, or require a new motor vehicle dealer or transferee of a new motor vehicle dealer to: (i) accept delivery of a new motor vehicle, a part, or an accessory for a new motor vehicle or any other commodity that has not been ordered by the new motor vehicle dealer or transferee of a new motor vehicle dealer; (ii) participate in or contribute to any local, regional, or national advertising fund or to participate in or to contribute to contests, giveaways, or other sales devices; (iii) change location of the

dealership or to make substantial alterations to the use or number of franchises or the dealership premises or facilities; (iv) either establish or maintain exclusive facilities, personnel, or display space or to abandon an existing franchise relationship with another manufacturer in order to keep or enter into a franchise agreement or to participate in any program discount, credit, rebate, or sales incentive; (v) subject to subsection (2)(b) and notwithstanding the terms of a franchise agreement or other agreement providing otherwise, purchase or utilize goods or services, including electronic services such as websites, data management or storage systems, digital retail platforms, software, or other digital services or platforms, from a vendor, or contract with or engage any vendor identified, selected, or designated by a manufacturer, a factory branch, a distributor, a distributor branch, an importer, or an affiliate of the persons or entities listed without allowing the franchisee, after consultation with the franchisor, to obtain goods or services of like kind, quality, and design from a vendor that the franchisee chooses, so long as the goods or services comply with the franchisor's reasonable standards or requirements. It is a violation of this section for a manufacturer, a factory branch, a distributor, a distributor branch, an importer, or an affiliate of the persons or entities listed to coerce a franchisee to purchase or utilize certain goods or services by the withholding of any benefit, including monetary incentives and vehicle allocation the dealer is otherwise eligible to receive. Nothing in this provision prohibits a manufacturer, factory branch, distributor, distributor branch, or affiliate of the persons or entities listed from establishing any program discount, credit, rebate, or incentive that is conditioned on a new motor vehicle dealer's purchase or use of such goods or services. (vi) require, coerce, or attempt to coerce a new motor vehicle dealer or transferee of a new motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other line-make of new motor vehicle or related products, as long as the new motor vehicle dealer or transferee of a new motor vehicle dealer maintains a reasonable line of credit for each franchise and the new motor vehicle dealer or transferee of a new motor vehicle dealer remains in substantial compliance with reasonable facilities requirements. The reasonable facilities requirements may not include any requirement that a new motor vehicle dealer or transferee of a new motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space. (vii) refrain from participation in the management of, investment in, or acquisition of any other line of new motor vehicle or related products if the new motor vehicle dealer or transferee of a new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles and remains in compliance with any reasonable capital standards and facility requirements of the manufacturer; or (viii) enter into an agreement with a manufacturer, factory branch, distributor, distributor branch, importer, or any representative of any of these persons or entities or do any other act unfair to the new motor vehicle dealer or transferee of a new motor vehicle dealer by: (A) withholding or threatening to withhold any incentive payments in whole or in part or denying or threatening to deny the dealer the right to participate in an incentive program in which more than one dealer of the line-make in this state is eligible to participate and on the same terms. Nothing contained in this subsection (1)(a)(viii)(A) requires that a dealer be qualified by a manufacturer or distributor for incentive payments or the right to payments or benefits from an incentive program and a manufacturer, factory branch, distributor, distributor branch, or importer may not be prohibited from informing a dealer of this, unless the dealer meets the qualifications, requirements, and standards for payment or benefits reasonably established by the manufacturer, factory branch, distributor, distributor branch, or importer. If the new motor vehicle dealer has otherwise submitted a claim substantially complying with the qualifications, requirements, and standards of the manufacturer, factory branch, distributor, distributor branch, or importer, a manufacturer, factory branch, distributor, distributor branch, or importer may not deny an incentive payment or benefit claim based solely on a dealer's incidental failure to comply with a specific processing requirement, such as a clerical error or other administrative technicality that does not put into question the legitimacy of the claim. If a claim is rejected for such an incidental requirement, the new motor vehicle dealer may correct or complete and resubmit a previously submitted incentive claim for a period of up to 60 days following the new motor vehicle dealer's receipt of first notice of the failure. A manufacturer, factory branch, distributor, distributor branch, or importer is not required to approve any such incentive claim if all material claim processing requirements are not substantially complied with by the new motor vehicle dealer within the time periods prescribed by this section. (B) threatening to cancel or not renew a franchise existing between the manufacturer, factory branch, distributor, distributor branch, importer, or any representative of any of these persons or entities and the new motor vehicle dealer or transferee of a new motor vehicle dealer; or (C) threatening to withhold, delay, or disrupt the receipt of new motor vehicles or any motor vehicle parts or supplies ordered by the new motor vehicle dealer or transferee of a new motor vehicle dealer from the manufacturer, factory branch, distributor, distributor branch, importer, or any representative or agent of any of these persons or entities; (b) delay, refuse, or fail to deliver or offer to deliver new motor vehicles or new vehicle parts in a reasonable time and in a reasonable quantity taking into consideration the number of new motor vehicles or parts reasonably available for allocation and considering the new motor vehicle dealer's or transferee of a new motor vehicle dealer's facilities, the dealer's historical selling pattern, and the dealer's sales potential in the dealer's relevant market area after accepting an order for any new vehicles or parts as are covered by the franchise from a new motor vehicle dealer having a franchise for the retail sale of any new vehicle or parts covered by the franchise if the new motor vehicle or part is publicly advertised as being available for immediate delivery or actually being delivered by the manufacturer, factory branch, distributor, distributor branch, or importer provided the new motor vehicle dealer meets any reasonable standards or requirements established by the manufacturer, factory branch, distributor, distributor branch, or importer related to the new motor vehicle or part. This subsection (1)(b) is not violated if the failure is caused by a force majeure beyond the control of the manufacturer, factory branch, distributor, distributor branch, or importer, provided that a manufacturer, factory branch, distributor, distributor branch, or importer may not establish a minimum sales requirement for determining a new motor vehicle dealer's compliance with the franchise that fails to take into consideration the number of new motor vehicles or parts delivered or offered to be delivered to the dealer in the applicable time period. (c) impose unreasonable restrictions on the assertion of legal or equitable rights on the new motor vehicle

dealer or transferee of a new motor vehicle dealer or franchise of a new motor vehicle dealer or transferee of a new motor vehicle dealer regarding transfer; sale; right to renew; termination; discipline; noncompetition covenants; site control, whether by sublease, collateral pledge of lease, or otherwise; or compliance with subjective standards; (d) whether by agreement or otherwise amend or attempt to amend its franchise agreement or similar agreement governing the sales and leasing of new motor vehicles or establish or implement a franchise agreement for the sales and leasing of new motor vehicles, under which the manufacturer, factory branch, distributor, distributor branch, or importer: (i) maintains a website or other electronic or digital means of communication for negotiating binding terms of sale or leasing of new motor vehicles directly with the retail buyer or lessee on prices or other substantive terms of sale or leasing of new vehicles, provided that a manufacturer or distributor may maintain a website or other electronic or digital means of communication that does not involve negotiating binding terms of sale or leasing of new motor vehicles directly with the retail buyer or lessee on prices or other substantive terms of sale or leasing of new vehicles; (ii) retains ownership of new motor vehicles until they are sold or leased to the retail buyer or lessee. However, a manufacturer, factory branch, distributor, distributor branch, or importer may maintain a common supply of new vehicles of which it maintains ownership until vehicles are sold to dealers from which more than one dealer may buy vehicles provided that the manufacturer, factory branch, distributor, distributor branch, or importer may not use the common supply of new vehicles to engage in the negotiation of binding terms of sales or leases directly with a retail buyer or lessee. (iii) except for the sale or lease of a vehicle to a bona fide employee of a manufacturer, factory branch, distributor, distributor branch, or importer or in connection with a replacement or buyback, consigns new motor vehicles to dealers for dealer inventory or for sale or lease to a retail buyer or lessee; (iv) reserves the right to negotiate binding terms of sale directly with retail buyers or lessees of new motor vehicles. Displaying on a website or other electronic or digital means of communication aggregate or average prices or other costs, available financing sources, or a conditional aggregate or average trade-in value are not considered negotiating. (v) reserves the right to offer or negotiate directly with the retail buyer or lessee at the time of sale in connection with the sale of a new motor vehicle sale of a service contract, vehicle maintenance agreement, guaranteed asset protection agreement or waiver, or any other vehicle-related products and services. (e) amend or modify or attempt to amend or modify any franchise agreement including but not limited to the dealer's relevant market area if the amendment or modification substantially and adversely affects the dealer's rights, obligations, investment, or return on investment, without giving a 60-day advance written notice of the proposed amendment or modification to the dealer. Any term or provision in the franchise agreement that purports to give the manufacturer, factory branch, distributor, distributor branch, or importer the right to unilaterally amend or modify the agreement is void. (f) notwithstanding the terms, provisions, or conditions of any agreement or franchise, use or consider the new motor vehicle dealer's or transferee of a new motor vehicle dealer's performance relating to the sale of new motor vehicles or ability to satisfy any minimum sales or market share quota or responsibility relating to the sale of new motor vehicles, parts, or service contracts in determining: (i) eligibility to purchase program, certified, or other used motor vehicles; (ii) the volume, type, or model of program, certified, or other used motor vehicles that the new motor vehicle dealer or transferee of a new motor vehicle dealer is eligible to purchase; (iii) the price or prices of any program, certified, or other used motor vehicles that the new motor vehicle dealer or transferee of a new motor vehicle dealer is eligible to purchase; or (iv) the availability or amount of any discount, credit, rebate, or sales incentive that the new motor vehicle dealer or transferee of a new motor vehicle dealer is eligible to receive for the purchase of any program, certified, or other used motor vehicles; or (g) enforce a right of first refusal to acquire the new motor vehicle dealer's assets or ownership by a manufacturer, distributor, or manufacturer's assignee or manufacturer's representative or to require a dealer to grant a right of option to a manufacturer, distributor, or manufacturer's representative. (2) (a) There is no violation of subsection (1)(a)(iii) or (1)(b) if a failure on the part of the manufacturer, factory branch, distributor, distributor branch, or importer is beyond the control of the listed persons or entities. (b) (i) Subsection (1)(a)(v) does not apply to goods or services specifically eligible for reimbursement of over one-half the cost of the goods or services pursuant to a franchisor or distributor program or incentive granted to the franchisee on reasonable, written terms. (ii) For the purposes of subsection (1)(a)(v) and this subsection (2)(b), "goods" do not include: (A) moveable displays, brochures, or promotional materials containing material subject to the intellectual property rights of a franchisor or parts to be used in repairs under warranty obligations of a franchisor; or (B) special tools or training required by the franchisor, provided however, subsections (1)(a)(v) and (2)(b) do not apply to any special tool acquired by a new motor vehicle dealer from an alternate source that is of the same kind, quality, design, and function as required by the franchisor and complies with the franchisor's reasonable standards. (c) Within the 60-day notice period provided for in subsection (1)(f) the dealer may pursue remedies under 61-4-215 and 61-4-216 and file with the department and serve upon the respondent a petition to determine whether good cause exists for permitting the proposed modification. Multiple complaints pertaining to the same proposed modification may be consolidated for hearing. The proposed modification may not take effect pending the determination of any protest filed by a dealer. (d) (i) In making a determination of whether there is good cause for permitting a proposed modification of a dealer franchise agreement, including but not limited to a dealer's relevant market area, the burden of proof is on the manufacturer, factory branch, distributor, distributor branch or importer, except that the burden of proof with regard to the factor set forth in subsection (2)(d)(i)(C) is on the dealer. The department shall consider any relevant factor including: (A) the reasons for the proposed modification; (B) whether the proposed modification is applied to or affects all motor vehicle dealers in a nondiscriminatory manner; (C) the degree to which the proposed modification will have substantial and adverse effects on the dealer's rights, obligations, investment, or return on investment; and (D) whether the proposed modification is in the public interest. (ii) With respect to a proposed modification of a dealer's relevant market area, the department shall also consider: (A) the traffic patterns between consumers and the same line-make franchised dealers of the affected manufacturer, factory branch, distributor, distributor branch, or importer who are located within the market as

a whole; (B) the pattern of new vehicle sales and registrations of the affected manufacturer, factory branch, distributor, distributor branch, or importer within various portions of the relevant market area and within the market as a whole; (C) the growth or decline in population, density of population, and new car registrations in the relevant market area and the market as a whole; (D) the presence or absence of natural geographical obstacles or boundaries; (E) the proximity of census tracts or other geographic units used by the affected manufacturer, factory branch, distributor, distributor branch, or importer in determining the same line-make dealers' respective relevant market area; and (F) the reasonableness of the change or proposed change to the dealer's relevant market area, considering the benefits and harm to the petitioning dealer, other same line-make dealers, and the manufacturer, factory branch, distributor, distributor branch, or importer. (e) Notwithstanding the provisions of subsection (1)(d), a manufacturer, factory branch, distributor, distributor branch, or importer may engage in fleet sales with a fleet customer that has a designation as such by the manufacturer, factory branch, distributor, distributor branch, or importer because it has purchased or has committed to purchase five or more vehicles under the fleet program. (f) Nothing in subsection (1)(d) limits a manufacturer, factory branch, distributor, distributor branch, or importer from setting or advertising a manufacturer's suggested retail price. (3) (a) Except as provided in subsection (3)(b) or (3)(c), a manufacturer, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may not own or operate, directly or indirectly, a motor vehicle dealership in Montana. This prohibition includes any dealership of a new line-make established by a manufacturer, factory branch, distributor, distributor branch, or importer or a subsidiary or a company affiliated through ownership of the manufacturer, factory branch, distributor, distributor branch, or importer of at least 25% of the equity of the company. (b) This subsection (3) does not prohibit the operation by a manufacturer, factory branch, distributor, distributor branch, importer, or a field representative, an officer, an agent, or any representative of any of these persons or entities of a dealership for a temporary period, not to exceed 1 year, during the transition from one owner or operator to another or the ownership or control of a dealership by a manufacturer, factory branch, distributor, distributor branch, or importer while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership. Approval of the sale may not be unreasonably withheld by the manufacturer. (c) A manufacturer, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities may own an interest in a motor vehicle dealership but may not operate the dealership unless a manufacturer, a factory branch, a distributor, a distributor branch, an importer, a field representative, an officer, an agent, or any representative of any of these persons or entities has a bona fide business relationship with an independent person who is not a franchisor or a franchisor's agent or affiliate, who has made an investment that is subject to loss in the dealership, and who reasonably expects to acquire full ownership of the dealership on reasonable terms and conditions. History: En. 51-606 by Sec. 6, Ch. 380, L. 1977; R.C.M. 1947, 51-606; amd. Sec. 1, Ch. 202, L. 1991; amd. Sec. 12, Ch. 221, L. 1997; amd. Sec. 3, Ch. 313, L. 1999; amd. Sec. 173, Ch. 542, L. 2005; amd. Sec. 6, Ch. 308, L. 2009; amd. Sec. 3, Ch. 273, L. 2013; amd. Sec. 3, Ch. 93, L. 2017; amd. Sec. 7, Ch. 362, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-209. Cease and desist orders

61-4-209. Cease and desist orders. When the department has reasonable cause to believe, from information furnished to or from an investigation made by it, that any person is engaged in any business regulated by this part without being licensed as required, it shall immediately issue and serve upon the person, by certified mail, a cease and desist order, requiring the person to cease and desist from further engaging in that business. Upon failure of that person to comply with the order, the department shall file an action in the district court of Lewis and Clark County to restrain and enjoin the person from engaging in the business. The court in the action shall proceed as in other actions for injunctions. History: En. 51-608 by Sec. 8, Ch. 380, L. 1977; R.C.M. 1947, 51-608; amd. Sec. 2, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1942, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-210. Penalties -- administrative penalties

61-4-210. Penalties -- administrative penalties. (1) Except as provided in subsection (2), a person who violates any provision of this part is guilty of a misdemeanor and upon conviction shall be fined not less than \$500 or more than \$1,000 for each violation. Each day that a violation continues or occurs constitutes a separate violation. (2) A manufacturer on direct dealerships, distributor on indirect dealerships, or importer on direct dealerships who has filed with the department an agreement used by all its franchisees in this state together with a list of all such franchisees and who fails to notify the department within 30 days of any revision, change, or addition thereto is guilty of a misdemeanor and upon conviction shall be fined not to exceed \$500. (3) If any new motor vehicle dealer or transferee of a new motor vehicle dealer incurs pecuniary loss due to a violation of this part by a manufacturer, distributor, importer, or factory branch or representative or agent of the listed persons or entities, the new motor vehicle dealer or transferee of a new motor vehicle dealer may recover damages in a court of competent jurisdiction in an amount equal to three times the pecuniary loss, together with costs including reasonable attorney fees. (4) In addition to any other penalty provided for in this part, the department may take appropriate enforcement action on its own initiative in accordance with the contested case procedures of Title 2, chapter 4. A person who violates the provisions of this part may be subject to administrative action and a civil penalty not to exceed \$500 for each violation. History: En. 51-604, 51-607 by Secs. 4, 7, Ch. 380, L. 1977; R.C.M. 1947, 51-604(4), 51-607; amd. Sec. 2, Ch. 431, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 229, L. 1991; amd. Sec. 7, Ch. 308, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-212. Damage notice

61-4-212. Damage notice. (1) Except as provided in subsection (2), a franchisor is required: (a) to disclose in writing to a new motor vehicle dealer damage to a new motor vehicle delivered to the new motor vehicle dealer if the damage is known to the franchisor and repaired, the damage occurred after the manufacturing process is complete but before delivery to the new motor vehicle dealer, and the damage exceeds 5% of the franchisor's suggested retail price as calculated at the rate of the new motor vehicle dealer's authorized warranty rate for labor and parts; and (b) to disclose in writing to a purchaser of the new motor vehicle before entering into a sales contract that the new motor vehicle has been damaged and repaired if the damage to the new motor vehicle exceeds 5% of the franchisor's suggested retail price as calculated at the rate of the new motor vehicle dealer's authorized warranty rate for labor and parts. (2) Disclosure is not required for any glass, tires, or bumper of a new motor vehicle if the damaged item has been replaced with original or comparable equipment. (3) If disclosure is not required under subsection (2), a purchaser may not revoke or rescind a sales contract due solely to the fact that the new motor vehicle was damaged and repaired before completion of the sale. (4) For purposes of this section, "franchisor's suggested retail price" means the retail price of the new motor vehicle suggested by the franchisor, including the retail delivered price suggested by the franchisor for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the new motor vehicle dealer that is not included within the retail price suggested by the franchisor for the new motor vehicle. History: En. Sec. 8, Ch. 308, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-213. Warranty reimbursement

61-4-213. Warranty reimbursement. (1) (a) If a motor vehicle franchisor requires or permits motor vehicle franchisees to perform labor or provide parts in satisfaction of a warranty issued by the franchisor: (i) the motor vehicle franchisor shall reimburse the motor vehicle franchisee for the labor as rendered, using the franchisor's labor time guide or the labor time guide used by the dealer for labor furnished other than pursuant to warranty, at the dealer's election, and for parts and supplies, including but not limited to engine, transmission, and other parts assemblies, as furnished, in an amount equal to the prevailing retail rate charged by the franchisee for the labor or the prevailing retail markup charged by the franchisee for the parts and supplies in circumstances in which the labor is rendered or the parts and supplies are furnished other than pursuant to warranty; (ii) the motor vehicle franchisor shall reimburse the motor vehicle franchisee pursuant to subsection (1)(a)(i) for labor performed on and parts supplied for a motor vehicle by the franchisee in good faith and in accordance with the manufacturer's warranty and written repair requirements and procedures, notwithstanding any requirement that the franchisor accept the return of the motor vehicle or make payment to a consumer with respect to the motor vehicle pursuant to the provisions of Title 61, chapter 4, part 5; and (iii) the motor vehicle franchisee may establish its prevailing retail labor rate or parts markup by submitting to the motor vehicle franchisor whichever of the following produces the fewer number of repair orders, all of which must be for repairs made no more than 180 days before the submission: (A) all consecutive repair orders that include 100 sequential repair orders reflecting qualified repairs; or (B) all repair orders closed during any period of 90 consecutive days. (b) The submission required under subsection (1)(a)(iii) may consist of: (i) a single set of repair orders for calculating both the franchisee's prevailing retail labor rate and its parts markup; (ii) separate sets of repair orders, one for calculating the franchisee's prevailing retail labor rate and the other for calculating its parts markup; or (iii) a set of repair orders for calculating only the franchisee's prevailing retail labor rate or only its prevailing retail parts markup. (2) The motor vehicle franchisee shall calculate its prevailing retail labor rate by determining the total charges for labor from the qualified repairs submitted and then dividing that amount by the total number of hours charged for the repairs. (3) The motor vehicle franchisee shall calculate its prevailing retail parts markup by determining the total charges for parts from the qualified repairs submitted, dividing that amount by the franchisee's total cost of the purchase of those parts including shipping and other charges, subtracting 1, and multiplying by 100 to produce a percentage. (4) The motor vehicle franchisee shall provide written notice to the motor vehicle franchisor of its prevailing retail labor rate or prevailing retail parts markup calculated in accordance with subsection (2) or (3) if the franchisee seeks to be compensated under subsection (1). (5) Any discounts must be allocated as indicated on the face of a repair order between parts and labor. If no allocation is indicated, they must be allocated pro rata. Manufacturer or distributor promotional reward program cash-equivalent pay methods may not be considered discounts. (6) (a) The prevailing retail labor rate or the prevailing retail parts markup that is declared must go into effect 30 days following the motor vehicle franchisor's receipt of the notice referred to in subsection (2) unless within the 30-day period the franchisor contests the declaration by written notice of objection, received by the motor vehicle franchisee within the 30-day period, that the declared rate or markup is materially inaccurate. (b) The objection must contain: (i) a full explanation of any and all reasons that the declared rate is materially inaccurate; (ii) evidence substantiating each stated reason; (iii) a copy of all calculations used by the franchisor to demonstrate the material inaccuracy; and (iv) a proposed adjusted retail labor rate or retail parts rate, as applicable. (c) The motor vehicle franchisor may not submit more than one notice of objection to the motor vehicle franchisee with respect to any declared labor rate or retail parts markup, except in connection with litigation. After submitting the notice of objection, the franchisor may not add to, expand, supplement, or otherwise modify any element of the objection, including but not limited to its grounds for contesting the labor rate or parts markup, except in connection with litigation. (d) A revision or supplement to a submission to correct or clarify the submission does not constitute a new submission for any purpose, including but not limited to that of subsection (9). (7) In a judicial

proceeding or a department proceeding involving an application or enforcement of the provisions of 61-4-203, 61-4-204, and 61-4-210(4): (a) the issue must be limited to whether the labor rate or parts markup submitted by the motor vehicle franchisee was materially inaccurate; (b) the motor vehicle franchisor has the burden of proof; and (c) any resolution of the matter must be retroactive to the date 30 days following the franchisor's receipt of the franchisee's submission. (8) A motor vehicle franchisor may not directly or indirectly: (a) (i) require a motor vehicle franchisee to establish or alter its labor rate or parts markup by any means or methodology other than as prescribed in 61-4-204; or (ii) except to object to or rebut a franchisee's declared retail labor rate or parts markup, itself initiate a process to establish or alter that labor rate or parts markup, including but not limited to: (A) substituting any other purported qualified repair order sample for that submitted by a franchisee, including but not limited to the use, for purposes of establishing or reducing the franchisee's labor rate, of the franchisee's sample submitted for purposes of establishing or increasing its parts markup or the use, for purposes of establishing or reducing the franchisee's parts markup, of the franchisee's sample submitted for purposes of establishing or increasing its labor rate; or (B) imposing an unduly burdensome or time-consuming method or requiring information that is unduly burdensome or time-consuming to provide, including but not limited to part-by-part or transaction-by-transaction calculations; (b) recover or attempt to recover all or any portion of the franchisor's costs for compensating its dealers for warranty labor, parts, or supplies, either by reduction in the amount due or by separate charge or a surcharge to the wholesale price paid by the dealer to the franchisor for any product, including motor vehicles and parts; (c) establish or implement a special part number for parts used in warranty work if it results in lower compensation to the franchisee than as calculated in this section; (d) require, influence, or attempt to influence a franchisee to implement or change the prices for which it sells parts or labor in retail repairs; (e) take or threaten to take adverse action against a franchisee who seeks to obtain compensation pursuant to this section or dissuade or discourage the franchisee from doing so, including but not limited to: (i) creating or implementing an obstacle or process that is inconsistent with the franchisor's obligations to the franchisee under this section; (ii) acting or failing to act, other than in good faith; (iii) hindering, delaying, or rejecting the proper and timely payment of compensation due under this section to a franchisee; (iv) establishing, implementing, enforcing, or applying any policy, standard, rule, program, or incentive regarding compensation due under this section other than in a uniform and consistent manner among the franchisor's franchisees in this state; or (v) conducting or threatening to conduct any warranty repair, nonwarranty repair, or other service-related audit; or (f) implement or continue a policy, procedure, or program to any of its franchisees for compensation that is inconsistent with this section. (9) A motor vehicle franchisee may not submit, to establish or increase rates paid pursuant to subsections (1)(a)(iii) and (1)(b): (a) its warranty labor rate more than once in a 12-month period; and (b) its warranty parts markup more than once in a 12-month period. (10) A recreational motor vehicle franchisee's warranty compensation for parts means actual wholesale cost plus a minimum 30% handling charge and any freight costs incurred to return the removed parts to the recreational motor vehicle franchisor. (11) If a motor vehicle franchisor supplies a part or parts to a motor vehicle franchisee at no cost or at a reduced cost for use in fulfilling a warranty, the franchisor must compensate the franchisee for the franchisee's cost of the part, if any, plus an amount equal to the franchisee's prevailing retail parts markup, multiplied by the fair wholesale value of the part. The fair wholesale value of the part is the greater of: (a) the amount the franchisee paid for the part or a substantially identical part if already owned by the franchisee; (b) the cost of the part shown in a current or prior established price schedule of the franchisor; or (c) the cost of a substantially identical part shown in a current or prior established price schedule of the franchisor. (12) (a) The motor vehicle franchisor shall reimburse the motor vehicle franchisee for parts supplied and labor rendered under a warranty within 30 days after approval of a claim for reimbursement. (b) All claims for reimbursement must be approved or disapproved within 30 days after receipt of the claim by the motor vehicle franchisor. When a claim is disapproved, the motor vehicle franchisee must be notified in writing of the grounds for the disapproval. A claim that has been approved and paid may not be charged back to the franchisee unless it can be shown that the claim was false or fraudulent, that the labor was not properly performed, or that the parts or labor were unnecessary to correct the defective condition. (c) A manufacturer may not deny a claim or reduce the amount to be reimbursed to the dealer if the dealer has provided reasonably sufficient documentation demonstrating that the dealer performed the services in compliance with the written policies and procedures of the manufacturer known to the dealer at the time of submission of the claim. (d) A manufacturer may not deny a claim based solely on a dealer's incidental failure to comply with a specific claim processing requirement, such as a clerical error or other administrative technicality that does not put into question the legitimacy of the claim. (e) A franchisor may not audit a claim after the expiration of 12 months following the payment of the claim. (13) For the purposes of this section, the following definitions apply: (a) "Labor" means work or service performed, including that of a diagnostic character, with respect to repair of a motor vehicle. (b) "Parts" means original or replacement parts, accessories, and components with respect to a motor vehicle, including engine, transmission, and other parts assemblies. (c) (i) "Qualified repair" means a repair to a vehicle that: (A) would have come within the motor vehicle franchisor's new vehicle warranty but for the vehicle having exceeded the time or mileage limit of the warranty; (B) does not otherwise constitute warranty work; and (C) does not constitute any of the work encompassed by subsection (13)(c)(ii). (ii) The term does not include: (A) routine maintenance, including but not limited to replacements of fluids, filters, batteries, bulbs, belts, nuts, bolts, or fasteners, unless provided in the course of and related to a repair; (B) replacements of or work on tires, wheels, or elements related to either tires or wheels, including but not limited to vehicle alignments and tire or wheel rotations; (C) repairs for which volume discounts have been negotiated with government agencies, insurers, extended warranty or service contract providers, or other third-party payors; (D) repairs that are the subject of motor vehicle franchisor special events, promotions, or service campaigns or are otherwise subject to motor vehicle franchisor discounts; (E) repairs of motor vehicles owned by the dealer or an employee of the dealer; (F) installations of accessories; (G) repairs of conditions caused by collision, road hazard, the force of the elements, vandalism, theft, or owner, operator, or third-party negligence or deliberate acts; (H) safety or

vehicle emission inspections required by law; (I) vehicle reconditioning; (J) parts sold at wholesale; (K) repairs using aftermarket parts; or (L) goodwill repairs or replacements approved and reimbursed by the motor vehicle franchisor. (d) "Qualified repair order" means a repair order that encompasses, in whole or in part, a qualified repair or repairs. (e) "Repair order" means an invoice paid by a retail customer and closed as of the time of submission, encompassing one or more repairs to or other work on a vehicle, and reflecting, in the case of a prevailing retail parts markup submission, the cost of each part and its sale price and, in the case of a prevailing retail labor rate submission, the labor hours allocated to each job and the sale price of the labor. The invoice may be submitted in electronic form. (f) "Warranty" means, in addition to a new motor vehicle warranty, predelivery preparation, a recall, or a certified preowned warranty, in each case issued or administered by a motor vehicle franchisor. History: En. Sec. 4, Ch. 283, L. 2019; amd. Sec. 17, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-214. reserved

61-4-214 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-215. Mediation of disputes

61-4-215. Mediation of disputes. (1) All disputes between a manufacturer, person, or entity described in 61-4-208(1) and a new motor vehicle dealer or transferee of a new motor vehicle dealer alleged to be in violation of any provision of Montana law, including but not limited to 30-11-701 through 30-11-713, 30-11-717 through 30-11-719, 61-4-131 through 61-4-137, 61-4-150, 61-4-205(1) and (2), 61-4-208, and 61-4-213, are subject to mediation as provided for in this section. A demand for mediation must be served on the adverse party before or contemporaneous with the filing of the objection, protest, complaint, or petition or the bringing of the action. A demand for mediation must be in writing and served on the adverse party by certified mail, return receipt requested, or by overnight delivery service that provides proof of delivery at an address designated for the party in the records of the complainant. The demand for mediation must contain a brief statement of the dispute and the relief sought by the complainant filing the demand. (2) Within 20 days after the date a demand for mediation is served, the parties shall mutually select an independent mediator and meet with that mediator for the purpose of attempting to resolve the dispute. If the parties are unable to agree on a mediator, a party may apply to a district judge of the first judicial district, Lewis and Clark County, for appointment of a mediator. The meeting place must be within this state in a location selected by the mediator in proximity to the place of business of a party domiciled in this state. The mediator may extend the date of the meeting for good cause shown by either party or on the stipulation of both parties. (3) The service of a demand for mediation under subsection (1) must stay the time for the filing of any objection, protest, complaint, or petition with the department or for bringing an action until the representatives of both parties have met with a mutually selected or appointed mediator for the purpose of attempting to resolve the dispute. If an objection, protest, complaint, or petition is filed before the meeting, the department or the court shall enter an order suspending the proceeding or action until the meeting has occurred and may, on the written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this section, enter an order suspending the proceeding or action for as long a period as the department or court considers to be appropriate. A suspension order issued under this subsection may be revoked on motion of any party or on motion of the department or the court. (4) The department shall encourage dealers and manufacturers to establish a panel of mediators who have the character, ability, and training to serve as mediators and who have knowledge of the motor vehicle industry. (5) A mediator is immune from civil liability for any good faith act or omission within the scope of the mediator's or arbitrator's performance of the mediator's or arbitrator's powers and duties under this chapter. An act or omission of a mediator is presumed to be a good faith act or omission. This presumption may be overcome only by clear and convincing evidence. History: En. Sec. 1, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-216. Administrative hearings and adjudications -- procedure

61-4-216. Administrative hearings and adjudications -- procedure. (1) A new motor vehicle dealer or transferee of a new motor vehicle dealer who is directly and adversely affected by the action or conduct of a manufacturer, person, or entity described in 61-4-208(1) that is alleged to be in violation of any provision of Montana law, including but not limited to 30-11-701 through 30-11-713, 30-11-717 through 30-11-719, 61-4-131 through 61-4-137, 61-4-150, 61-4-208, and 61-4-213, may seek a declaration and adjudication of rights and obligations with respect to the alleged action or conduct by filing with the department a complaint and request for an administrative hearing that conforms substantially with the requirements of the contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, which governs all matters and procedures respecting the hearing and judicial review of cases such as this. The hearing officer shall assess the department's costs against the parties or a party as a cost of the action. (2) Objections or notice of protest pursuant to 61-4-205(1) and (2) must be adjudicated pursuant to those statutes if mediation pursuant to 61-4-215 is unsuccessful. History: En. Sec. 2, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-217. Standing to bring action

61-4-217. Standing to bring action.(1) The following entities have standing to seek redress for violations of Title 30, chapters 11 and 14, part 25, of this chapter, or of any other provision of Montana law relating to or affecting the relationship between a manufacturer, person, or entity described in 61-4-208(1) and a new motor vehicle dealer: (a) a new motor vehicle dealer; (b) a transferee of a new motor vehicle dealer; and (c) any corporation or association that is primarily owned by or composed of new motor vehicle dealers and that primarily represents the interests of new motor vehicle dealers if at least one of the corporation or association members would have standing on its own, the interests that the action seeks to protect are germane to the corporation or association's purpose, and the claim asserted or the relief requested does not require the participation of individual members in the action. (2) Entities that have standing under subsection (1) may: (a) file a petition and request the department handle the matter as an administrative proceeding; or (b) bring a civil action in a court of competent jurisdiction. (3) An action filed under this section may seek: (a) recovery of actual damages; (b) declaratory or injunctive relief; or (c) reasonable costs of the suit and attorney fees to a prevailing party. (4) A court or administrative hearing officer may, in its discretion, increase the award of damages up to an amount not to exceed three times the actual damages sustained for a willful violation of this chapter. History: En. Sec. 3, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-218. through 61-4-220 reserved

61-4-218 through 61-4-220 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-221. Manufacturer's representative's license plates -- definition

61-4-221. Manufacturer's representative's license plates -- definition.(1) As used in 61-4-221 through 61-4-223, "manufacturer's representative" means a resident of Montana who is an employee of a motor vehicle manufacturer licensed under the provisions of 61-4-202 and whose responsibility includes coordinating and promoting sales efforts with the manufacturer's dealers. (2) Subject to the provisions of 61-4-221 through 61-4-223 and notwithstanding the provisions of Title 61, chapter 3, a manufacturer's representative who qualifies as provided in subsection (1) may display manufacturer's license plates on a motor vehicle used solely for business purposes. (3) To qualify for the issuance and use of manufacturer's license plates by its manufacturer's representatives, the manufacturer licensed under 61-4-202 shall apply on forms and in a manner prescribed by the department and pay the fees provided for in 61-4-222. History: En. Sec. 1, Ch. 404, L. 1989.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-222. Fees

61-4-222. Fees.(1) Upon making the application required under 61-4-221, the manufacturer shall pay to the department a fee of \$250, which entitles the manufacturer to one set of license plates, and an additional fee of \$20 for each additional set of license plates. The manufacturer may receive one set of license plates for each manufacturer's representative. (2) The fees provided for in subsection (1) do not apply to the manufacturer of a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, or an off-highway vehicle as defined in 23-2-801. History: En. Sec. 2, Ch. 404, L. 1989; amd. Sec. 8, Ch. 384, L. 1999; amd. Sec. 107, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-223. Assignment of numbers

61-4-223. Assignment of numbers.(1) Upon the licensing of a manufacturer under 61-4-202, the department shall assign to the manufacturer a distinctive serial number and, after payment of fees provided for in 61-4-222, furnish every qualified manufacturer's representative of that manufacturer with one set of license plates. Assigned license plates must be similar to standard license plates furnished to owners of motor vehicles but must bear, in addition to the serial number assigned to the manufacturer, the letters "MFG". (2) The department shall cause to be placed on each set of license plates issued to a manufacturer a serial number assigned to the manufacturer and the actual number of license plates issued to the manufacturer. The department shall provide registration decals bearing the appropriate county designation. The registration decals must be affixed to the license plates in use in accordance with instructions by the department. (3) A manufacturer's representative who qualifies as provided in 61-4-221(1) may display manufacturer's license plates on a motor vehicle held for bona fide sale or used solely in the conduct of the manufacturer's business and operated by or under the control of the manufacturer's representative. (4) When the department has reasonable cause to believe, from an investigation made by it or information furnished to it by a sheriff or any other law enforcement officer, that a manufacturer has been improperly licensed, has used the manufacturer's license other than as authorized in this section, or is not qualified as a manufacturer under the requirements of this part, the department may revoke the manufacturer's license. History: En. Sec. 3, Ch. 404, L. 1989; amd. Sec. 69, Ch. 130, L. 2005; amd. Sec. 108, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-224. reserved

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 2. Licensing of New Motor Vehicle Manufacturers, Distributors, and Importers -- Disputes -- Standing 61-4-225. Loaner license plates -- issuance -- restrictions on use

61-4-225. Loaner license plates -- issuance -- restrictions on use. (1) On application and payment of an annual fee of \$25 for a set, the department may issue loaner plates to a new motor vehicle dealer as defined in 61-4-201. (2) Loaner license plates may be displayed only on a new motor vehicle: (a) that remains on a manufacturer's statement of origin; (b) that is in the inventory of the dealer and held primarily for resale; and (c) that the dealer loans to a customer while the dealer is repairing the customer's vehicle. (3) A dealer shall maintain records detailing to whom a vehicle bearing loaner plates has been loaned, the date of the loan, the date on which the vehicle bearing loaner plates is to be returned, and the actual date of the vehicle's return. These records must include the name, address, and telephone number of the person or entity to whom the vehicle has been loaned and the name of a contact person who will oversee the actual operation and use of the vehicle. The records are subject to audit by the department. (4) It is the responsibility of the person or entity to whom the vehicle bearing loaner plates was loaned to carry, while operating or in actual physical control of the vehicle, written proof that the person or entity is authorized to operate or be in actual physical control of the vehicle. (5) If a dealer allows a person or entity to operate or retain actual physical control of a vehicle bearing loaner plates in violation of this section, the department may suspend the dealer's right to use the loaner plates for a period not to exceed 6 months. History: En. Sec. 4, Ch. 389, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-301. Permit and transit plates for new motor vehicles being transported by driveaway or towaway methods -- used mobile homes

61-4-301. Permit and transit plates for new motor vehicles being transported by driveaway or towaway methods -- used mobile homes. (1) (a) A person, firm, partnership, or corporation, regularly and lawfully engaged in the transportation of new motor vehicles over the highways of this state from manufacturing or assembly points to agents of manufacturers and dealers in this state or in other states, territories, or foreign countries or provinces by the driveaway or towaway methods, when the motor vehicles being driven, towed, or transported by the saddle-mount, towbar, or full-mount methods, or a lawful combination of these methods, will be transported over the highways of the state only once, may annually apply to the department of justice for a permit to use the highways of this state and shall pay, upon filing the application, a fee of \$100. Upon processing of the application, that department shall issue an annual permit to the applicant. (b) A person moving used mobile homes from a point outside the state to a point inside the state may apply to the department for the permit authorized pursuant to subsection (1)(a). (2) (a) The permitholder may also apply to the department of justice for five sets of transit plates showing the permit number for identification of the motor vehicles being transported by the permitholder, and the plates or devices may be used on a motor vehicle being driven, towed, or transported by and under the control of the permitholder. The department shall collect the additional sum of \$10 for each set of transit plates or devices applied for and issued. (b) A permitholder may apply for and receive more than five sets of transit plates in a calendar year if the permitholder can demonstrate, to the satisfaction of the department, that additional sets of plates are needed based on the number of trip fees reported in Montana in the previous calendar year. The department shall collect \$10 for each additional set of transit plates issued. (3) The department of justice shall retain the permit and plate fees to defray costs of administering 61-4-301 through 61-4-308. (4) The permit and transit plates or devices expire on December 31 of each year. History: En. Sec. 6-401, Ch. 197, L. 1965; amd. Sec. 121, Ch. 316, L. 1974; R.C.M. 1947, 32-3401; amd. Sec. 14, Ch. 575, L. 1993; amd. Sec. 15, Ch. 299, L. 2003; amd. Sec. 174, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-302. One-trip fee in addition to permit and plate fees payable quarterly -- exception

61-4-302. One-trip fee in addition to permit and plate fees payable quarterly -- exception. (1) In addition to the permit and plate fees, a permitholder shall pay to the department a one-trip fee of \$5 for each driven motor vehicle. The fee must be paid within 15 days after the end of the calendar quarter upon forms recommended or supplied by that department. (2) A person moving new or used mobile homes is not subject to the one-trip fee required by subsection (1). History: En. Sec. 6-402, Ch. 197, L. 1965; amd. Sec. 122, Ch. 316, L. 1974; R.C.M. 1947, 32-3402; amd. Sec. 15, Ch. 575, L. 1993; amd. Sec. 175, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-303. Disposition of funds collected

61-4-303. Disposition of funds collected. The department of justice shall retain 5% of the funds collected in payment of the trip fees to defray costs of administration. The remaining 95% shall be transferred, on or before the 15th day of each month after collection, to the credit of the department of transportation. History: En. Sec. 6-403, Ch. 197, L. 1965; amd. Sec. 123, Ch. 316, L. 1974; amd. Sec. 2, Ch. 286, L. 1977; R.C.M. 1947, 32-3403; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-304. Fees provided for to be in addition to fees now payable under chapter 12, Title 69

61-4-304. Fees provided for to be in addition to fees now payable under chapter 12, Title 69. The fees provided for driveaway or towaway transportation are in addition to any fees payable by for-hire carriers under the provisions of chapter 12, Title 69. History: En. Sec. 6-404, Ch. 197, L. 1965; R.C.M. 1947, 32-3404.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-305. Driveaway or towaway fees in lieu of other fees payable -- election to pay other fees

61-4-305. Driveaway or towaway fees in lieu of other fees payable -- election to pay other fees. The fees provided for driveaway or towaway transporters are in consideration of the right to use the highways of the state and except as provided in 61-4-304 are in lieu of all other fees including those which might be payable under the provisions of part 2 of chapter 10. However, any operator may elect to pay the fees payable under the provisions of that part. History: En. Sec. 6-405, Ch. 197, L. 1965; R.C.M. 1947, 32-3405; amd. Sec. 51, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-306. Exemptions from fees

61-4-306. Exemptions from fees. The fees provided for driveaway or towaway transporters do not apply to: (1) motor vehicles regularly used in the hauling of motor vehicles by the truckaway method or to the motor vehicles being hauled; (2) motor vehicles operated under dealers' licenses or plates; (3) motor vehicles registerable under any other provisions of law; (4) any person not issued a driveaway or towaway permit. History: En. Sec. 6-406, Ch. 197, L. 1965; R.C.M. 1947, 32-3406; amd. Sec. 176, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-307. Display of plates

61-4-307. Display of plates. A motor vehicle or combination of motor vehicles transported over the highways of the state by a permissor shall display in a prominent position on the motor vehicle the distinctive transit plates or devices, with the towing motor vehicle displaying the plates or device on the front of the motor vehicle and a towed motor vehicle displaying the plates on the rear of the motor vehicle. History: En. Sec. 3, Ch. 133, L. 1953; Sec. 53-632, R.C.M. 1947; amd. and redes. 32-3407 by Sec. 185, Ch. 316, L. 1974; R.C.M. 1947, 32-3407; amd. Sec. 177, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-308. List of holders of permits and transit plates

61-4-308. List of holders of permits and transit plates. The department of justice shall furnish the department of transportation a list of the permissors and of the transit plates or devices issued to those permissors. History: En. Sec. 4, Ch. 133, L. 1953; Sec. 53-633, R.C.M. 1947; amd. and redes. 32-3408 by Sec. 186, Ch. 316, L. 1974; R.C.M. 1947, 32-3408; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 3. Transportation of Vehicles 61-4-310. Single movement permit -- fee -- limitation -- county treasurer to issue

61-4-310. Single movement permit -- fee -- limitation -- county treasurer to issue. (1) A vehicle subject to registration under chapter 3 may be moved unladen upon the highways of this state from a point within the state to a point of destination. The county treasurer at the point of the origin of the movement shall issue a special permit for the vehicle in lieu of fees required under 61-3-321 and part 2 of chapter 10 of this title upon application presented to the county treasurer in a form provided by the department, upon exhibiting to the county treasurer proof of ownership and evidence that the personal property taxes or fees in lieu of property tax on the vehicle, if any are due, have been paid, and upon payment of a fee of \$5. The fee must be forwarded to the department of revenue for deposit in the state general fund. The permit is not in lieu of fees and permits required under 61-4-301 and 61-4-302. (2) The permit is for the transit of the vehicle only, and the vehicle may not at the time of the transit be used for the transportation of any persons, except the driver, or any property for compensation or otherwise and is for one transit only between the points of origin and destination as set forth in the application and shown on the permit. (3) A junk vehicle being driven or towed to a motor vehicle wrecking facility or a motor vehicle graveyard for disposal is exempt from the provisions of this section. The definitions in 75-10-501 apply to this subsection. (4) A manufactured home, mobile home, or house trailer may be moved unladen upon the highways of this state from a point within the state to a point of destination only if a tax-paid receipt authorizing the move has been issued under 15-24-206. History: En. Sec. 1, Ch. 182, L. 1955; amd. Sec. 1, Ch. 126, L. 1965; amd. Sec. 2, Ch. 18, L. 1974; R.C.M. 1947, 53-119.1(part); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 79, L. 1993; amd. Sec. 249, Ch. 42, L. 1997; amd. Sec. 21, Ch. 13, Sp. L. August 2002; amd. Sec. 109, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 4. Monopolies in Financing Sale of Motor Vehicles 61-4-401. Declaration of policy

61-4-401. Declaration of policy. It is hereby declared to be the policy of this state that free and unrestrained competition shall prevail in the business of financing the purchase or sale of motor vehicles. History: En. Sec. 1, Ch. 144, L. 1937; R.C.M. 1947, 51-201.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 4. Monopolies in Financing Sale of Motor Vehicles 61-4-402. Definitions

61-4-402. Definitions. (1) "Finance company" or "finance agency" means a person, firm, association, corporation, or other organization engaged in the business of buying, selling, assigning, dealing, financing, or acquiring conditional contracts of sale or engaged in the business of purchasing or acquiring promissory notes or any other form or evidences of indebtedness of sale, either secured by vendor's lien, conditional bill of sale, chattel mortgage, or leases arising out of the sale of motor vehicles in this state. (2) The term "manufacturer" means a person, firm, corporation, partnership, or association engaged either directly or indirectly in the manufacture or wholesale distribution of motor vehicles. (3) The term "motor vehicle", as used in this part, includes a personal watercraft as defined in 23-2-502, a snowmobile as defined in 23-2-601, and an off-highway vehicle as defined in 23-2-801. (4) The terms "sell", "sold", "buy", and "purchase", as used in this part, include exchange, barter, gift, and offer or contract to sell or buy. (5) The term "wholesale distributor" means a person, firm, association, corporation, or other organization engaged directly or indirectly in the sale or distribution of motor vehicles to agents or to dealers. History: En. Sec. 2, Ch. 144, L. 1937; R.C.M. 1947, 51-202(b) thru (d), (f); amd. Sec. 9, Ch. 384, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 4. Monopolies in Financing Sale of Motor Vehicles 61-4-403. Certain financing agreements prohibited

61-4-403. Certain financing agreements prohibited. It is unlawful for any manufacturer or wholesale distributor of motor vehicles to sell or enter into a contract for the sale of motor vehicles to any motor vehicle dealer on the condition or under an agreement, expressed or implied, that the dealer will finance the purchase or sale of any motor vehicle or vehicles only through a designated finance company or finance agency. Any such condition, agreement, or understanding is against the public policy of the state, and such condition, agreement, or understanding is unlawful, void, and unenforceable, either at law or equity. History: En. Sec. 3, Ch. 144, L. 1937; R.C.M. 1947, 51-203; amd. Sec. 52, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 4. Monopolies in Financing Sale of Motor Vehicles 61-4-404. Threats prima facie evidence

61-4-404. Threats prima facie evidence. Any threat, expressed or implied, made directly or indirectly to any dealer by any manufacturer or by any person who is engaged in the business of financing the purchase or sale of motor vehicles and is affiliated with or controlled by any manufacturer that the manufacturer will cease to sell or will terminate or refuse to enter into a contract to sell motor vehicles to the dealer unless the dealer finances the purchase or sale of any motor vehicles only with or through a designated person is presumed to be made at the direction of and with the authority of the manufacturer. The threat is prima facie evidence of the fact that the manufacturer has sold or intends to sell the motor vehicles on the condition or under the agreement prohibited by the provisions of this part. History: En. Sec. 4, Ch. 144, L. 1937; R.C.M. 1947, 51-204; amd. Sec. 179, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 4. Monopolies in Financing Sale of Motor Vehicles 61-4-405. Penalty

61-4-405. Penalty. Any person who shall violate any of the provisions of this part and any employee, agent, or officer of any such person who shall participate in any manner in making, enforcing, or performing or in aiding or abetting in the performance of any such contract, condition, agreement, or understanding shall be deemed guilty of a crime and upon conviction thereof shall be punished for each offense by a fine of not more than \$5,000 or by imprisonment in the penitentiary for not more than 5 years or in the county jail for not more than 1 year or by both such fine and imprisonment. History: En. Sec. 5, Ch. 144, L. 1937; R.C.M. 1947, 51-205.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 4. Monopolies in Financing Sale of Motor Vehicles 61-4-406. Suit for injury to business or property

61-4-406. Suit for injury to business or property. In addition to the criminal and civil penalties provided in this part, any person who is injured in the person's business or property by any other person or corporation or association or partnership by reason of anything forbidden or declared to be unlawful by this part may sue for damages in any court having jurisdiction in the county where the defendant resides or is found or any agent resides or is found or where service may be obtained, without respect to the amount in controversy, and recover twice the amount of damages sustained and the costs of suit. Whenever it appears to the court before which any proceedings under this part may be pending that the ends of justice require that other parties must be brought before the court, the court may cause them to be made parties defendant and summoned, whether or not they reside in the county where the action is pending. History: En. Sec. 6, Ch. 144, L. 1937; R.C.M. 1947, 51-206; amd. Sec. 1943, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-501. Definitions

61-4-501. Definitions. For purposes of this part, the following definitions apply: (1) "Collateral charge" means all governmental charges, including but not limited to sales tax, property tax, license and registration fees, and fees in lieu of tax. (2) "Consumer"

means the purchaser or lessee, other than for purposes of resale or lease, of a passenger motor vehicle used for personal, family, or household purposes that has not been brought into nonconformity as the result of abuse, neglect, or unauthorized modifications or alterations. The term includes any person to whom the passenger motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the passenger motor vehicle and any other person entitled by the terms of the warranty to enforce the obligations of the warranty. (3) "Incidental damage" means incidental and consequential damage as defined in 30-2-715. (4) "Manufacturer" has the meaning applied to that word in 61-4-201. (5) (a) "Motor vehicle" means a vehicle, including the nonresidential portion of a motor home, propelled by its own power, designed primarily to transport persons or property upon the public highways, and sold or registered in this state. (b) The term does not include: (i) a truck with 15,000 pounds or more gross vehicle weight rating; or (ii) components, systems, fixtures, appliances, furnishings, accessories, and features that are designed, used, and maintained primarily for residential purposes. (6) "Reasonable allowance for use" is an amount directly attributable to use of the motor vehicle by the consumer and any previous consumers prior to the first written notice of the nonconformity to the manufacturer or its agent and during any subsequent period when the motor vehicle is not out of service because of nonconformity. The reasonable allowance for use must be computed by multiplying the total contract price of the motor vehicle by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the motor vehicle traveled prior to the manufacturer's acceptance of its return. (7) "Warranty period" means the period ending 2 years after the date of the original delivery to the consumer of a new motor vehicle or during the first 18,000 miles of operation, whichever is earlier. History: En. Sec. 1, Ch. 144, L. 1983; amd. Sec. 1, Ch. 744, L. 1985; amd. Sec. 2, Ch. 300, L. 1991; amd. Sec. 1, Ch. 360, L. 2003; amd. Sec. 180, Ch. 542, L. 2005; amd. Sec. 1, Ch. 84, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-502. Notice -- warranty enforceable after warranty period -- when

61-4-502. Notice -- warranty enforceable after warranty period -- when. (1) If a consumer notifies in writing the manufacturer or its agent during the warranty period that a new motor vehicle does not conform to all applicable express warranties, the repairs necessary to conform the new motor vehicle to the express warranties shall be made by or at the expense of the warrantor, regardless of the expiration of the warranty period after notification of nonconformity is given by the consumer. (2) The warranty period of an express warranty is extended to equal the time that repair services are not available because of war or invasion or because of strike or fire, flood, or other natural disaster. The presumption provided herein may not apply against a manufacturer who has not received prior written notification from or on behalf of the consumer and has not had an opportunity to cure the alleged defect. (3) The manufacturer must clearly and conspicuously disclose to the consumer in the warranty or owner's manual that written notification of a nonconformity is required before a consumer may be eligible for a refund or replacement of the vehicle. The manufacturer must include with the warranty or owner's manual the name and address where the written notification must be sent. History: (1) En. Sec. 2, Ch. 144, L. 1983; (2) En. Sec. 5, Ch. 144, L. 1983; amd. Sec. 2, Ch. 744, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-503. Replacement for nonconformity to warranty

61-4-503. Replacement for nonconformity to warranty. (1) If after a reasonable number of attempts the manufacturer or its agent or authorized dealer is unable, during the warranty period, to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition that substantially impairs the use and market value or safety of the motor vehicle to the consumer, the manufacturer shall replace it with a new motor vehicle of the same model and style and of equal value, unless for reasons of lack of availability replacement is impossible, in which case the manufacturer shall replace it with a motor vehicle of comparable market value. (2) As an alternative to replacement, the manufacturer may accept return of the new motor vehicle from the consumer upon refund to the consumer of the full purchase price, plus reasonable collateral charges and incidental damages, less a reasonable allowance for the consumer's use of the motor vehicle. The refund must be paid to the consumer and to a lienholder, if any, in proportion to their interests. History: En. Sec. 3, Ch. 144, L. 1983; amd. Sec. 3, Ch. 744, L. 1985; amd. Sec. 181, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-504. Reasonable number of attempts -- presumption

61-4-504. Reasonable number of attempts -- presumption. A reasonable number of attempts to conform a new motor vehicle to the applicable express warranties is presumed to have been made for purposes of 61-4-503(1) if: (1) the same nonconformity has been subject to repair four or more times by the manufacturer or its agent or authorized dealer during the warranty period but the nonconformity continues to exist; or (2) the motor vehicle is out of service because of nonconformity for a cumulative total of 30 or more business days during the warranty period after notification of the manufacturer, agent, or dealer. History: En. Sec. 4, Ch. 144, L. 1983; amd. Sec. 182, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-505. Dealer exemption -- liability to manufacturer

61-4-505. Dealer exemption -- liability to manufacturer. (1) This part does not impose any liability on a dealer or create a cause of

action by a consumer against a dealer under 61-4-503. (2) A dealer is not liable to a manufacturer for any refunds or motor vehicle replacements in the absence of evidence indicating that repairs made by the dealer were carried out in a manner inconsistent with the manufacturer's instructions. History: En. Sec. 8, Ch. 144, L. 1983; amd. Sec. 4, Ch. 744, L. 1985; amd. Sec. 183, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-506. Provisions nonexclusive -- applicability of U.C.C. -- defenses

61-4-506. Provisions nonexclusive -- applicability of U.C.C. -- defenses. (1) The provisions of this part do not limit the rights or remedies available to a consumer under any other law. (2) All express warranties arising from the sale of a new motor vehicle are subject to the provisions of Title 30, chapter 2, part 3. (3) It is an affirmative defense to a claim brought under this part that an alleged nonconformity does not substantially impair the use, market value, or safety of the motor vehicle or that the nonconformity is the result of abuse, neglect, or unauthorized modification or alteration of a motor vehicle by the consumer. History: En. Sec. 6, Ch. 144, L. 1983; amd. Sec. 5, Ch. 744, L. 1985; amd. Sec. 184, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-507. Exhaustion of remedies under federal law

61-4-507. Exhaustion of remedies under federal law. The provisions of 61-4-503 are not applicable against a manufacturer who has established an informal dispute settlement procedure certified by the department to be in substantial compliance with the provisions of Title 16, Code of Federal Regulations, part 703, unless the consumer has first resorted to that procedure without satisfaction. History: En. Sec. 7, Ch. 144, L. 1983; amd. Sec. 6, Ch. 744, L. 1985; amd. Sec. 195, Ch. 483, L. 2001; amd. Sec. 16, Ch. 280, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-508. through 61-4-510 reserved

61-4-508 through 61-4-510 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-511. Manufacturer's dispute settlement procedure -- certification -- prohibited contents

61-4-511. Manufacturer's dispute settlement procedure -- certification -- prohibited contents. (1) A manufacturer who has established an informal dispute settlement procedure under the provisions of Title 16, Code of Federal Regulations, part 703, shall submit a copy of the procedure to the department. The department shall issue a certificate of approval to a manufacturer whose procedure complies in all respects with the federal regulations and subsection (2) and shall maintain a record of the manufacturer's procedures certified. The department may issue subpoenas requiring the attendance of witnesses and the production of records, documents, or other evidence necessary to the department in an investigation related to the certification of a manufacturer's informal dispute settlement procedure. (2) A manufacturer's informal dispute settlement procedure must afford the consumer or the consumer's representative an opportunity to appear and present evidence in Montana at a location reasonably convenient to the consumer and, further, may not include any practices that: (a) delay a decision in any dispute beyond 60 days after the date on which the consumer initially resorts to the dispute settlement procedure; (b) delay performance of remedies awarded in a settlement beyond 10 days after a decision, except that a manufacturer may have 30 days following the date of decision to replace a motor vehicle or make refund to the consumer as provided in 61-4-503; (c) require the consumer to make the motor vehicle available for inspection by a manufacturer's representative more than once; (d) fail to consider in decisions any remedies provided by this part; or (e) require the consumer to take any action or assume any obligation not specifically authorized under the federal regulations referred to in subsection (1). History: En. Sec. 7, Ch. 744, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 196, Ch. 483, L. 2001; amd. Sec. 17, Ch. 280, L. 2005; amd. Sec. 185, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-512. Annual audit -- revocation or suspension of certification

61-4-512. Annual audit -- revocation or suspension of certification. (1) A manufacturer establishing an informal dispute resolution procedure shall file with the department a copy of the annual audit required under Title 16, Code of Federal Regulations, part 703, along with any additional information that the department may require, including the number of refunds and replacements made by the manufacturer during the period audited. (2) The department may, after notice and hearing as provided in Title 2, chapter 4, suspend or revoke the certification of a manufacturer's informal dispute resolution procedure upon a finding that the procedure is being used to create hardship to consumers. The department may consider the revocation or suspension in licensing manufacturers under Title 61, chapter 4, part 2. History: En. Sec. 8, Ch. 744, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 197, Ch. 483, L. 2001; amd. Sec. 18, Ch. 280, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-513. and 61-4-514 reserved

61-4-513 and 61-4-514 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-515. Arbitration procedure

61-4-515. Arbitration procedure. (1) The department shall provide an independent forum and arbitration procedure for the settlement of disputes between consumers and manufacturers of motor vehicles that do not conform to all applicable warranties under the provisions of this part. The procedure must conform to Title 27, chapter 5. All arbitration must take place in Montana at a place reasonably convenient to the consumer. (2) Except as provided in 61-4-520, a consumer owning a motor vehicle that fails to conform to all applicable warranties may bring a grievance before an arbitrator only if the manufacturer of the motor vehicle has not established an informal dispute settlement procedure that has been certified by the department under 61-4-511. History: En. Sec. 10, Ch. 744, L. 1985; amd. Sec. 23, Ch. 744, L. 1985; amd. Sec. 198, Ch. 483, L. 2001; amd. Sec. 70, Ch. 130, L. 2005; amd. Sec. 19, Ch. 280, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-516. Selection of arbitrator

61-4-516. Selection of arbitrator. An arbitrator for a grievance under this part must be chosen by the department. The department shall maintain a list of persons willing to serve as an arbitrator. History: En. Sec. 11, Ch. 744, L. 1985; amd. Sec. 199, Ch. 483, L. 2001; amd. Sec. 2, Ch. 360, L. 2003; amd. Sec. 20, Ch. 280, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-517. Implementation of arbitration

61-4-517. Implementation of arbitration. (1) A consumer may initiate a request for arbitration by filing a notice with the department. The consumer shall file, on a form prescribed by the department, any information considered relevant to the resolution of the dispute and shall return the form, along with a \$100 filing fee, within 5 days after receiving the form. The form must offer the consumer the choice of presenting any subsequent testimony orally or in writing, but not both. (2) The department shall determine whether the complaint alleges the violation of any applicable warranty under this part. If the department determines that a complaint does not allege a warranty violation, it shall refund the filing fee. (3) Upon acceptance of a complaint, the department shall notify the manufacturer of the filing of a request for arbitration and shall obtain from the manufacturer, on a form prescribed by the department, any information considered relevant to the resolution of the dispute. The manufacturer shall return the form within 15 days of receipt, with a filing fee of \$750. (4) Fees collected under this section must be deposited in a special revenue account for the use of the department in administering this part. (5) The manufacturer's fee provided in subsection (3) is due only if the department's arbitration procedures are used. History: En. Sec. 12, Ch. 744, L. 1985; amd. Sec. 200, Ch. 483, L. 2001; amd. Sec. 21, Ch. 280, L. 2005; amd. Sec. 2, Ch. 84, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-518. Arbitration -- role of department of justice -- expert

61-4-518. Arbitration -- role of department of justice -- expert. (1) The department shall investigate, gather, and organize all information necessary for a fair and timely decision in each dispute. The department may, on behalf of the arbitrator, issue subpoenas to compel the attendance of witnesses and the production of documents, papers, and records relevant to the dispute. (2) If requested by the arbitrator, the department may forward a copy of all written testimony and documentary evidence to an independent technical expert certified by the national institute of automotive excellence. The expert may review the material and be available to advise and consult with the arbitrator. The expert, at the arbitrator's request, may be present whenever oral testimony is presented. History: En. Sec. 13, Ch. 744, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 201, Ch. 483, L. 2001; amd. Sec. 3, Ch. 360, L. 2003; amd. Sec. 22, Ch. 280, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-519. Action by arbitrator -- decision

61-4-519. Action by arbitrator -- decision. (1) The arbitrator shall, as expeditiously as possible but not later than 60 days after the department has accepted a complaint, render a fair decision based on the information gathered and disclose the arbitrator's findings and reasoning to the parties. (2) The decision must provide appropriate remedies, including but not limited to: (a) repair of the motor vehicle; (b) replacement of the motor vehicle with an identical motor vehicle or a comparable motor vehicle acceptable to the consumer; (c) refund as provided in 61-4-503(2); (d) any other remedies available under the applicable warranties or 15 U.S.C. 2301 through 2312, as in effect on October 1, 1983; or (e) reimbursement of expenses and costs to the prevailing party. (3) The decision must specify a date for performance and completion of all awarded remedies. The department shall contact the prevailing party within 10 working days after the date for performance to determine whether performance has occurred. The parties shall act in good faith in abiding by any decision. In addition, if the decision is not accepted, the parties shall follow the provisions of Title 27, chapter 5. If the court determines that the appellant has acted without good cause in bringing an appeal of an award, the court, in its discretion, may grant to the respondent costs and reasonable attorney fees. History: En. Sec. 14, Ch. 744, L. 1985; amd. Sec. 23, Ch.

744, L. 1985; amd. Sec. 202, Ch. 483, L. 2001; amd. Sec. 4, Ch. 360, L. 2003; amd. Sec. 23, Ch. 280, L. 2005; amd. Sec. 186, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-520. Nonconforming procedure -- arbitration de novo

61-4-520. Nonconforming procedure -- arbitration de novo. A consumer injured by the operation of any procedure that does not conform with procedures established by a manufacturer pursuant to 61-4-511 and the provisions of Title 16, Code of Federal Regulations, part 703, may appeal any decision rendered as the result of the procedure by requesting arbitration de novo of the dispute by a department arbitrator. Filing procedures and fees for appeals must be the same as those required in 61-4-515 through 61-4-517. The findings of the manufacturer's informal dispute settlement procedure are admissible in evidence at the department's arbitration hearing and in any civil action arising out of any warranty obligation or matter related to the dispute. History: En. Sec. 16, Ch. 744, L. 1985; amd. Sec. 203, Ch. 483, L. 2001; amd. Sec. 71, Ch. 130, L. 2005; amd. Sec. 24, Ch. 280, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-521. through 61-4-524 reserved

61-4-521 through 61-4-524 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-525. Notice on resale of replaced motor vehicle

61-4-525. Notice on resale of replaced motor vehicle. A motor vehicle that is returned to the manufacturer and that requires replacement or refund may not be sold in the state without a clear and conspicuous written disclosure of the fact that the motor vehicle was returned. The department may prescribe by rule the form and content of the disclosure statement and a procedure by which the disclosure may be removed upon a determination that the motor vehicle is no longer defective. History: En. Sec. 9, Ch. 744, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 25, Ch. 280, L. 2005; amd. Sec. 187, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-526. Records of disputes

61-4-526. Records of disputes. The department shall maintain records of each dispute as it determines appropriate, including an index of disputes by brand name and model. The department shall, at intervals of no more than 6 months, compile and maintain statistics indicating the record of compliance with arbitration decisions and the number of refunds or replacements awarded. The statistical summary must be considered by the department in determining the issuance of any manufacturer license required under Title 61, chapter 4, part 2. History: En. Sec. 15, Ch. 744, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 204, Ch. 483, L. 2001; amd. Sec. 26, Ch. 280, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-527. through 61-4-530 reserved

61-4-527 through 61-4-530 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-531. Nondelegable

61-4-531. Nondelegable. The liabilities and obligations contained in this part may not be delegated or assigned to or assumed by any other person or entity. History: En. Sec. 17, Ch. 744, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 4. Sales and Distribution of Motor Vehicles Part 5. New Motor Vehicle Warranties -- Remedies 61-4-533. Penalty

61-4-533. Penalty. A violation of any provision of this part is an unfair or deceptive trade practice under Title 30, chapter 14, part 2, and the penalties provided in 30-14-224(1) apply. History: En. Sec. 19, Ch. 744, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-101. Driver licensing responsibilities of department

61-5-101. Driver licensing responsibilities of department. (1) The department shall maintain a permanent place of business at the state capital and shall provide the necessary staff, facilities, and equipment for the purpose of providing driver's license services as required by this part. (2) The department shall provide an examiner to administer a commercial driver's license or motor vehicle driver's license examination in any county of the state if the examination is previously scheduled through the department. History: En. Sec. 1, Ch. 267, L. 1947; amd. Sec. 1, Ch. 141, L. 1951; amd. Sec. 1, Ch. 101, L. 1957; amd. Sec. 1, Ch. 42, L. 1969; R.C.M. 1947, 31-117; amd. Sec. 53, Ch. 421, L. 1979; amd. Sec. 1, Ch. 451, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 164, L. 1997; amd. Sec. 1, Ch. 358, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-102. Drivers to be licensed -- penalty

61-5-102. Drivers to be licensed -- penalty. (1) (a) Except as provided in 61-5-104, a person may not drive a motor vehicle upon a highway in this state unless the person has a valid Montana driver's license. A person may not receive a Montana driver's license until the person surrenders to the department all valid driver's licenses issued by any other jurisdiction. A person may not have in the person's possession or under the person's control more than one valid Montana driver's license at any time. (b) Except as provided in subsection (1)(c), the penalty for a violation of this section is a fine of not more than \$500. (c) A person who is eligible to hold a driver's license and has obtained a valid driver's license but has not renewed the license as provided in 61-5-111(3)(c) is not subject to the penalty in subsection (1)(b). (2) (a) (i) Except as provided in subsections (2)(a)(ii) and (2)(a)(iii), a license is not valid for the operation of a motorcycle unless the holder of the license has completed the requirements of 61-5-110 and the license has been clearly marked with the words "motorcycle endorsement". (ii) A motorcycle endorsement is not required for the operation of a low-speed electric vehicle or a motorcycle that is propelled by an electric motor or other device that transforms stored electrical energy into the motion of the vehicle, has a fully enclosed cab, is equipped with three wheels in contact with the ground, and is equipped with a seat and seatbelts. (iii) A motorcycle endorsement is not required for the operation of an autocycle or a three-wheeled motorcycle. (b) A license is not valid for the operation of a commercial motor vehicle unless the holder of the license has completed the requirements of 61-5-110, the license has been clearly marked with the words "commercial driver's license", and the license bears the proper endorsement for: (i) the specific vehicle type or types being operated; or (ii) the passengers or type or types of cargo being transported. (3) A low-speed restricted driver's license is not valid for the operation of a motor vehicle other than a low-speed electric vehicle or a golf cart. (4) When a city or town requires a licensed driver to obtain a local driving license or permit, a license or permit may not be issued unless the applicant presents a state driver's license valid under the provisions of this chapter. History: En. Sec. 9, Ch. 267, L. 1947; amd. Sec. 1, Ch. 37, L. 1951; amd. Sec. 1, Ch. 79, L. 1957; amd. Sec. 1, Ch. 51, L. 1959; amd. Sec. 1, Ch. 211, L. 1961; R.C.M. 1947, 31-125(a) thru (c); (4) En. Sec. 9, Ch. 508, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 5, Ch. 443, L. 1987; amd. Sec. 3, Ch. 309, L. 1999; amd. Sec. 1, Ch. 415, L. 2001; amd. Sec. 6, Ch. 428, L. 2003; amd. Sec. 1, Ch. 79, L. 2005; amd. Sec. 4, Ch. 233, L. 2007; amd. Sec. 1, Ch. 462, L. 2007; amd. Sec. 11, Ch. 209, L. 2011; amd. Sec. 31, Ch. 321, L. 2017; amd. Sec. 3, Ch. 309, L. 2019; amd. Sec. 1, Ch. 217, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-103. Residency requirement

61-5-103. Residency requirement. (1) A person who has resided in Montana for more than 60 consecutive days is considered to be a resident for the purpose of being licensed to operate a motor vehicle and must be licensed under the laws of Montana before operating a motor vehicle. (2) A person who has resided in Montana for more than 30 consecutive days: (a) is considered to be a resident for the purpose of being licensed to operate a commercial motor vehicle; and (b) must be licensed under the laws of Montana before operating any commercial motor vehicle. (3) The department may issue a commercial driver's license to a person who is not a resident of Montana or domiciled in Montana only if: (a) the person is domiciled in a foreign country with commercial driver's license standards, as determined by the federal motor carrier safety administration of the department of transportation, that are not similar to the testing and licensing standards provided in 49 CFR, part 383, subparts F, G, and H; or (b) the person is domiciled in a state that is prohibited by the federal motor carrier safety administration from issuing commercial driver's licenses under 49 CFR 384.405. History: En. Sec. 9, Ch. 267, L. 1947; amd. Sec. 1, Ch. 37, L. 1951; amd. Sec. 1, Ch. 79, L. 1957; amd. Sec. 1, Ch. 51, L. 1959; amd. Sec. 1, Ch. 211, L. 1961; R.C.M. 1947, 31-125(d); amd. Sec. 54, Ch. 421, L. 1979; amd. Sec. 9, Ch. 378, L. 1989; amd. Sec. 4, Ch. 309, L. 1999; amd. Sec. 13, Ch. 428, L. 2005; amd. Sec. 110, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-104. Exemptions

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 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. (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. History: En. Sec. 10, Ch. 267, L. 1947; amd. Sec. 1, Ch. 95, L. 1955; amd. Sec. 1, Ch. 137, L. 1961; amd. Sec. 1, Ch. 133, L. 1969; R.C.M. 1947, 31-126; amd. Sec. 1, Ch. 454, L. 1985; amd. Sec. 6, Ch. 443, L. 1987; amd. Sec. 1, Ch. 536, L. 1991; amd. Sec. 3, Ch. 53, L. 1995; amd. Sec. 3, Ch. 105, L. 1997; amd. Sec. 2, Ch. 95, L. 1999; amd. Sec. 4, Ch. 207, L. 2001; amd. Sec. 14, Ch. 428, L. 2005; amd. Sec. 188, Ch. 542, L. 2005; amd. Sec. 1, Ch. 144, L. 2007; amd. Sec. 1, Ch. 330, L. 2017; amd. Sec. 1, Ch. 119, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-105. Who may not be licensed

61-5-105. Who may not be licensed. The department may not issue a license under this chapter to a person: (1) who is under 16 years of age unless: (a) the person is at least 15 years of age and has passed a driver's education course approved by the department and the superintendent of public instruction; or (b) the person is at least 13 years of age and, because of individual hardship, to be determined by the department, needs a restricted license; (2) whose license or driving privilege is currently suspended, revoked, or canceled, except as provided in 61-5-232, or who is disqualified from operating a commercial motor vehicle in this or any state, as evidenced by an ineligible status report from the national driver register, established under 49 U.S.C. 30302, or from the commercial driver's license information system, established under 49 U.S.C. 31309; (3) who is addicted to the use of alcohol or narcotic drugs; (4) who has previously been adjudged to be afflicted with or suffering from any mental disability or disease and who, at the time of application, has not been restored to competency by the methods provided by law; (5) who is required by this chapter to take an examination; (6) who has not deposited proof of financial responsibility when required under the provisions of chapter 6 of this title; (7) who has any condition characterized by lapse of consciousness or control, either temporary or prolonged, that is or may become chronic. However, the department may, in its discretion, issue a license to an otherwise qualified person suffering from a condition if the afflicted person's attending physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, attests in writing that the person's condition has stabilized and would not be likely to interfere with that person's ability to operate a motor vehicle safely and, if a commercial driver's license is involved, the person is physically qualified to operate a commercial motor vehicle under applicable state or federal regulations. (8) who lacks the functional ability, due to a physical or mental disability or limitation, to safely operate a motor vehicle on the highway; (9) who is not a resident of or domiciled in Montana except as provided in 61-5-103(3); or (10) whose presence in the United States is not authorized under federal law. When an applicant who is not a citizen of the United States applies for a driver's license, the department shall verify that the applicant is lawfully present in the United States by using the federal systematic alien verification for entitlements program. The department may not accept a driver's license issued by another state as proof that an applicant is lawfully present in the United States under federal law. History: En. Sec. 11, Ch. 267, L. 1947; amd. Sec. 1, Ch. 60, L. 1955; amd. Sec. 1, Ch. 227, L. 1965; amd. Sec. 14, Ch. 94, L. 1973; amd. Sec. 1, Ch. 178, L. 1973; R.C.M. 1947, 31-127; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 7, Ch. 443, L. 1987; amd. Sec. 1, Ch. 364, L. 1995; amd. Sec. 5, Ch. 309, L. 1999; amd. Sec. 5, Ch. 207, L. 2001; amd. Sec. 15, Ch. 428, L. 2005; amd. Sec. 1, Ch. 478, L. 2005; amd. Sec. 1, Ch. 242, L. 2007; amd. Sec. 1, Ch. 207, L. 2011; amd. Sec. 2, Ch. 358, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-106. Learner licenses -- traffic education permits -- temporary driver's permits

61-5-106. Learner licenses -- traffic education permits -- temporary driver's permits. (1) (a) The department may issue a learner license, which is valid for 1 year from the date of issuance, to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision examination, as provided in 61-5-110. Except as provided in subsections (1)(b) and (1)(c), a learner license entitles the licensee, while in immediate possession of the license and accompanied by a licensed driver seated beside the licensee, to drive a motor vehicle other than a motorcycle upon the public highways. (b) (i) Except as provided in subsection (1)(b)(ii), if the licensee is under 18 years of age, the driver supervising the licensee must be a

parent or a legal guardian of the licensee or, with the permission of the licensee's parent or legal guardian, a licensed driver 18 years of age or older. Each occupant of a motor vehicle driven by a licensee who is under 18 years of age shall wear a properly adjusted and fastened seatbelt or, if 61-9-420 applies, must be properly restrained in a child safety restraint. (ii) If the licensee is a ward of the state, the driver supervising the licensee must be a licensed driver 18 years of age or older. (c) A person holding a learner license for a motorcycle may drive a motorcycle upon a public highway if the person is not carrying a passenger, has immediate possession of the license, and is under the immediate and proximate visual supervision of one of the following persons, who must be at least 18 years of age if the licensee is under 18 years of age: (i) a motorcycle-endorsed licensed driver who is riding with the licensee and who is operating a separate motorcycle or other motor vehicle; or (ii) a licensed driver who is operating a separate motor vehicle if the licensee has successfully completed a motorcycle safety training course through a cooperative driver testing program certified under 61-5-110. (2) The department may issue a learner license, which is valid for 1 year from the date of issuance, to any person who is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the superintendent of public instruction and that is available to all who meet the age requirements specified in 20-7-503 and reside within the geographical boundaries of or attend a school in the school district that offers the course. A learner license entitles the licensee to operate a motor vehicle when accompanied by an approved instructor, a licensed parent or guardian, or other driver as provided in subsection (1)(b) and may be restricted to specific times or areas. (3) (a) An instructor of a traffic education program approved by the department and by the superintendent of public instruction may issue a traffic education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who meets the age requirements specified in 20-7-503. (b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area: (i) a motor vehicle when an approved instructor is seated beside the permittee; or (ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor. (4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused. (5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused. (6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit, as provided in 61-5-120. History: En. Sec. 13, Ch. 267, L. 1947; amd. Sec. 1, Ch. 120, L. 1961; amd. Sec. 1, Ch. 55, L. 1969; amd. Sec. 1, Ch. 271, L. 1973; amd. Sec. 1, Ch. 19, L. 1974; R.C.M. 1947, 31-129; amd. Sec. 1, Ch. 173, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 30, Ch. 516, L. 1985; amd. Sec. 8, Ch. 443, L. 1987; amd. Sec. 7, Ch. 195, L. 1993; amd. Sec. 2, Ch. 364, L. 1995; amd. Sec. 6, Ch. 309, L. 1999; amd. Sec. 6, Ch. 297, L. 2005; amd. Sec. 14, Ch. 323, L. 2017; amd. Sec. 3, Ch. 450, L. 2021; amd. Sec. 1, Ch. 570, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-107. Application for license or motorcycle endorsement

61-5-107. Application for license or motorcycle endorsement. (1) Each application for a learner license, driver's license, commercial driver's license, or motorcycle endorsement must be made on a form furnished by the department. A voter registration form for mail registration as prescribed by the secretary of state must be attached to each driver's license application. If the applicant wishes to register to vote, the department shall accept the registration and forward the form to the election administrator. (2) Each application must include the full legal name, date of birth, sex, as defined in 1-1-201, residence address of the applicant [and the applicant's social security number], must include a brief description of the applicant, and must provide the following additional information: (a) the name of each jurisdiction in which the applicant has previously been licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the application; (b) a certification from the applicant that the applicant is not currently subject to a suspension, revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction; (c) a brief description of any physical or mental disability, limitation, or condition that impairs or may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; (d) a brief description of any adaptive equipment or operational restrictions that the applicant relies upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; and (e) if the applicant is a foreign national whose presence in the United States is temporarily authorized under federal law, the expiration date of the official document issued to the applicant by the bureau of citizenship and immigration services of the department of homeland security authorizing the applicant's presence in the United States. [(3) The department shall keep the applicant's social security number from this source confidential, except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise permitted by state law administered by the department and may be provided to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (4) (a) When an application is received from an applicant who is not ineligible for licensure under 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the applicant's driving record from each jurisdiction in which the applicant was

licensed in the preceding 10-year period. The driving record may be transmitted manually or by electronic medium. (b) When received, the driving records must be appended to the driver's record created and maintained in this state. The department may rely on information contained in driving records received under this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law. (5) An individual who is under 26 years of age but at least 15 years of age and who is required to register in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an opportunity to fulfill those registration requirements in conjunction with an application for a learner license, driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15 years of age, an individual must be provided an opportunity to be registered by the selective service system upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by the department to the selective service system. (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.) History: En. Sec. 14, Ch. 267, L. 1947; amd. Sec. 1, Ch. 28, L. 1969; R.C.M. 1947, 31-130; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 31, Ch. 516, L. 1985; amd. Sec. 9, Ch. 443, L. 1987; amd. Sec. 1, Ch. 406, L. 1991; amd. Sec. 8, Ch. 195, L. 1993; amd. Sec. 3, Ch. 364, L. 1995; amd. Sec. 95, Ch. 552, L. 1997; amd. Sec. 2, Ch. 29, L. 1999; amd. Sec. 7, Ch. 309, L. 1999; amd. Sec. 7, Ch. 428, L. 2003; amd. Secs. 2, 15(3), Ch. 556, L. 2003; amd. Sec. 1, Ch. 180, L. 2005; amd. Sec. 16, Ch. 428, L. 2005; amd. Sec. 2, Ch. 478, L. 2005; amd. Sec. 15, Ch. 323, L. 2017; amd. Sec. 40, Ch. 685, L. 2023; amd. Sec. 1, Ch. 686, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-108. Application of minors -- imputed liability

61-5-108. Application of minors -- imputed liability. (1) The application of a person who is under 18 years of age for a learner license, driver's license, or medical assessment and rehabilitation driving permit must be signed and verified before a person authorized to administer oaths or an employee of the department by a parent of the applicant or, if a parent is not available: (a) by some other responsible adult who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor; or (b) by the minor if the minor has submitted a certificate of insurance to the department pursuant to 61-6-133. (2) Any negligence or willful misconduct of a minor who is under 18 years of age when driving a motor vehicle upon a highway must be imputed to a person who has signed the application of the minor for a learner license, driver's license, or medical and rehabilitation driving permit. The person who signs the application is jointly and severally liable with the minor for any damages caused by the negligence or willful misconduct unless a motor vehicle liability policy, as provided for in chapter 6 of this title, covering the minor is in effect, in which case there is no imputed liability as described in this section. History: En. Sec. 15, Ch. 267, L. 1947; amd. Sec. 1, Ch. 140, L. 1961; R.C.M. 1947, 31-131; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 10, Ch. 443, L. 1987; amd. Sec. 2, Ch. 419, L. 1991; amd. Sec. 8, Ch. 309, L. 1999; amd. Sec. 16, Ch. 323, L. 2017; amd. Sec. 2, Ch. 570, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-109. Release from liability

61-5-109. Release from liability. Any person who has signed the application of a minor for a license may thereafter file with the department a verified written request that the license of said minor so granted be canceled. Thereupon the department shall cancel the license of said minor and the person who signed the application of such minor shall be relieved from the liability imposed under this chapter by reason of having signed such application on account of any subsequent negligence or willful misconduct of such minor in operating a motor vehicle. History: En. Sec. 16, Ch. 267, L. 1947; R.C.M. 1947, 31-132; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-110. Records check of applicants -- examination of applicants -- cooperative driver testing programs -- reciprocal agreement with foreign country

61-5-110. Records check of applicants -- examination of applicants -- cooperative driver testing programs -- reciprocal agreement with foreign country. (1) Prior to examining an applicant for a driver's license, the department shall conduct a check of the applicant's driving record by querying the national driver register, established under 49 U.S.C. 30302, and the commercial driver's license information system, established under 49 U.S.C. 31309. (2) (a) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle or motorcycle. The road test or skills test must be performed by the applicant in a motor vehicle that the applicant certifies is representative of the class and type of motor vehicle for which the applicant is seeking a license or endorsement. (b) The knowledge test, road test, or skills test may be waived by the department: (i) upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program as provided in subsection (4) or by a certified third-party commercial driver testing program as provided in 61-5-118; or (ii) in accordance with a driver's license reciprocity agreement between the department and a foreign country. (c) The skills test may be waived by the department upon the applicant's completion of the requirements of 61-5-123. (3) The department shall, pursuant to administrative rule authority granted in 61-14-202(4), (5), and (6), conduct records checks prior to processing a nonexempt commercial driver's license application and prior to renewing, transferring, or upgrading a commercial driver's license or

commercial learner's permit, and shall act in conformity with the legislative direction provided in 61-14-202(5) and (6) upon receiving results from records checks. The department shall implement the administrative rules on or before January 1, 2024. (4) The department is authorized to certify as a cooperative driver testing program any state-approved high school traffic education course offered by or in cooperation with a school district that employs an approved instructor who has current endorsement from the superintendent of public instruction as a teacher of traffic education or any motorcycle safety training course approved by the board of regents and that employs an approved instructor of motorcycle safety training and who agrees to: (a) administer standardized knowledge and road tests or skills tests required by the department to students participating in the district's high school traffic education courses or motorcycle safety training courses approved by the board of regents; (b) certify the test results to the department; and (c) comply with regulations of the department, the superintendent of public instruction, and the board of regents. (5) (a) Except as otherwise provided by law, an applicant who has a driver's license issued by another jurisdiction that is currently valid or expired for less than 1 year may surrender that license for a Montana license of the same class, type, and endorsement upon payment of the required fees and successful completion of a vision examination. In addition, an applicant surrendering a commercial driver's license issued by another jurisdiction shall successfully complete any examination required by federal regulations before being issued a commercial driver's license by the department. (b) The department may require an applicant who surrenders a driver's license issued by another jurisdiction that is currently valid or expired for less than 1 year to submit to a knowledge and road or skills test if: (i) the applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and (ii) the surrendered license does not include readily discernible adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or (iii) the applicant wants to remove or modify a restriction imposed on the surrendered license. (c) When a license from another jurisdiction is surrendered, the department shall notify the issuing agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain the license from another jurisdiction for identification or other nondriving purposes, the department shall place a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return the marked license to the applicant. (6) The department may enter into a reciprocity agreement with a foreign country to provide for the mutual recognition and exchange of a valid driver's license issued by this state or the foreign country if the department determines that the licensing standards of the foreign country are comparable to those of this state. The agreement may not include the reciprocal exchange of a commercial driver's license. History: En. Sec. 18, Ch. 267, L. 1947; amd. Sec. 1, Ch. 408, L. 1975; R.C.M. 1947, 31-134(a); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 32, Ch. 516, L. 1985; amd. Sec. 11, Ch. 443, L. 1987; amd. Sec. 1, Ch. 297, L. 1991; amd. Sec. 9, Ch. 195, L. 1993; amd. Secs. 4, 5, Ch. 53, L. 1995; amd. Secs. 4, 9, Ch. 364, L. 1995; amd. Sec. 11, Ch. 181, L. 1999; amd. Sec. 9, Ch. 309, L. 1999; amd. Sec. 6, Ch. 207, L. 2001; amd. Sec. 8, Ch. 428, L. 2003; amd. Sec. 2, Ch. 79, L. 2005; amd. Sec. 17, Ch. 428, L. 2005; amd. Sec. 1, Ch. 194, L. 2013; amd. Sec. 2, Ch. 254, L. 2013; amd. Sec. 2, Ch. 646, L. 2023; amd. Sec. 2, Ch. 686, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-111. Contents of driver's license, renewal, license expirations, license replacements, grace period, and fees for licenses, permits, and endorsements -- notice of expiration

61-5-111. Contents of driver's license, renewal, license expirations, license replacements, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1) (a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts. (b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver's license renewal services. (2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain: (i) a full-face photograph of the licensee in the size and form prescribed by the department; (ii) a distinguishing number issued to the licensee; (iii) the full legal name, date of birth, and Montana residence address unless the licensee requests use of the mailing address, except that the Montana residence address must be used for a REAL ID-compliant driver's license unless authorized by department rule; (iv) a brief description of the licensee; (v) either the licensee's customary manual signature or a reproduction of the licensee's customary manual signature; and (vi) if the applicant qualifies under subsection (7), indication of the applicant's status as a veteran. (b) The department may not use the licensee's social security number as the distinguishing number. A license is not valid until it is signed by the licensee. (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's eyesight. The department may also require the applicant to submit to a knowledge and road or skills test if: (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and (ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license. (b) In the case of a commercial driver's license, the department shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and may also require that the applicant successfully complete a written examination as required by federal regulations. (c) A person is considered to have applied for renewal of a Montana driver's license

if the application is made within 6 months before or 1 year after the expiration of the person's license or if the person has applied for a REAL ID-compliant driver's license pursuant to 61-5-129. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station. (d) (i) Except as provided in subsections (3)(d)(iii) through (3)(d)(v), a person may renew a driver's license by mail or online. (ii) An applicant who renews a driver's license by mail or online shall submit a completed application and the fees required for renewal. (iii) If the department does not have a digitized photograph and signature record of the renewal applicant from the expiring license, then the renewal applicant shall apply in person. (iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail or online is 12 years for a driver's license or 8 years for a REAL ID-compliant driver's license. (v) The department may not renew a license by mail or online if: (A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant; (B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572; (C) the applicant seeks a change of address, a change of date of birth, or a name change; or (D) the applicant's license: (I) has been expired for more than 1 year; or (II) except as provided in subsection (3)(f), was renewed by mail or online at the time of the applicant's previous renewal. (e) A renewal applicant who is stationed outside Montana on active military duty may renew the license by mail or online as long as the applicant is on active military duty. (f) The spouse or a dependent of a renewal applicant who is stationed outside Montana on active military duty may renew the applicant's license by mail or online for one additional consecutive term following a renewal by mail or online. (g) The department shall send electronically or mail a driver's license renewal notice no earlier than 120 days and no later than 30 days prior to the expiration date of a driver's license. The department shall send the notice to the licensee's Montana mailing address shown on the driver's license or, if requested by the licensee, provide the notice using an authorized method of electronic delivery, or both. (4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 12 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first. (b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue. (c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday. (d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 4 years or less after the date of issue. (ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 4 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license. (e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States. (5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133. (6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid: (i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year; (ii) motorcycle endorsement -- 50 cents a year or fraction of a year; (iii) commercial driver's license: (A) interstate -- \$10 a year or fraction of a year; or (B) intrastate -- \$8.50 a year or fraction of a year. (b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents. (7) (a) Upon receiving a request from a person whose status as a veteran has been verified by the department of military affairs pursuant to 10-2-1301 and upon receiving the information and fees required in this part, the department shall include the word "veteran" on the face of the license. (b) After a person's status as a veteran is denoted on a driver's license, the department may not require further documentation of that status from the holder of the license upon subsequent renewal or replacement. (8) (a) Except as provided in subsection (8)(b), an applicant may request a replacement driver's license online or by mail. (b) If the department does not have a digitized photograph and signature record of the applicant, the applicant shall apply in person. (c) The term of the replacement license must be the term of the applicant's current driver's license. (9) (a) An applicant may request an expedited delivery service for a driver's license or identification card. The department shall set a fee for expedited delivery based on the cost of providing this service. (b) The fees for expedited delivery must be deposited in the motor vehicle division administration account established in 61-3-112 and used for the purposes of expediting delivery, including actual costs for delivery, personnel, and related technology. History: (1) thru (6)En. Sec. 19, Ch. 267, L. 1947; amd. Sec. 1, Ch. 135, L. 1951; amd. Sec. 1, Ch. 130, L. 1953; amd. Sec. 1, Ch. 249, L. 1961; amd. Sec. 1, Ch. 228, L. 1963; amd. Sec. 1, Ch. 23, L. 1967; amd. Sec. 1, Ch. 288, L. 1971; amd. Sec. 4, Ch. 423, L. 1971; amd. Sec. 1, Ch. 409, L. 1975; Sec. 31-135, R.C.M. 1947; (7)En. Sec. 13, Ch. 199, L. 1943; Sec. 31-113, R.C.M. 1947; R.C.M. 1947, 31-113, 31-135(part); amd. Sec. 1, Ch. 361, L. 1979; amd. Sec. 55, Ch. 421, L. 1979; amd. Secs. 1, 2, Ch. 276, L. 1985; amd. Sec. 1, Ch. 277, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 33, Ch. 516, L. 1985; amd. Sec. 12, Ch. 443, L. 1987; amd. Sec. 10, Ch. 378, L. 1989; amd. Sec. 1, Ch. 726, L. 1991; amd. Sec. 10, Ch. 195, L. 1993; amd. Sec. 1, Ch. 26, Sp. L. November 1993; amd. Sec. 5, Ch. 364, L. 1995; amd. Sec. 3, Ch. 29, L. 1999; amd. Sec. 10, Ch. 309, L. 1999; amd. Sec. 7, Ch. 207, L. 2001; amd. Sec. 1, Ch. 251, L. 2003; amd. Sec. 9, Ch. 428, L. 2003; amd. Sec. 1, Ch. 558, L. 2003; amd. Sec. 1, Ch. 104, L. 2005; amd. Sec. 7, Ch. 297, L. 2005; amd. Sec. 18, Ch. 428, L. 2005; amd. Sec. 3, Ch. 478, L. 2005; amd. Sec. 111, Ch. 596, L. 2005; amd. Sec. 2, Ch. 242, L. 2007; amd. Sec. 1, Ch. 181, L. 2011; amd. Sec. 2, Ch. 322, L. 2013; amd. Sec. 5, Ch. 398, L. 2015; amd. Sec. 13, Ch. 335, L. 2019; amd. Sec. 3, Ch. 445, L. 2019; amd. Sec. 1, Ch. 452, L. 2021; amd. Sec. 17, Ch. 566, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-112. Reciprocal agreements

61-5-112. Reciprocal agreements. The department is authorized to enter into reciprocal agreements with adjacent states that would allow certain drivers of vehicles transporting farm products, farm machinery, or farm supplies within 150 miles of a farm to operate without a commercial driver's license because the vehicles are not considered commercial motor vehicles as provided in 61-1-101(10)(b)(ii). History: En. Sec. 12, Ch. 267, L. 1947; amd. Sec. 1, Ch. 26, L. 1969; amd. Sec. 15, Ch. 94, L. 1973; R.C.M. 1947, 31-128; amd. Sec. 56, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 13, Ch. 443, L. 1987; amd. Sec. 11, Ch. 195, L. 1993; amd. Sec. 11, Ch. 309, L. 1999; amd. Sec. 10, Ch. 428, L. 2003; amd. Sec. 19, Ch. 428, L. 2005; amd. Sec. 189, Ch. 542, L. 2005; amd. Sec. 55, Ch. 329, L. 2007; amd. Sec. 3, Ch. 296, L. 2011; amd. Sec. 1, Ch. 302, L. 2017; amd. Sec. 4, Ch. 309, L. 2019; amd. Sec. 14, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-113. Restricted licenses

61-5-113. Restricted licenses. (1) If, upon an applicant's completion of the vision, knowledge, and skills tests required under 61-5-110, 61-5-111, and 61-5-207, the department determines that an applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway depends on the use of adaptive equipment or operational restrictions, then the department shall include the appropriate restrictions on a license issued to the applicant. Once imposed, the restrictions may not be removed unless the department determines that the adaptive equipment or operational restrictions are no longer essential to the licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. (2) The department may either issue a special restricted license or may include the restrictions on the usual license form. (3) A court of competent jurisdiction may upon receiving satisfactory evidence of a violation of the restrictions of a license or endorsement suspend or revoke the license. The licensee is entitled to a hearing as upon suspension or revocation under this chapter. (4) It is a misdemeanor for a person to operate a motor vehicle in a manner in violation of the restrictions imposed in a restricted license. History: En. Sec. 21, Ch. 267, L. 1947; R.C.M. 1947, 31-137; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 14, Ch. 443, L. 1987; amd. Sec. 12, Ch. 309, L. 1999; amd. Sec. 1, Ch. 552, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-114. Replacement license -- veteran designation

61-5-114. Replacement license -- veteran designation. (1) If a learner license or a driver's license issued under the provisions of this chapter is lost or destroyed or a person wants to update personal information contained on a learner license or a driver's license issued to the person, the person to whom the license was issued may, upon the payment of a fee of \$10, obtain a replacement license, upon furnishing proof satisfactory to the department that the license has been lost or destroyed or that personal information has changed. (2) If the hazardous materials endorsement on a commercial driver's license issued under the provisions of this chapter is revoked or removed pursuant to the authority provided in 61-5-147, the person to whom the license was issued shall surrender to the department the person's commercial driver's license with the hazardous materials endorsement and may obtain, upon making application and paying a \$10 fee, a replacement license that does not include a hazardous materials endorsement. (3) The department shall include the word "veteran" on the face of a driver's license if the requirements of 61-5-111(7) are met by the person applying for the driver's license. History: En. Sec. 22, Ch. 267, L. 1947; amd. Sec. 1, Ch. 36, L. 1953; amd. Sec. 16, Ch. 121, L. 1965; R.C.M. 1947, 31-138; amd. Sec. 2, Ch. 277, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 15, Ch. 443, L. 1987; amd. Sec. 2, Ch. 558, L. 2003; amd. Sec. 20, Ch. 428, L. 2005; amd. Secs. 112, 163, Ch. 596, L. 2005; amd. Sec. 3, Ch. 322, L. 2013; amd. Sec. 17, Ch. 323, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-115. Notice of change of address

61-5-115. Notice of change of address. Whenever any person after applying for or receiving a driver's license moves from the address named in the application or in the issued license, the person shall within 10 days notify the department in writing or electronically by an approved automated interface of the old and new addresses and of the number of any license then held by the person. History: En. Sec. 24, Ch. 267, L. 1947; R.C.M. 1947, 31-140; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 16, Ch. 443, L. 1987; amd. Sec. 113, Ch. 596, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-116. License to be carried and exhibited on demand

61-5-116. License to be carried and exhibited on demand. (1) A licensee must have the licensee's driver's license in the licensee's immediate possession at all times when operating a motor vehicle and shall display the license upon demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department. However, a person charged with violating this section may not be convicted if the person produces in court or the office of the arresting officer a driver's license issued to the person and valid at the time of the person's arrest. (2) (a) Beginning September 1, 2025, a licensee may meet the requirements of subsection (1) by having a digital or hard copy version of the licensee's driver's license in the

licensee's immediate possession at all times when operating a motor vehicle and displaying the license upon demand. (b) Only a digital or hard copy version of the licensee's driver's license issued and authorized by the department is sufficient to meet the requirements of this section. History: En. Sec. 20, Ch. 267, L. 1947; R.C.M. 1947, 31-136; amd. Sec. 4, Ch. 348, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 17, Ch. 443, L. 1987; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1944, Ch. 56, L. 2009; amd. Sec. 1, Ch. 304, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-118. Third-party commercial driver testing program -- certification of testing programs and examiners -- fees -- test waiver

61-5-118. Third-party commercial driver testing program -- certification of testing programs and examiners -- fees -- test waiver. (1) The department may contract with and certify the following as a third-party commercial driver testing program to administer the approved commercial driver skills test to a Montana commercial driver's license applicant: (a) any person, employer of commercial drivers, private driver training facility, or other private company; (b) a postsecondary institution as defined in 20-26-603; (c) a department, agency, or instrumentality of a local government of the state; or (d) a department, agency, or instrumentality of a tribal government of the state. (2) A certified third-party driver testing program shall administer the same skills test as would otherwise be administered by the department. (3) The department may decertify a third-party commercial driver testing program for failure to comply with the department rules or federal regulations. (4) The department may collect the following fees: (a) a fee of \$5,000 to certify a third-party commercial driver testing program and a fee of \$2,500 for certification renewal; (b) a fee of \$500 to certify each third-party commercial driver examiner and a fee of \$100 for certification renewal; and (c) a fee of \$25 for each successfully completed skills test to be paid by the applicant. (5) (a) A commercial driver's license applicant who is tested under the third-party commercial driver testing program must have passed the knowledge test required by 61-5-110 and complied with commercial driver's license department rules and federal regulations and must possess a valid Montana commercial learner's permit. (b) The road test or the skills test required by 61-5-110 may be waived by the department for a commercial driver's license applicant upon certification of the applicant's successful completion of the road test or the skills test by: (i) a third-party commercial driver testing program certified under this section; or (ii) a third-party commercial driver examiner from a jurisdiction that has a comparable third-party commercial driver testing program, as determined by the department. History: En. Sec. 6, Ch. 53, L. 1995; amd. Sec. 1, Ch. 292, L. 1999; amd. Sec. 11, Ch. 428, L. 2003; amd. Sec. 2, Ch. 302, L. 2017; amd. Sec. 15, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-119. Definitions

61-5-119. Definitions. (1) For the purposes of 61-5-120, "driver rehabilitation specialist" means a person who: (a) possesses current certification from the association of driver educators for the disabled as a driver rehabilitation specialist; or (b) (i) provides comprehensive services in the clinical evaluation of the abilities of a person with a disability to safely operate a motor vehicle, utilizing, among other things, wheelchair and seating assessment, motor vehicle modification prescription, and driver education; (ii) (A) possesses a bachelor's degree in rehabilitation, education, or health and safety, in physical, occupational, or recreational therapy, or in a related profession; or (B) has an equivalent of 8 years of experience in driver rehabilitation and education; and (iii) has at least 1 year of experience in the area of driver evaluation and training for individuals with disabilities. (2) For the purposes of this chapter, unless the context requires otherwise, "cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license. Except as provided in 61-5-201(3), the cancellation of a license is without prejudice and application for a new license may be made at any time after cancellation. History: En. Sec. 1, Ch. 309, L. 1999; amd. Secs. 21, 36, Ch. 428, L. 2005; amd. Sec. 190, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-120. Medical assessment and rehabilitation driving permit

61-5-120. Medical assessment and rehabilitation driving permit. (1) Upon the written request of a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, on a form prescribed by the department, the department may authorize a driver rehabilitation specialist to issue a temporary medical assessment and rehabilitation driving permit to a person who is not licensed to drive or whose license has expired under the provisions of this chapter for the purpose of driver assessment, rehabilitation, and training. (2) The temporary permit may be issued only to a person who is 16 years of age or older. (3) The permit is valid for up to 6 weeks, beginning with the date of the first evaluation of the permitholder by the driver rehabilitation specialist. The driver rehabilitation specialist shall sign and date the permit at the time of the first evaluation. (4) The permit is valid only when the permitholder is operating a motor vehicle under the immediate supervision of the driver rehabilitation specialist during the permitholder's participation in an actual in-vehicle evaluation process. (5) The department may extend the duration of a medical assessment and rehabilitation permit for an additional 6-week period if the driver rehabilitation specialist, licensed physician, licensed physician assistant, or advanced practice registered nurse certifies that the permitholder needs additional time to complete the driver assessment, rehabilitation, and training process. History: En. Sec. 2, Ch. 309, L. 1999; amd. Sec. 3, Ch. 242, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-121. Disposition of fees

61-5-121. Disposition of fees.(1) Except as provided in subsection (3), the disposition of the fees from driver's licenses, motorcycle endorsements, commercial driver's licenses, and replacement driver's licenses provided for in 61-5-114 is as follows: (a) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 2.5% of each driver's license fee, 2.5% of each commercial driver's license fee, and 3.75% of each replacement driver's license fee must be deposited into the county general fund. (ii) If the fees are collected by the department, the amount provided for in subsection (1)(a)(i) must be deposited into the state general fund. (b) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 3.34% of each motorcycle endorsement must be deposited into the county general fund. (ii) If the fee is collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the state general fund. (c) The amount of 20.7% of each driver's license fee, 16.94% of each commercial driver's license fee, and 8.75% of each replacement driver's license fee must be deposited into the state traffic education account. (d) In addition to the amounts deposited pursuant to subsections (1)(a)(ii) and (1)(b)(ii), the remainder of each driver's license fee, each commercial driver's license fee, and each replacement driver's license fee must be deposited into the state general fund. (e) The amount of 63.46% of each motorcycle endorsement fee must be deposited into the state motorcycle safety account in the state special revenue fund, and the amount of 33.2% of each motorcycle endorsement fee must be deposited into the state general fund. (2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and replacement driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(a)(i) and (1)(b)(i) into the county general fund. The county treasurer or agent shall then remit all remaining fees to the state for deposit as provided in subsections (1)(c) through (1)(e). (b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and replacement driver's licenses are collected by the department, it shall deposit the fees as provided in subsections (1)(a)(ii), (1)(b)(ii), and (1)(c) through (1)(e). (3) The fee for a renewal notice, whether collected by a county treasurer, an authorized agent, or the department, must be remitted to the department for deposit in the state general fund. History: En. Sec. 3, Ch. 277, L. 1985; amd. Sec. 13, Ch. 503, L. 1985; amd. Sec. 115, Ch. 370, L. 1987; amd. Sec. 18, Ch. 443, L. 1987; amd. Sec. 4, Ch. 62, L. 1989; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 275, L. 1989; amd. Sec. 12, Ch. 398, L. 1989; amd. Sec. 2, Ch. 584, L. 1991; amd. Sec. 9, Ch. 701, L. 1991; amd. Sec. 2, Ch. 726, L. 1991; amd. Secs. 3, 5, Ch. 5, Sp. L. January 1992; amd. Sec. 5, Ch. 11, Sp. L. July 1992; amd. Sec. 13, Ch. 195, L. 1993; amd. Sec. 2, Ch. 39, Sp. L. November 1993; amd. Sec. 56, Ch. 509, L. 1995; amd. Sec. 250, Ch. 42, L. 1997; amd. Sec. 52, Ch. 422, L. 1997; amd. Sec. 12, Ch. 181, L. 1999; amd. Sec. 30, Ch. 257, L. 2001; amd. Sec. 3, Ch. 558, L. 2003; amd. Sec. 10, Ch. 464, L. 2005; amd. Sec. 164, Ch. 596, L. 2005; amd. Sec. 1, Ch. 6, L. 2007; amd. Sec. 63, Ch. 44, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-122. Low-speed restricted driver's license

61-5-122. Low-speed restricted driver's license.(1) The department may issue a low-speed restricted driver's license to a person who is physically or otherwise impaired in a manner and degree that prevent the person from safely operating a motor vehicle across the range of speeds permitted or required on a public highway. (2) (a) To qualify for a low-speed restricted driver's license, an applicant shall submit to the department a medical evaluation or statement from a treating physician that attests to the person's impairment and resulting inability to safely operate a motor vehicle across the range of speeds permitted or required on a public highway. (b) The applicant must be otherwise qualified for a driver's license under this chapter and shall apply for a driver's license under 61-5-107, pay the fees required in 61-5-111, and pass the vision test, the knowledge test, and the road test required under 61-5-110. The road test must be modified to conform to the operational limitations of the vehicle. (3) The department may issue a low-speed restricted learner license, valid for 30 days from the date of issuance, to a person who qualifies for a low-speed restricted driver's license under this section and who passes the vision test and knowledge test required in 61-5-110. A licensee may operate a low-speed electric vehicle or golf cart pursuant to 61-8-378 while in the immediate possession of the license and accompanied by a licensed driver seated beside the licensee. History: En. Sec. 2, Ch. 209, L. 2011; amd. Sec. 18, Ch. 323, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-123. Waiver of skills test or knowledge test related to military commercial motor vehicles experience -- definition

61-5-123. Waiver of skills test or knowledge test related to military commercial motor vehicles experience -- definition.(1) As used in this section, "current or former military service member" means a person: (a) honorably discharged from the armed forces of the United States; (b) currently serving in the armed forces of the United States; (c) serving full-time in a reserve component, as defined in 37-1-138; or (d) honorably discharged from the reserve component after serving full-time in the reserve component. (2) The department may waive the skills test, knowledge test, or both, required for a commercial driver's license if an applicant is a current or former military service member and meets the conditions in subsection (3), (4), or (5). (3) A current or former military service member applying for waiver of the skills test shall: (a) certify and provide evidence that the member: (i) is or was regularly employed within the last year in a military position requiring operation of a commercial motor vehicle; (ii) was exempted from the commercial driver's license requirements in 61-8-803; and (iii) was operating, for at least 2 years immediately preceding separation from the military, a vehicle representative of the commercial motor vehicle type the driver applicant operates or expects to operate; and (b) certify that during the 2-year period immediately prior to applying for a commercial driver's license, the member: (i) has not simultaneously held more than one civilian license; (ii) has not had any license suspended, revoked, or cancelled; (iii) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802; (iv) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising

in connection with any traffic accident; and (v) has no record of an accident in which the current or former military service member was at fault. (4) A current or former military service member applying for waiver of the knowledge test shall certify and provide evidence that during the 1-year period immediately prior to the application, the member: (a) is or was regularly employed and designated as a: (i) motor transport operator—88M (Army); (ii) PATRIOT launching station operator—14T (Army); (iii) fueler—92F (Army); (iv) vehicle operator—2T1 (Air Force); (v) fueler—2F0 (Air Force); (vi) pavement and construction equipment operator—3E2 (Air Force); (vii) motor vehicle operator—3531 (Marine Corps); or (viii) equipment operator—E.O. (Navy); (b) is operating a vehicle representative of the commercial motor vehicle type the driver applicant expects to operate on separation from the military or operated a similar vehicle type immediately preceding separation from the military; (c) has not simultaneously held more than one civilian license; (d) has not had any license suspended, revoked, or cancelled; (e) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802; (f) has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 61-8-803; (g) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and (h) has no record of an accident in which the current or former military service member was at fault. (5) A current or former military service member applying for waiver of the applicable skills and knowledge tests for a passenger, tank vehicle, or hazardous materials endorsement shall certify and provide evidence that during the 1-year period immediately prior to the application, the member: (a) is or was regularly employed in a military position requiring: (i) operation of a passenger commercial motor vehicle if requesting waiver of the skills and knowledge test for a passenger endorsement; (ii) operation of a tank vehicle if requesting waiver of the skills and knowledge test for a tank vehicle endorsement; or (iii) transportation of hazardous materials if requesting waiver of the skills and knowledge test for a hazardous materials endorsement; (b) has not simultaneously held more than one civilian license; (c) has not had any convictions for any type of motor vehicle for the disqualifying offenses contained in 61-8-802; (d) has not had more than one conviction for any type of motor vehicle for serious traffic violations contained in 61-8-803; (e) has not had any convictions for a violation of federal, military, state, or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident; and (f) has no record of an accident in which the current or former military service member was at fault. History: En. Sec. 1, Ch. 254, L. 2013; amd. Sec. 1, Ch. 432, L. 2017; amd. Sec. 16, Ch. 335, L. 2019; amd. Sec. 4, Ch. 445, L. 2019; amd. Sec. 1, Ch. 237, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-124. reserved

61-5-124 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-126. Providing information to selective service system

61-5-126. Providing information to selective service system. At the request of the director of the selective service system, provided for in 50 App. U.S.C. 460, the department shall provide a list of persons born in specified years who are holders of driver's licenses for the exclusive purpose of ensuring compliance with the military draft registration requirements of the federal Military Selective Service Act (50 App. U.S.C. 451, et seq.). The department shall notify the persons that information regarding them was released to the selective service system. The department may not provide the selective service system with the social security or driver's license numbers of persons on the list for any purpose. History: En. Sec. 2, Ch. 663, L. 1989; amd. Sec. 251, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-127. Providing list of licensed drivers and holders of Montana identification cards for jury selection purposes

61-5-127. Providing list of licensed drivers and holders of Montana identification cards for jury selection purposes. (1) On the second Monday of April of each year, the department shall submit to the office of court administrator a list, prepared from the department's databases of licensed drivers and holders of Montana identification cards, showing the name, address, and date of birth of all licensed drivers and holders of Montana identification cards, authorized by 61-12-501, who are 18 years of age or older. The list must be compiled on a county-by-county basis and be further divided by the city of residence of the persons named on the list to enable the drawing of lists for city courts that are composed of only those residents living within a city's jurisdiction. The list must be provided for the exclusive purpose of making a list of persons to serve as trial jurors for the ensuing year. (2) The list submitted by the department under subsection (1) must be certified by the attorney general or the attorney general's designee. (3) The department may not provide the social security or driver's license numbers of persons on the list for any purpose. History: En. Sec. 1, Ch. 441, L. 2003; amd. Sec. 5, Ch. 133, L. 2007; amd. Sec. 3, Ch. 24, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-128. Legislative direction to state agency to implement REAL ID Act

61-5-128. (Temporary) Legislative direction to state agency to implement REAL ID Act. The state of Montana shall participate in the implementation of the REAL ID Act of 2005, Public Law 109-13. The department, including the motor vehicle division of the department, is directed to implement the provisions of the REAL ID Act of 2005. (Void on occurrence of contingency--sec. 8, Ch. 443, L. 2017.) 61-5-128. (Effective on occurrence of contingency) Legislative finding and direction to state agency not to implement

REAL ID Act.(1) The legislature finds that the enactment into law by the U.S. congress of the REAL ID Act of 2005, as part of Public Law 109-13, is inimical to the security and well-being of the people of Montana, will cause unneeded expense and inconvenience to those people, and was adopted by the U.S. congress in violation of the principles of federalism contained in the 10th amendment to the U.S. constitution. (2) The state of Montana will not participate in the implementation of the REAL ID Act of 2005. The department, including the motor vehicle division of the department, is directed not to implement the provisions of the REAL ID Act of 2005 and to report to the governor any attempt by agencies or agents of the U.S. department of homeland security to secure the implementation of the REAL ID Act of 2005 through the operations of that division and department. History: En. Sec. 1, Ch. 198, L. 2007; amd. Sec. 3, Ch. 443, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-129. REAL ID-compliant driver's license or identification card -- voluntary application

61-5-129. (Temporary) REAL ID-compliant driver's license or identification card -- voluntary application.(1) The department shall issue a Montana driver's license or identification card that complies with the requirements of the federal REAL ID Act of 2005, Public Law 109-13, to each qualifying applicant. (2) (a) When required to obtain a Montana driver's license or identification card, a person may choose to apply for either a standard driver's license or identification card, or for a REAL ID-compliant driver's license or REAL ID-compliant identification card. (b) A person may not hold a valid standard driver's license or identification card and a valid REAL ID-compliant driver's license or identification card at the same time. (3) (a) A REAL ID-compliant driver's license issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard driver's license issued pursuant to this chapter. (b) A REAL ID-compliant identification card issued pursuant to this section is subject to the other requirements of obtaining, renewing, and using a standard identification card issued pursuant to Title 61, chapter 12, part 5, and this chapter. (4) (a) In addition to the fees charged to apply for or renew a standard driver's license under 61-5-111(6) and the fees charged to apply for a standard identification card under 61-12-504, the department may charge the following additional fees for a person who is applying for a REAL ID-compliant driver's license or identification card during or prior to a renewal period specified in 61-5-111(3)(c), the additional fee is \$25. (b) The fees collected under this subsection (4) must be deposited in the state special revenue fund to be used to fund the equipment and staffing necessary to provide REAL ID-compliant driver's licenses and identification cards. (Void on occurrence of contingency--sec. 8, Ch. 443, L. 2017.) History: En. Sec. 1, Ch. 443, L. 2017; amd. Sec. 18, Ch. 566, L. 2021; amd. Sec. 14, Ch. 166, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-130. reserved

61-5-130 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-131. Purpose

61-5-131. Purpose.The purpose of 61-5-131 through 61-5-135 is to create a graduated driver's licensing program that will allow persons under 18 years of age to progressively develop and improve their driving skills in the safest possible environment and that will improve highway safety by reducing the disproportionately high incidence of motor vehicle accidents involving minors. History: En. Sec. 1, Ch. 297, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-132. Prerequisites for issuance of driver's license to minor

61-5-132. Prerequisites for issuance of driver's license to minor.(1) The department may issue a driver's license, subject to the restrictions of 61-5-133, to a person under 18 years of age if the person: (a) has held a learner license or traffic education permit for a period of not less than 6 months; (b) has passed a road test or a skills test, as provided in 61-5-110; (c) (i) has successfully completed a traditional traffic education course approved pursuant to 20-7-503(1) and presents written certification from the person's parent or legal guardian, or if none is available, a responsible adult with knowledge of the person's driving experience, that states that the person has had at least 50 hours of driving experience, 10 of which were at night, during which the person was supervised by a parent, a legal guardian, or a person at least 18 years of age, with the consent of the parent or legal guardian, who had a valid driver's license; or (ii) has successfully completed an alternative traffic education course approved by the department of justice and presents written certification from the person's parent or legal guardian that states the person has had at least 75 hours of driving experience, 15 of which were at night, during which the person was supervised by a parent, legal guardian, or a person at least 18 years of age, with the consent of the parent or legal guardian, who had a valid driver's license; and (d) presents written certification from the person's parent or legal guardian, or if none is available, a responsible adult with knowledge of the person's legal history, that states that, during the 6-month period immediately preceding application for a driver's license, the person has not been convicted of a traffic violation or convicted of or adjudicated for an offense involving the use of alcohol or drugs and the person has no pending traffic, alcohol, or drug citations. (2) If a parent or a legal guardian, or if none is available, a responsible adult with knowledge of the person's legal history, for a person under 18 years of age cannot certify that the person has a 6-month conviction-free record for traffic, alcohol, and drug violations and no pending traffic, alcohol, or drug citations, the department may

extend the person's learner license for an additional 1-year period or until the person's 18th birthday, whichever occurs first. (3) (a) The requirements of subsections (1)(a) through (1)(c) do not apply to a person under 18 years of age who has been licensed in another state for at least 6 months and surrenders a valid driver's license from that state. (b) The requirements of subsection (1)(c) do not apply to a person under 18 years of age who, at the time of application for a driver's license, is an enrollee of a job corps program located in Montana. The department may require the applicant to provide current documentation of the applicant's job corps program enrollment status. History: En. Sec. 2, Ch. 297, L. 2005; amd. Sec. 20, Ch. 323, L. 2017; amd. Sec. 4, Ch. 450, L. 2021; amd. Sec. 3, Ch. 570, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-133. First year restrictions on driver's license issued to minor

61-5-133. First year restrictions on driver's license issued to minor. (1) A driver's license issued to a person who is under 18 years of age is subject to the following restrictions for 1 year from the date of issuance of the license or until the person is 18 years of age, whichever occurs first: (a) A restricted licensee may not operate a motor vehicle, required by 61-9-409 to be equipped with seatbelts, unless each occupant of the motor vehicle is wearing a seatbelt, as defined in 61-13-102, or is properly restrained, as required under 61-9-420. The number of motor vehicle occupants may not exceed the number of seatbelts with which the motor vehicle is equipped. (b) A restricted licensee may not operate a motor vehicle between the hours of 11 p.m. and 5 a.m. unless the restricted licensee is: (i) accompanied by a licensed driver who is 18 years of age or older or, if the restricted licensee is operating a motorcycle, the restricted licensee is under the immediate and proximate visual supervision of a licensed driver who is 18 years of age or older and who is riding with the licensee and is operating a separate motorcycle or other motor vehicle; (ii) driving to the restricted licensee's place of employment from the restricted licensee's residence, is returning to the restricted licensee's residence from the restricted licensee's place of employment, or is driving in the course and scope of employment; (iii) driving from the restricted licensee's residence to a school-sponsored event at a school attended by the restricted licensee, including any site for school-provided transportation to and from the event, or is returning from the event or site to the restricted licensee's residence; (iv) driving from the restricted licensee's residence to an event sponsored by a religious organization or is returning from the event to the restricted licensee's residence; (v) driving for a purpose related to a medical emergency, fire emergency, or law enforcement-related emergency; (vi) driving for the sole purpose of transporting farm or ranch products, machinery, or supplies within 150 miles of a farm or ranch headquarters; (vii) an emancipated minor; or (viii) driving under a specific authorization for a specific purpose from the restricted licensee's parent or legal guardian. A peace officer may verify the authorization by contacting the parent or legal guardian. (c) (i) For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a motor vehicle with more than one passenger who is under 18 years of age unless: (A) the restricted licensee is supervised by a licensed driver who is at least 18 years of age; or (B) the additional passengers under 18 years of age are members of the restricted licensee's family. (ii) For the second 6 months of the 1-year restriction period, a restricted licensee may not operate a motor vehicle with more than three passengers who are under 18 years of age unless: (A) the restricted licensee is supervised by a licensed driver who is at least 18 years of age; or (B) the additional passengers under 18 years of age are members of the licensee's family. (iii) For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a motorcycle with a passenger who is under 18 years of age. (2) For purposes of this section, the term "restricted licensee" includes a person under 18 years of age who holds a motorcycle-only endorsement issued by the department and the term "motor vehicle" includes a motorcycle, except when otherwise noted. History: En. Sec. 3, Ch. 297, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-134. Operation of motor vehicle by minor in violation of restricted first-year license -- penalty

61-5-134. Operation of motor vehicle by minor in violation of restricted first-year license -- penalty. (1) A person whose driver's license is restricted under 61-5-133 may not operate a motor vehicle, including a motorcycle, in violation of a restriction imposed under that section. (2) A person convicted under this section shall be ordered to perform not less than 20 hours or more than 60 hours of community service. (3) Upon receipt of a report of a second or subsequent conviction under this section, the department shall suspend the person's driver's license for 6 months. A probationary driver's license may not be issued during the period of suspension. History: En. Sec. 4, Ch. 297, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-135. Education on distracted driving

61-5-135. Education on distracted driving. (1) The department, in consultation with the superintendent of public instruction, shall encourage schools providing traffic education to include in their traffic education curriculum information regarding the dangers of physical and cognitive distractions while driving. (2) To reduce the risks for novice drivers, the department shall include in its publications intended for novice drivers information concerning the dangers of physical and cognitive distractions while driving, including but not limited to mental inattentiveness because of stress, fatigue, heightened emotion, conversation with passengers, stereo or climate control adjustment, food and drink, use of electronic devices, and personal grooming. History: En. Sec. 5, Ch. 297, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-136.

through 61-5-140 reserved

61-5-136 through 61-5-140 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-141. Self-certification of operation status -- medical certificate submission and tracking -- notice of expiration -- downgrade of license

61-5-141. Self-certification of operation status -- medical certificate submission and tracking -- notice of expiration -- downgrade of license. (1) The department may not issue or renew a commercial driver's license unless the person applying for the license: (a) certifies to the department the status of operation or expected operation of the commercial motor vehicle as being either nonexcepted interstate commerce or excepted interstate commerce, as those terms are described in 49 CFR 383.71, or intrastate commerce; and (b) when nonexcepted interstate commerce is certified, submits to the department a current medical examiner's certificate as prescribed in 49 CFR, part 391, or when intrastate commerce is certified, submits to the department a current medical examiner's certificate as prescribed in 49 CFR, part 391, or a medical statement as prescribed by department rule. (2) The department may not issue a commercial driver's license to a person seeking to transfer a valid commercial driver's license issued by another state driver licensing authority unless the requirements of subsection (1)(a) are met, and if the driver certifies to nonexcepted interstate commerce operation, the department shall check the person's CDLIS driver record to verify that the person's medical certification status is "certified". (3) The department shall mail to the holder of a commercial driver's license certified for nonexcepted interstate commerce a notice of pending medical certificate expiration no earlier than 60 days and no later than 30 days prior to the expiration date of the current medical certificate. The department shall mail the notice to the Montana mailing address shown on the commercial driver's license or, if more recent, the mailing address updated pursuant to 61-3-119 and 61-5-115. (4) On or before the expiration date of the current medical certificate, the holder of a commercial driver's license certified for nonexcepted interstate commerce shall submit a new medical certificate to the department. (5) If a new medical certificate is not submitted as required in subsection (4), the department shall, within 10 days of expiration of the current medical certificate: (a) update the CDLIS driver record to a status of "not certified"; (b) downgrade the person's commercial driver's license; and (c) notify the person of the status change and the license downgrade on the CDLIS driver record. (6) The department may reinstate a commercial driver's license that was downgraded under subsection (5) if, within the original term of the downgraded license, the person: (a) submits a current medical certificate to the department; (b) certifies to a change in operation status to excepted interstate; or (c) certifies to a change in operation status to intrastate and submits either a current medical examiner's certificate as prescribed in 49 CFR, part 391, or a medical statement as prescribed by department rule. (7) Within 10 days of issuance, transfer, renewal, downgrade, or upgrade of a commercial driver's license, the department shall update the CDLIS driver record for the license holder in accordance with the requirements of 49 CFR, part 383. (8) A downgrade or subsequent upgrade of a CDLIS driver record pursuant to this section is an electronic transaction. The department may not require the surrender or replacement of a commercial driver's license under this section unless the license is expired. (9) Unless the commercial driver's license is expired, the department may not require a license holder to take the knowledge and road or skills tests required under 61-5-110 or 61-5-111 to reinstate the commercial driver's license pursuant to subsection (6) of this section. History: En. Sec. 1, Ch. 296, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-142. through 61-5-145 reserved

61-5-142 through 61-5-145 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-146. Limitations on issuance of hazardous materials endorsement to commercial driver's license -- security threat assessment

61-5-146. Limitations on issuance of hazardous materials endorsement to commercial driver's license -- security threat assessment. (1) The department may not issue, transfer, or renew a hazardous materials endorsement for a person who holds a commercial driver's license unless it receives notice from the transportation security administration of the department of homeland security that: (a) the person does not pose a security threat warranting denial of a hazardous materials endorsement; (b) the person has been granted a waiver from the transportation security administration; or (c) less than 4 years have elapsed since a favorable security threat assessment was performed in a former licensing jurisdiction. (2) In addition to any requirements under this chapter and in accordance with the security threat assessment standards provided in 49 CFR, part 1572, an applicant who is seeking a hazardous materials endorsement shall: (a) complete a separate application as prescribed by the transportation security administration; (b) submit, as directed by the department, to a fingerprint-based background check by the transportation security administration; and (c) pay to the agent of the transportation security administration the fees imposed under 49 CFR, part 1572, for collection and transmission of fingerprints and applicant information, processing of fingerprint identification records, and the security threat assessment and adjudication. History: En. Sec. 1, Ch. 428, L. 2005; Sec. 61-5-220, MCA 2009; redes. 61-5-146 by Sec. 12, Ch. 296, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-147. Authority to revoke or remove hazardous materials endorsement

61-5-147. Authority to revoke or remove hazardous materials endorsement.(1) If the transportation security administration of the department of homeland security informs the department that a person does not meet the standards for the security threat assessment provided in 49 CFR, part 1572, the department shall revoke the person's hazardous materials endorsement to a commercial driver's license. Revocation of the hazardous materials endorsement results in immediate withdrawal of the person's authority to transport hazardous material in commerce, but does not otherwise affect the person's commercial driver's license or any unrelated endorsements. (2) A person whose hazardous materials endorsement has been revoked or removed under this section shall surrender the person's commercial driver's license to the department and apply for a replacement license, as provided in 61-5-114, that does not include the hazardous materials endorsement. (3) Upon surrender of a hazardous materials endorsement by a person who is disqualified from holding a hazardous materials endorsement under 49 CFR, part 1572, the department shall note the removal of the hazardous materials endorsement on its records and on the commercial driver's license information system. History: En. Sec. 2, Ch. 428, L. 2005; amd. Sec. 37, Ch. 428, L. 2005; amd. Sec. 4, Ch. 296, L. 2011; Sec. 61-5-221, MCA 2009; redes. 61-5-147 by Sec. 12, Ch. 296, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-148. and 61-5-149 reserved

61-5-148 and 61-5-149 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-150. Communication restrictions

61-5-150. Communication restrictions. At the request of an applicant and if the applicant expresses to the department a personal communication limitation or other medical information that would be relevant to a peace officer during a traffic stop or to first responders during an emergency, the department may include an appropriate restriction on a license issued to the applicant. History: En. Sec. 1, Ch. 381, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 1. Licensing Provisions 61-5-151. Entry-level driver training -- requirements -- responsibilities of department of transportation

61-5-151. Entry-level driver training -- requirements -- responsibilities of department of transportation.(1) The department of transportation: (a) shall develop and implement an entry-level driver training program, including theory and behind-the-wheel training, that complies with federal requirements for class A and class B commercial driver's licenses, excluding endorsements; (b) shall make available to the public the entry-level driver training program provided for in subsection (1)(a), which must be free of cost to Montana residents eligible to receive a commercial driver's license and must be available in each of the transportation commission districts established in 2-15-2502; (c) may utilize various formats of entry-level driver trainings, including in-person training and asynchronous or synchronous virtual training; and (d) may coordinate with other state agencies or organizations to develop and implement entry-level driver training. (2) An entry-level driver training program developed by the department of transportation must include use of facilities, vehicles, and instructors sufficient to issue a commercial driver's license. (3) The department of transportation may establish rules for the development and administration of an entry-level driver training program. History: En. Sec. 1, Ch. 744, L. 2023; amd. Sec. 6, Ch. 744, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-201. Authority of department to cancel license

61-5-201. Authority of department to cancel license.(1) The department may cancel a driver's license if it has reasonable grounds to believe that: (a) the licensee was not entitled to the issuance; (b) since the issuance, the licensee has become ineligible as determined pursuant to the provisions of 61-5-105; (c) the licensee failed to give the required or correct information in the licensee's application or committed any fraud in making the application; or (d) the licensee has applied for another driver's license or an identification card issued by the department. (2) Upon cancellation, the licensee shall surrender the canceled license to the department. (3) A person whose driver's license is canceled because the person failed to give the required or correct information on the application or committed any fraud in making the application is disqualified from operating a commercial motor vehicle for a period of 60 days from the date of the cancellation. History: En. Sec. 26, Ch. 267, L. 1947; amd. Sec. 1, Ch. 219, L. 1973; R.C.M. 1947, 31-142; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 19, Ch. 443, L. 1987; amd. Sec. 14, Ch. 195, L. 1993; amd. Sec. 24, Ch. 428, L. 2005; amd. Sec. 3, Ch. 686, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-202. Cancellation of license upon death of person signing minor's application

61-5-202. Cancellation of license upon death of person signing minor's application. The department upon receipt of satisfactory evidence of the death of the persons who signed the application of a minor for a license shall cancel such license and shall not issue a new license until such time as a new application, duly signed and verified, is made as required by this chapter. This provision shall not apply in the event the minor has attained the age of 18 years. History: En. Sec. 17, Ch. 267, L. 1947; R.C.M. 1947, 31-133; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-203. Suspending privileges of nonresidents and unlicensed persons

61-5-203. Suspending privileges of nonresidents and unlicensed persons. (1) The privilege of driving a motor vehicle on the highways of this state given to a nonresident pursuant to 61-5-104(2) through (4) is subject to suspension or revocation by the department in like manner and for like causes as a driver's license issued under this chapter. (2) An unlicensed person's privilege to apply for and be issued a driver's license in this state is subject to suspension or revocation by the department in like manner and for like causes as a driver's license issued under this chapter. History: En. Sec. 27, Ch. 267, L. 1947; R.C.M. 1947, 31-143(a); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 20, Ch. 443, L. 1987; amd. Sec. 15, Ch. 195, L. 1993; amd. Sec. 2, Ch. 83, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-204. Suspending resident's license upon conviction in another state

61-5-204. Suspending resident's license upon conviction in another state. The department may suspend or revoke the driver's license of any resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of the person in another jurisdiction of an offense in that jurisdiction which, if committed in this state, would be grounds for the suspension or revocation of the driver's license. History: En. Sec. 28, Ch. 267, L. 1947; R.C.M. 1947, 31-144; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 21, Ch. 443, L. 1987; amd. Sec. 12, Ch. 378, L. 1989; amd. Sec. 16, Ch. 195, L. 1993.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-205. Mandatory revocation or suspension of license upon certain convictions -- duration of action -- exceptions

61-5-205. Mandatory revocation or suspension of license upon certain convictions -- duration of action -- exceptions. (1) The department shall revoke an individual's driver's license or driving privilege if the department receives notice from a court or another licensing jurisdiction that the individual has been convicted of any of the following offenses: (a) negligent homicide resulting from the operation of a motor vehicle; (b) any felony in the commission of which a motor vehicle is used; (c) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle accident resulting in the death or personal injury of another; (d) perjury or the making of a false affidavit or statement under oath to the department under this chapter or under any other law relating to the ownership or operation of motor vehicles; (e) fleeing from or eluding a peace officer; or (f) negligent vehicular assault as defined in 45-5-205 involving a motor vehicle. (2) The department shall suspend an individual's driver's license or driving privilege if the department receives notice from a court or another licensing jurisdiction that the individual has been convicted of any of the following offenses: (a) a driving offense under 61-8-1002; (b) three reckless driving offenses committed within a period of 12 months; or (c) a theft offense under 45-6-301 if the theft consisted of theft of motor vehicle fuel and a motor vehicle was used in the commission of the offense. (3) A revocation under subsections (1)(a), (1)(b), and (1)(d) through (1)(f) must be for a period of 1 year. A revocation under subsection (1)(c) must be for a period of 2 years if the offender received a felony conviction under 61-7-103. (4) (a) Except as provided in subsections (4)(b) and (4)(c), a suspension under subsection (2) must be for a period of 1 year. (b) A suspension under subsection (2)(a) must be for the period set forth in 61-5-208. (c) A suspension under subsection (2)(c) must be for one of the following periods: (i) 30 days for a first offense; (ii) 6 months for a second offense; and (iii) 1 year for a third or subsequent offense. History: En. Sec. 30, Ch. 267, L. 1947; amd. Sec. 1, Ch. 192, L. 1957; amd. Sec. 1, Ch. 125, L. 1961; amd. Sec. 2, Ch. 155, L. 1969; amd. Sec. 47, Ch. 359, L. 1977; amd. Sec. 2, Ch. 430, L. 1977; R.C.M. 1947, 31-146; amd. Sec. 1, Ch. 698, L. 1983; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 22, Ch. 443, L. 1987; amd. Sec. 2, Ch. 612, L. 1987; amd. Sec. 1, Ch. 335, L. 1989; amd. Sec. 17, Ch. 195, L. 1993; amd. Sec. 1, Ch. 224, L. 2001; amd. Sec. 3, Ch. 563, L. 2001; amd. Sec. 2, Ch. 379, L. 2003; amd. Secs. 3, 15(1), Ch. 556, L. 2003; amd. Sec. 1, Ch. 145, L. 2007; amd. Sec. 3, Ch. 149, L. 2011; amd. Sec. 8, Ch. 153, L. 2013; amd. Sec. 32, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-206. Authority of department to suspend or revoke license or driving privilege -- right to hearing

61-5-206. Authority of department to suspend or revoke license or driving privilege -- right to hearing. (1) The department may suspend or revoke the driver's license or driving privilege of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee: (a) has committed or permitted an unlawful or fraudulent use of the license as specified in 61-5-302; (b) has falsified the licensee's date of birth on the application for a driver's license; (c) is under 21 years of age and has altered the licensee's or another's driver's license, identification card, or tribal identification card to obtain alcohol; or (d) has authorized another to use the licensee's driver's license, identification card, or tribal identification card to obtain alcohol. (2) If the department suspends or revokes a driver's license under 61-5-207 or this section or reinstates a license suspension or revocation upon conviction or forfeiture of bail not vacated of any traffic violation by a person who holds a probationary driver's license under 61-2-302, the department shall immediately notify the licensee in writing and upon the licensee's request shall afford the licensee an opportunity for a hearing as early as practical, within 20 days after receipt of the request, in the county in which the licensee resides unless the department and the licensee agree that the hearing may be held in some other county. At the hearing, the department through its authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of

relevant books and papers and may require a reexamination of the licensee. At the hearing, the department shall either rescind its order of suspension or revocation or, for good cause, may affirm, reduce, or extend the period of suspension or revocation of the license. History: En. Sec. 31, Ch. 267, L. 1947; amd. Sec. 1, Ch. 101, L. 1961; amd. Sec. 1, Ch. 137, L. 1969; R.C.M. 1947, 31-147; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 244, L. 1987; amd. Sec. 23, Ch. 443, L. 1987; amd. Sec. 1, Ch. 471, L. 1991; amd. Sec. 18, Ch. 195, L. 1993; amd. Sec. 2, Ch. 218, L. 2001; amd. Sec. 4, Ch. 556, L. 2003; amd. Sec. 115, Ch. 596, L. 2005; amd. Sec. 10, Ch. 180, L. 2007; amd. Sec. 21, Ch. 323, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-207. Reexamination or medical evaluation -- when required

61-5-207. Reexamination or medical evaluation -- when required. (1) If the department receives reliable evidence that a licensed driver lacks the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway, the department may, upon written notice of at least 5 days to the licensee, require the licensee to obtain a medical evaluation from a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, or submit to one or more tests customarily conducted by the department for licensure under 61-5-110. (2) Upon the review of a medical evaluation, the conclusion of testing, or both, the department may: (a) impose restrictions on the license, as provided in 61-5-113, that are appropriate to the licensee's acknowledged or demonstrated functional abilities; (b) suspend the license indefinitely based upon a licensee's inability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; or (c) take no action modifying the license or placing restrictions on the licensee. (3) The age of a licensee, by itself, does not constitute evidence of a condition requiring a reexamination or a medical evaluation. (4) A suspension under this section continues in effect until evidence satisfactory to the department establishes that the licensee has regained the ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway. (5) Refusal or neglect of the licensee to obtain a medical evaluation from a licensed physician, licensed physician assistant, or advanced practice registered nurse or submit to testing as required by the department is grounds for suspension of the person's license. History: En. Sec. 32, Ch. 267, L. 1947; R.C.M. 1947, 31-148; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 24, Ch. 443, L. 1987; amd. Sec. 3, Ch. 419, L. 1991; amd. Sec. 19, Ch. 195, L. 1993; amd. Sec. 14, Ch. 309, L. 1999; amd. Sec. 4, Ch. 242, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-208. Period of suspension or revocation -- limitation on issuance of probationary license -- notation on driver's license

61-5-208. Period of suspension or revocation -- limitation on issuance of probationary license -- notation on driver's license. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways, except as permitted by law. (2) (a) Except as provided in 44-4-1205 and 61-2-302 and except as otherwise provided in this section, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed. (b) Subject to 61-5-231 and except as provided in subsections (4) and (5) of this section: (i) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a first offense of violating 61-8-1002, the department shall suspend the driver's license or driving privilege of the person for a period of 6 months; (ii) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a second offense of violating 61-8-1002 within the time period specified in 61-8-1011, the department shall suspend the driver's license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension unless the person completes at least 45 days of the 1-year suspension and the report of conviction includes a recommendation from the court that a probationary driver's license be issued subject to the requirements of 61-8-1010. Except as provided in subsection (5), if the 1-year suspension period passes and the person has not completed chemical dependency treatment, as required under 61-8-1009, the license suspension remains in effect until treatment is completed. (iii) upon receiving a report of a person's conviction or forfeiture of bail or collateral not vacated for a third or subsequent offense of violating 61-8-1002 within the time period specified in 61-8-1011, the department shall suspend the driver's license or driving privilege of the person for a period of 1 year and may not issue a probationary license during the period of suspension unless the person completes at least 90 days of the 1-year suspension and the report of conviction includes a recommendation from the court that a probationary driver's license be issued subject to the requirements of 61-8-1010. Except as provided in subsection (5), if the 1-year suspension period passes and the person has not completed chemical dependency treatment, as required under 61-8-1002, the license suspension remains in effect until treatment is completed. (3) (a) Except as provided in subsection (3)(b), the period of suspension or revocation for a person convicted of any offense that makes mandatory the suspension or revocation of the person's driver's license commences from the date of conviction or forfeiture of bail. (b) A suspension commences from the last day of the prior suspension or revocation period if the suspension is for a conviction of driving with a suspended or revoked license. (4) If a person is convicted of a violation of 61-8-1002 while operating a commercial motor vehicle, the department shall suspend the person's driver's license as provided in 61-8-802. (5) If a person has not completed the chemical dependency treatment required under 61-8-1009 before the end of the period of suspension or revocation required under this section, the department may restore or renew the person's driving privilege if: (a) the person completed the chemical dependency assessment required under 61-8-1009; and (b) the licensed addiction counselor conducting the assessment determined that treatment was not necessary. (6) (a) A driver's license that is issued after a license revocation to a person described in subsection (6)(b) must be clearly marked with a notation that conveys the term of the person's

probation restrictions. (b) The provisions of subsection (6)(a) apply to a license issued to a person for whom a court has reported a felony conviction under 61-8-1008, the judgment for which has as a condition of probation that the person may not operate a motor vehicle unless: (i) operation is authorized by the person's probation officer; or (ii) a motor vehicle operated by the person is equipped with an ignition interlock device. (7) (a) A person whose driver's license is suspended may be issued a provisional, restricted, or probationary license if the person completes a court-ordered driver rehabilitation or a court-ordered improvement program. (b) This subsection (7) does not apply to a person whose commercial driver's license is suspended under Title 61, chapter 8, part 8. History: (1) thru (3)En. Sec. 33, Ch. 267, L. 1947; amd. Sec. 1, Ch. 126, L. 1957; amd. Sec. 1, Ch. 161, L. 1961; amd. Sec. 1, Ch. 339, L. 1969; amd. Sec. 4, Ch. 430, L. 1977; Sec. 31-149, R.C.M. 1947; (4)En. Sec. 29, Ch. 267, L. 1947; amd. Sec. 1, Ch. 165, L. 1957; amd. Sec. 1, Ch. 27, L. 1961; amd. Sec. 1, Ch. 386, L. 1973; amd. Sec. 3, Ch. 430, L. 1977; Sec. 31-145, R.C.M. 1947; R.C.M. 1947, 31-145(d), 31-149; amd. Sec. 57, Ch. 421, L. 1979; amd. Sec. 2, Ch. 698, L. 1983; amd. Sec. 1, Ch. 314, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 25, Ch. 443, L. 1987; amd. Sec. 3, Ch. 612, L. 1987; amd. Sec. 13, Ch. 378, L. 1989; amd. Sec. 1, Ch. 476, L. 1989; amd. Sec. 2, Ch. 563, L. 1991; amd. Sec. 20, Ch. 195, L. 1993; amd. Sec. 5, Ch. 107, L. 1997; amd. Sec. 2, Ch. 258, L. 1999; amd. Sec. 15, Ch. 309, L. 1999; amd. Sec. 1, Ch. 455, L. 1999; amd. Sec. 8, Ch. 207, L. 2001; amd. Sec. 2, Ch. 300, L. 2003; amd. Sec. 2, Ch. 329, L. 2003; amd. Secs. 5, 15(8), Ch. 556, L. 2003; amd. Sec. 1, Ch. 547, L. 2005; amd. Sec. 116, Ch. 596, L. 2005; amd. Sec. 7, Ch. 41, L. 2009; amd. Sec. 1, Ch. 448, L. 2009; amd. Sec. 4, Ch. 149, L. 2011; amd. Sec. 9, Ch. 318, L. 2011; amd. Sec. 9, Ch. 153, L. 2013; amd. Sec. 3, Ch. 424, L. 2015; amd. Sec. 32, Ch. 321, L. 2017; amd. Sec. 33, Ch. 498, L. 2021; amd. Sec. 1, Ch. 82, L. 2023; amd. Sec. 15, Ch. 166, L. 2023; amd. Sec. 1, Ch. 612, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-209. Surrender and return of license upon suspension or revocation

61-5-209. Surrender and return of license upon suspension or revocation. When the department suspends or revokes a license, it shall require that the license be surrendered to and be retained by the department except that at the end of the period of suspension, the surrendered license must be returned to the licensee. History: En. Sec. 34, Ch. 267, L. 1947; R.C.M. 1947, 31-150; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 26, Ch. 443, L. 1987; amd. Sec. 21, Ch. 195, L. 1993.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-210. No operation under foreign license during suspension or revocation in this state

61-5-210. No operation under foreign license during suspension or revocation in this state. A resident or nonresident whose license or right or privilege to operate a motor vehicle or commercial motor vehicle in this state has been suspended or revoked as provided in this chapter may not operate a motor vehicle or commercial motor vehicle in this state under a license, permit, or registration certificate issued by any other jurisdiction or otherwise during the suspension or after the revocation until a new license is obtained under this chapter. History: En. Sec. 35, Ch. 267, L. 1947; R.C.M. 1947, 31-151; amd. Sec. 27, Ch. 443, L. 1987; amd. Sec. 22, Ch. 195, L. 1993.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-211. Right of appeal to court

61-5-211. Right of appeal to court. A person denied a driver's license or whose license has been canceled, suspended, or revoked by the department except when the cancellation or revocation is mandatory under the provisions of this chapter may file a petition within 30 days after the denial, cancellation, suspension, or revocation for a hearing in the matter in the district court in the county in which the person resides. The court has jurisdiction and it shall set the matter for hearing upon 30 days' written notice to the department, and shall take testimony and examine the facts of the case and determine whether the petitioner is entitled to a driver's license or is subject to suspension, cancellation, or revocation of the license under the provisions of this chapter. History: En. Sec. 36, Ch. 267, L. 1947; R.C.M. 1947, 31-152; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 28, Ch. 443, L. 1987; amd. Sec. 23, Ch. 195, L. 1993.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-212. Driving while license suspended or revoked -- penalty -- second offense of driving without licensing exemption

61-5-212. Driving while license suspended or revoked -- penalty -- second offense of driving without licensing exemption. (1) (a) A person commits the offense of driving a motor vehicle without statutory exemption or during a suspension or revocation period if the person drives: (i) a motor vehicle on any public highway of this state at a time when the person's privilege to drive or apply for and be issued a driver's license is suspended or revoked in this state or any other state unless the person has obtained a restricted-use driving permit under 61-5-232; (ii) a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or cancelled in this state or any other state or the person is disqualified from operating a commercial motor vehicle or from obtaining a commercial driver's license; or (iii) a motor vehicle on any public highway of this state without proof of a statutory exemption, as provided in 61-5-104. (b) (i) A person convicted of the offense of driving a motor vehicle without proof of a statutory exemption for the second time shall be punished by imprisonment for not less than 2 days or more than 6 months and may be fined not more than \$500. (ii) Except as provided in subsection (1)(b)(iii), a person convicted of the offense of driving during a suspension

or revocation period shall be fined an amount not to exceed \$500 or be imprisoned for a term of not more than 6 months, or both.

(iii) If the reason for the suspension or revocation was that the person was convicted of a violation of 61-8-1002(1)(a), (1)(b), (1)(c), (1)(d), or (1)(e) or a similar offense under the laws of any other state or the suspension was under 61-8-1016 or a similar law of any other state for refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, the person shall be imprisoned for a term of not less than 2 days or more than 6 months or be fined an amount not to exceed \$2,000, or both, and in addition, the court may order the person to perform up to 40 hours of community service.

(2) (a) Upon receiving a record of the conviction of any person under this section upon a charge of driving a noncommercial vehicle while the person's driver's license, privilege to drive, or privilege to apply for and be issued a driver's license was suspended or revoked, the department shall extend the period of suspension or revocation for an additional 1-year period. (b) Upon receiving a record of the conviction of any person under this section upon a charge of driving a commercial motor vehicle while the person's commercial driver's license was revoked, suspended, or cancelled or the person was disqualified from operating a commercial motor vehicle under federal regulations, the department shall suspend the person's commercial driver's license in accordance with 61-8-802. History: En. Sec. 39, Ch. 267, L. 1947; amd. Sec. 1, Ch. 84, L. 1959; R.C.M. 1947, 31-155; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 29, Ch. 443, L. 1987; amd. Sec. 1, Ch. 30, L. 1989; amd. Sec. 24, Ch. 195, L. 1993; amd. Sec. 5, Ch. 447, L. 1995; amd. Sec. 1, Ch. 88, L. 1997; amd. Sec. 12, Ch. 428, L. 2003; amd. Sec. 6, Ch. 556, L. 2003; amd. Sec. 1, Ch. 583, L. 2005; amd. Sec. 3, Ch. 83, L. 2007; amd. Sec. 2, Ch. 462, L. 2007; amd. Sec. 10, Ch. 153, L. 2013; amd. Sec. 3, Ch. 358, L. 2015; amd. Sec. 33, Ch. 321, L. 2017; amd. Sec. 34, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-213. Conviction defined

61-5-213. Conviction defined. For the purposes of parts 1 through 3 of this chapter, part 8 of chapter 8, chapter 11, and as it relates to any state or local law regulating the operation of a motor vehicle on highways or mandating the revocation or suspension of a driver's license or driving privilege, the term "conviction" means: (1) a plea of guilty or nolo contendere accepted by the court; (2) an adjudication of guilt that has not been vacated by the appropriate court; (3) a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal; (4) a forfeiture of bail or collateral deposited to secure the person's appearance in court that has not been vacated; (5) the payment of a fine or court cost, regardless of whether it is suspended or rebated; or (6) the violation of a condition of release without bail, regardless of whether the condition is imposed as part of probation. History: En. Sec. 29, Ch. 267, L. 1947; amd. Sec. 1, Ch. 165, L. 1957; amd. Sec. 1, Ch. 27, L. 1961; amd. Sec. 1, Ch. 386, L. 1973; amd. Sec. 3, Ch. 430, L. 1977; R.C.M. 1947, 31-145(c); amd. Sec. 1, Ch. 369, L. 1991; amd. Sec. 25, Ch. 428, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-214. Mandatory suspension for failure to appear or comply with criminal sentence -- administrative fee -- notice

61-5-214. Mandatory suspension for failure to appear or comply with criminal sentence -- administrative fee -- notice. (1) The department shall suspend the driver's license or driving privilege of a person upon receipt of a report from the court, certified under penalty of law and in a form prescribed by the department, that the person: (a) failed to appear upon an issued complaint, summons, or court order after being charged with a misdemeanor violation under Title 45 or Title 61, chapters 3 through 10, or after posting a driver's license in lieu of bail as provided in 46-9-401(1)(e); or (b) failed to comply with a sentence imposed pursuant to 46-18-201. (2) The suspension continues in effect until the court notifies the department that: (a) the person has either appeared in court or complied with the sentence imposed pursuant to 46-18-201; and (b) the person has paid the court an administrative fee of \$25 if the court was holding the offender's driver's license in lieu of bail under 44-1-1102, 46-9-302, or 46-9-401. (3) (a) Before a report is submitted under this section, a person must be given written notice that the failure to appear on a criminal charge or comply with a criminal sentence may result in the suspension of the person's driver's license or driving privilege. Initial notice of the possibility of a license suspension must either be included on the summons or complaint and notice to appear form given to the person when charges are initially filed or be contained in a court order, either hand-delivered to the person while in court or sent by certified mail, postage prepaid, to the most current address for that person received by or on record with the court. (b) The initial notice must be followed by a written warning from the court, sent by first-class mail, advising the person that a license suspension is imminent unless, by a specified date, the failure to appear or comply is remedied or the person appears before the court to contest the impending license suspension. (4) The court shall deposit any administrative fee received under subsection (2)(b) in the appropriate county or city general fund. History: En. Sec. 1, Ch. 442, L. 1987; amd. Sec. 68, Ch. 83, L. 1989; amd. Sec. 1, Ch. 263, L. 1989; amd. Sec. 1, Ch. 441, L. 1995; amd. Sec. 2, Ch. 437, L. 2003; amd. Sec. 5, Ch. 465, L. 2003; amd. Sec. 3, Ch. 360, L. 2009; amd. Sec. 2, Ch. 348, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-215. Provisional licenses prohibited

61-5-215. Provisional licenses prohibited. A provisional, restricted, or probationary license may not be issued upon a suspension under 61-5-214. History: En. Sec. 2, Ch. 442, L. 1987; amd. Sec. 2, Ch. 133, L. 2003; amd. Sec. 6, Ch. 465, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-216. Reinstatement of license

61-5-216. Reinstatement of license. Upon receipt of notification from the court that the operator has appeared or posted the bond and has paid the administrative fee required under 61-5-214 and if the reinstatement fee required under 61-2-107 or 61-5-218 has been paid, the department shall reinstate the license unless the operator otherwise is not entitled to reinstatement. History: En. Sec. 3, Ch. 442, L. 1987; amd. Sec. 69, Ch. 83, L. 1989; amd. Sec. 3, Ch. 133, L. 2003; amd. Secs. 7, 8, Ch. 465, L. 2003; amd. Sec. 3, Ch. 348, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-217. Suspending privileges of persons under 18 years of age

61-5-217. Suspending privileges of persons under 18 years of age. The privilege of driving a motor vehicle on the highways of this state given to a person under the age of 18 is subject to suspension or revocation by the department in like manner and for like causes as an adult. History: En. Sec. 2, Ch. 484, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-218. License reinstatement fee following license suspension or revocation

61-5-218. License reinstatement fee following license suspension or revocation. (1) Except as provided in subsection (2), a person whose driver's license, other than a commercial driver's license, or driving privilege has been suspended or revoked shall pay a reinstatement fee of \$100 to the department to have the driver's license or driving privilege reinstated. (2) (a) A person whose driver's license or driving privilege was suspended or revoked under 61-8-1016 shall pay a reinstatement fee as required by 61-2-107. (b) A driver's license or driving privilege that was suspended or revoked under 61-5-207 must be reinstated without payment of a reinstatement fee. (c) The reinstatement fee required under subsection (1) must be waived by the department when a court notifies the department that the person has satisfied the requirements of 61-5-214(2) and the court has determined that the person is indigent under the standards set forth in 47-1-111. (3) The department shall deposit the fees collected under subsection (1) in the general fund. History: En. Sec. 1, Ch. 133, L. 2003; amd. Sec. 4, Ch. 360, L. 2009; amd. Sec. 35, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-219. Discount on license reinstatement fee -- completion of driver rehabilitation program

61-5-219. Discount on license reinstatement fee -- completion of driver rehabilitation program. (1) A person who submits a certificate of completion from a department-approved driver rehabilitation program must receive a 50% reduction on the license reinstatement fee due under 61-2-107 or 61-5-218. (2) For purposes of this section, a driver rehabilitation program may be approved by the department if the program provider annually certifies to the department that the provider's program: (a) provides a participant with a minimum of 4 hours of instruction on Montana driving laws, the importance of positive driving attitudes and habits, defensive driving techniques, and the responsible use of drugs and alcohol; (b) includes preinstruction and postinstruction testing of each participant; (c) provides a certificate of completion to each person who successfully completes the program; and (d) reports to the department, in a timely manner, the name, date of birth, and driver's license number of each person to whom the provider has issued a certificate of completion. History: En. Sec. 14, Ch. 556, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-220. Renumbered 61-5-146

61-5-220. Renumbered 61-5-146. Sec. 12, Ch. 296, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-221. Renumbered 61-5-147

61-5-221. Renumbered 61-5-147. Sec. 12, Ch. 296, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-222. through 61-5-230 reserved

61-5-222 through 61-5-230 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-231. Authorization of probationary license by DUI court

61-5-231. Authorization of probationary license by DUI court. (1) If a person convicted of a second or subsequent misdemeanor offense of driving under the influence of alcohol or drugs under 61-8-1002(1)(a), (1)(b), (1)(c), (1)(d), or (1)(e), driving with excessive alcohol concentration under 61-8-1002, or aggravated driving under the influence as defined in 61-8-1001 is participating in a DUI court as defined in 61-8-1001, the court may, in the court's discretion, authorize a probationary driver's license for the participant subject to 61-8-1010 and any other conditions imposed within the scope of the court's authority. (2) If the participant fails to comply with the court's conditions, the court may revoke the probationary driver's license and impose a driver's license

suspension for the time period established pursuant to 61-5-208 commencing from the date of the court's revocation of the probationary license. History: En. Sec. 1, Ch. 149, L. 2011; amd. Sec. 11, Ch. 153, L. 2013; amd. Sec. 4, Ch. 424, L. 2015; amd. Sec. 36, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 2. Revocation, Suspension, or Cancellation of Licenses 61-5-232. Restricted-use driving permit -- conditions -- definitions

61-5-232. Restricted-use driving permit -- conditions -- definitions. (1) A person who, pursuant to 61-5-105(2), may not be issued a driver's license due to an ineligible status reported by another state to the national driver register may petition the district court of the county in which the person resides for a restricted-use driving permit for use only within the state of Montana if: (a) the person has maintained continuous residence in Montana for at least 5 years and is not otherwise ineligible for a license under 61-5-105; (b) the person submits a certified driving record from the licensing agency of each state that has reported the person's status as ineligible to the national driver register that shows that at least 5 years have elapsed from the effective date of the most recent withdrawal of the person's driver's license or driving privileges by the other state or states; (c) for the 5-year period immediately preceding application for a restricted-use driving permit, the person has not been convicted in any jurisdiction of a felony or misdemeanor offense; (d) the person certifies that no traffic citations or alcohol-related or drug-related criminal charges are currently pending against the person; (e) the person certifies that a good faith effort was made to resolve the person's ineligible status through the licensing agency of each state or states that reported the person's status as ineligible to the national driver register, including the payment of any pending fees or fines; and (f) the person provides any other information required by department rule. (2) The department may issue a restricted-use driving permit only to a person who satisfies all of the requirements of this section as determined by a district court pursuant to subsection (1). A person who is issued a restricted-use driving permit may use it only for an essential driving purpose as defined by the department. (3) For purposes of this section, the following definitions apply: (a) "Most recent withdrawal" means the suspension, revocation, or denial of a driver's license or driving privilege underlying a current ineligible status report made by another state's licensing agency to the national driver register. (b) "National driver register" means the registry established under 49 U.S.C. 30302. (c) "Restricted-use driving permit" means a paper document authorizing a person to drive within this state for essential driving purposes only and that is issued by the department to a person whose status on the national driver register is reported as ineligible to operate a motor vehicle other than a commercial motor vehicle. History: En. Sec. 1, Ch. 358, L. 2015; amd. Sec. 17, Ch. 335, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-301. Indication on driver's license or identification card of intent to make anatomical gift or of living will declaration

61-5-301. Indication on driver's license or identification card of intent to make anatomical gift or of living will declaration. (1) An application furnished by the department for the issuance or renewal of a driver's license under this chapter or for the issuance of an identification card under Title 61, chapter 12, part 5, must include spaces for indicating when the licensee has: (a) executed a document under 72-17-201 of intent to make a gift of all or part of the driver's body under the Uniform Anatomical Gift Act; or (b) executed a declaration under 50-9-103 relating to the use of life-sustaining treatment. (2) The department shall provide each applicant, when applying for or renewing a driver's license or when applying for an identification card, printed information calling the applicant's attention to the provisions of this section. Each applicant must be asked orally if the applicant wishes to make an anatomical gift and if the applicant has executed the declaration under 50-9-103 relating to the use of life-sustaining treatment. (3) Each applicant must be given an opportunity to indicate in the spaces provided under subsection (1) the applicant's intent to make an anatomical gift or that the applicant has executed the declaration under 50-9-103 relating to the use of life-sustaining treatment. (4) The department shall issue to each applicant who indicates an intent to make an anatomical gift a statement that, when signed by the licensee in the manner prescribed in 72-17-201, constitutes a document of anatomical gift. If an applicant signs a statement under this subsection, a symbol indicating that the donor has made an anatomical gift must be imprinted on the face of the donor's driver's license or identification card. (5) The department shall electronically transfer the information of all persons who volunteer, upon application for a driver's license or an identification card, to donate organs or tissue to the organ and tissue donation registry created in 72-17-105 and 72-17-106 and any subsequent changes to the applicant's donor status. History: En. 31-135.1 by Sec. 1, Ch. 28, L. 1977; R.C.M. 1947, 31-135.1; amd. Sec. 2, Ch. 459, L. 1985; amd. Sec. 1, Ch. 204, L. 1987; amd. Sec. 30, Ch. 443, L. 1987; amd. Sec. 2, Ch. 540, L. 1989; amd. Sec. 3, Ch. 230, L. 2003; amd. Sec. 1, Ch. 296, L. 2005; amd. Sec. 2, Ch. 194, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-302. Unlawful use of license or identification card

61-5-302. Unlawful use of license or identification card. It is a misdemeanor for a person to: (1) display or cause or permit to be displayed or have in the person's possession a canceled, revoked, suspended, fictitious, or altered driver's license, identification card, or tribal identification card; (2) lend the person's driver's license, identification card, or tribal identification card to any other person or knowingly permit its use by another; (3) display or represent as one's own any driver's license, identification card, or tribal identification card not issued to the person; (4) fail or refuse to surrender to the department upon its lawful demand a driver's license or identification card that has been suspended, revoked, or canceled; (5) use a false or fictitious name in an application for a driver's license or identification card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud

in an application; or (6) permit any unlawful use of a driver's license, identification card, or tribal identification card issued to the person. History: En. Sec. 37, Ch. 267, L. 1947; amd. Sec. 1, Ch. 70, L. 1961; R.C.M. 1947, 31-153; amd. Sec. 58, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 31, Ch. 443, L. 1987; amd. Sec. 2, Ch. 471, L. 1991; amd. Sec. 25, Ch. 195, L. 1993; amd. Sec. 11, Ch. 180, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-303. Making false affidavit -- penalty

61-5-303. Making false affidavit -- penalty. Any person who makes any false affidavit or knowingly swears or affirms falsely to any matter or thing required by the terms of parts 1 through 3 of this chapter to be sworn to or affirmed is guilty of false swearing and upon conviction shall be punishable as provided by 45-7-202. History: En. Sec. 38, Ch. 267, L. 1947; R.C.M. 1947, 31-154; amd. Sec. 59, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-304. Permitting unauthorized minor to drive

61-5-304. Permitting unauthorized minor to drive. A person may not cause or knowingly permit the person's child or ward under 18 years of age to drive a motor vehicle upon any highway when the minor is not authorized to drive or in violation of any of the provisions of parts 1 through 3 of this chapter. History: En. Sec. 40, Ch. 267, L. 1947; R.C.M. 1947, 31-156; amd. Sec. 1945, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-305. Employing driver without license

61-5-305. Employing driver without license. No person shall employ as a commercial vehicle operator any person not then licensed as provided by this chapter. History: En. Sec. 41, Ch. 267, L. 1947; R.C.M. 1947, 31-157; amd. Sec. 32, Ch. 443, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-306. Renting motor vehicle to another

61-5-306. Renting motor vehicle to another. (1) A person may not rent a motor vehicle to any other person unless the latter person is licensed under this chapter or, in the case of a nonresident, licensed under the laws of the state or country of the person's residence except a nonresident whose home state or country does not require that an operator be licensed. (2) A person may not rent a motor vehicle to another until the person has inspected the driver's license of the proposed renter and compared and verified the signature on the license with the signature of the proposed renter written in the person's presence. (3) A person may not rent a commercial motor vehicle to another until the person has inspected the driver's license of the proposed renter and determined that the proposed renter has a commercial driver's license. (4) Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle rented, the name and address of the person to whom the vehicle is rented, and the number and expiration date of the license of the renter. The record is open to inspection by any police officer or officer or employee of the department. History: En. Sec. 42, Ch. 267, L. 1947; R.C.M. 1947, 31-158; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 33, Ch. 443, L. 1987; amd. Sec. 26, Ch. 195, L. 1993.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-307. Penalty for misdemeanor

61-5-307. Penalty for misdemeanor. (1) It is a misdemeanor for any person to violate any of the provisions of parts 1 through 3 of this chapter and 61-11-101 unless such violation is by this chapter or other law of this state declared to be a felony. (2) Unless another penalty is in this chapter or by the laws of this state provided, every person convicted of a misdemeanor for the violation of any provision of parts 1 through 3 of this chapter and 61-11-101 shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months or by both such fine and imprisonment. History: En. Sec. 43, Ch. 267, L. 1947; R.C.M. 1947, 31-159.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-308. Uniformity of interpretation

61-5-308. Uniformity of interpretation. Parts 1 through 3 of this chapter and 61-11-101 and 61-11-102 shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them. History: En. Sec. 44, Ch. 267, L. 1947; R.C.M. 1947, 31-160.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-309. Unlawful issuance of license or identification card

61-5-309. Unlawful issuance of license or identification card. No person may create, publish, or otherwise manufacture a Montana driver's license or a Montana identification card authorized by 61-12-501 or color facsimile thereof or create, manufacture, or possess an engraved plate or other such device for the printing of a Montana driver's license or Montana identification card

authorized by 61-12-501 or color facsimile thereof, except as authorized by the department. History: En. Sec. 1, Ch. 248, L. 1985; amd. Sec. 13, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 3. Miscellaneous Provisions 61-5-310. Displaying electronic driver's license

61-5-310. Displaying electronic driver's license. Displaying an electronic driver's license on an electronic device or handing an electronic device displaying an electronic driver's license to a peace officer does not constitute consent to a search or seizure of the electronic device. History: En. Sec. 1, Ch. 335, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 4. Driver License Compact 61-5-401. Driver License Compact

61-5-401. Driver License Compact. This part shall be known and may be cited as the "Driver License Compact". Article I. Findings and Declaration of Policy (1) The party states find that: (a) the safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles; (b) violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property; (c) the continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated. (2) It is the policy of each of the party states to: (a) promote compliance with the laws, ordinances, and administrative rules relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles; (b) make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances, and administrative rules as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states. Article II. Definitions As used in this compact: (1) "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; (2) "home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle; (3) "conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority. Article III. Reports of Conviction The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code, or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security; and include any special findings made in connection therewith. Article IV. Effect of Conviction (1) The licensing authority in the home state, for the purposes of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to Article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for: (a) manslaughter or negligent homicide resulting from the operation of a motor vehicle; (b) driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle; (c) any felony in the commission of which a motor vehicle is used; (d) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another. (2) As to other convictions, reported pursuant to Article III, the licensing authority in the home state shall give such effect to the conduct as is provided by the laws of the home state. (3) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (1) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (1) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature, and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article. Article V. Applications for New Licenses Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if: (1) the applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated; (2) the applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of 1 year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways. (3) the applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license. Article VI. Applicability of Other Laws Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance or to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a nonparty state. Article VII. Compact Administrator and Interchange of Information (1) The head of the licensing authority of each party state shall be the administrator of this compact for the administrator's state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact. (2) The administrator

of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact. Article VIII. Entry Into Force and Withdrawal (1) This compact shall enter into force and become effective as to any state when it has enacted the same into law. (2) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 6 months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal. Article IX. Construction and Severability This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. History: En. Sec. 1, Ch. 154, L. 1963; R.C.M. 1947, 31-163; amd. Sec. 1946, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 4. Driver License Compact 61-5-402. Department as licensing authority -- information and documents to be furnished

61-5-402. Department as licensing authority -- information and documents to be furnished. As used in the compact, the term "licensing authority" with reference to this state shall mean the department of justice. The department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III, IV, and V of the compact. History: En. Sec. 2, Ch. 154, L. 1963; R.C.M. 1947, 31-164; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 4. Driver License Compact 61-5-403. Reimbursement of compact administrator

61-5-403. Reimbursement of compact administrator. The compact administrator provided for in Article VII of the compact is not entitled to any additional compensation on account of the service as administrator but is entitled to expenses incurred in connection with duties and responsibilities as administrator in the same manner as for expenses incurred in connection with any other duties or responsibilities of the administrator's office or employment. History: En. Sec. 3, Ch. 154, L. 1963; R.C.M. 1947, 31-165; amd. Sec. 1947, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 4. Driver License Compact 61-5-404. Governor as executive head

61-5-404. Governor as executive head. As used in the compact, with reference to this state, the term "executive head" shall mean the governor. History: En. Sec. 4, Ch. 154, L. 1963; R.C.M. 1947, 31-166.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 4. Driver License Compact 61-5-405. Offenses furnishing ground for suspension or revocation of license -- return to licensing jurisdiction of abstracts of court records and reports of conviction

61-5-405. Offenses furnishing ground for suspension or revocation of license -- return to licensing jurisdiction of abstracts of court records and reports of conviction. (1) Items enumerated in Article IV(1), subsections (a), (b), (c), and (d), of 61-5-401 refer specifically to 45-5-103, 45-5-104, 61-8-1002, the definition of felony as provided in 45-2-101, and 61-7-105, respectively. (2) In addition to convictions mentioned in subsection (1), the department, for the purpose of suspension, revocation, or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported as it would if the conduct had occurred in this state for: (a) convictions of perjury or the making of a false affidavit relating to the ownership or operation of a motor vehicle (61-5-303); (b) three convictions of reckless driving committed within a period of 12 months (61-8-301); or (c) convictions of careless driving resulting in death or reckless driving resulting in death. (3) Court abstracts or reports of conviction received by the department that name an individual licensed in another jurisdiction must be forwarded to the jurisdiction of licensure. The department may not take action against the driver's license or driving privilege of the individual as may be required elsewhere in this title. History: En. Sec. 6, Ch. 154, L. 1963; R.C.M. 1947, 31-168; amd. Sec. 98, Ch. 421, L. 1979; amd. Sec. 8, Ch. 485, L. 1981; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 4, Ch. 419, L. 1991; amd. Sec. 16, Ch. 354, L. 1995; amd. Sec. 2, Ch. 348, L. 2009; amd. Sec. 1, Ch. 235, L. 2011; amd. Sec. 37, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 5. Driver's Licenses Part 4. Driver License Compact 61-5-406. Review of administrative actions

61-5-406. Review of administrative actions. Any act or omission of any official or employee of this state done or omitted pursuant to, or in enforcing, the provisions of the Driver License Compact shall be subject to review pursuant to the provisions of 61-5-211, but any review of the validity of any conviction reported pursuant to the compact shall be limited to establishing the identity of the person so convicted. History: En. Sec. 8, Ch. 154, L. 1963; R.C.M. 1947, 31-169.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-101. Short title

61-6-101. Short title. This part may be cited as the "Motor Vehicle Insurance Responsibility and Verification Act". History: En. Sec. 41, Ch. 204, L. 1951; R.C.M. 1947, 53-457; amd. Sec. 20, Ch. 413, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-102. Definitions

61-6-102. Definitions. As used in this part, unless the context clearly indicates a different meaning, the following definitions apply: (1) "Commercial automobile insurance coverage" means any coverage provided to an insured, regardless of number of vehicles or entities covered, under a commercial, garage, or truckers coverage form and rated from a commercial manual or rating rule. Vehicle type and ownership are not the primary factors in underwriting the coverage or rating the coverage. The rating may be subject to individual risk characteristics, including but not limited to experience rating, schedule rating, loss rating, or deductible rating. (2) "Insurer" means an authorized insurer, as defined in 33-1-201, who issues or renews a motor vehicle liability policy. (3) "Judgment" means any judgment that has become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal rendered by a court of competent jurisdiction of any state or of the United States upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use of property, or upon a cause of action on an agreement of settlement for damages. (4) "License" means a driver's license as defined in 61-1-101. (5) "Low-volume insurer" means an insurer that provides motor vehicle liability policies for fewer than 500 vehicles in this state. (6) (a) "Motor vehicle liability policy" means a policy of insurance issued or renewed by an insurer to a person who owns or operates a motor vehicle that meets or exceeds the minimum coverage limits under 61-6-103, including a policy certified as provided in 61-6-133 as proof of financial responsibility. (b) A certificate filed for a nonresident as proof of financial responsibility under 61-6-134 must be treated as a motor vehicle liability policy under this part. (7) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by the nonresident of a motor vehicle or the use of a motor vehicle owned by the nonresident in this state. (8) "Person" means every natural person, firm, partnership, association, or corporation. (9) "Proof of financial responsibility" means proof of ability to respond in damages for liability on account of accidents occurring subsequent to the effective date of the proof of financial responsibility, arising out of the ownership, maintenance, or use of a motor vehicle. (10) "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada. (11) "Suspension" means the withdrawal, by action of the department, of a motor vehicle's registration, as defined in 61-1-101, for a period of time prescribed by department rule. (12) "System" means the online motor vehicle liability insurance verification system created in 61-6-157. History: En. Sec. 1, Ch. 204, L. 1951; amd. Sec. 1, Ch. 30, L. 1967; R.C.M. 1947, 53-418(part); amd. Sec. 60, Ch. 421, L. 1979; amd. Sec. 1, Ch. 212, L. 1985; amd. Sec. 193, Ch. 542, L. 2005; amd. Sec. 21, Ch. 413, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-103. Motor vehicle liability policy minimum limits -- other requirements

61-6-103. Motor vehicle liability policy minimum limits -- other requirements. (1) A motor vehicle liability policy must: (a) designate by explicit description or by appropriate reference all motor vehicles with respect to the coverage to be granted; and (b) insure the person named in the policy and any other person, as insured, using any motor vehicle or motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the motor vehicle or motor vehicles within the United States of America or Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as follows: (i) \$25,000 because of bodily injury to or death of one person in any one accident and subject to the limit for one person; (ii) \$50,000 because of bodily injury to or death of two or more persons in any one accident; and (iii) \$20,000 because of injury to or destruction of property of others in any one accident. (2) An operator's policy of liability insurance must insure the person named as insured in the policy against loss from the liability imposed upon the operator by law for damages arising out of the use by the operator of any motor vehicle not owned by the operator, within the same territorial limits and subject to the same limits of liability that are set forth in subsection (1) with respect to the operator's policy of liability insurance. (3) A motor vehicle liability policy must state the name and address of the named insured, the coverage afforded by the policy, the premium charged for the policy, the policy period, and the limits of liability and contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this part with respect to bodily injury and death or property damage, or both, and is subject to all the provisions of this part. (4) A motor vehicle liability policy need not insure any liability under any workers' compensation law or any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured or while engaged in the operation, maintenance, or repair of a motor vehicle or any liability for damage to property owned by, rented to, in charge of, or transported by the insured. (5) A motor vehicle liability policy is subject to the following provisions, which need not be contained in the policy: (a) The liability of the insurance carrier with respect to the insurance required by this part becomes absolute whenever injury or damage covered by the motor vehicle liability policy occurs. The policy may not be canceled or annulled as to the liability by any agreement

between the insurance carrier and the insured after the occurrence of the injury or damage. A statement made by the insured or on behalf of the insured and a violation of the policy may not defeat or void the policy. (b) The satisfaction by the insured of a judgment for the injury or damage may not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage. (c) The insurance carrier has the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount is deductible from the limits of liability specified in subsection (1)(b). (d) The policy, the written application for the policy, if any, and any rider or endorsement that does not conflict with the provisions of this part constitute the entire contract between the parties. (6) A motor vehicle policy is not subject to cancellation, termination, nonrenewal, or premium increase due to injury or damage incurred by the insured or operator unless the insured or operator is found to have violated a traffic law or ordinance of the state or a city, is found negligent or contributorily negligent in a court of law or by the arbitration proceedings contained in chapter 5 of Title 27, or pays damages to another party, whether by settlement or otherwise. A premium may not be increased during the term of the policy unless there is a change in exposure. (7) Any policy that grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage is not subject to the provisions of this part. With respect to a policy that grants the excess or additional coverage, the term "motor vehicle liability policy" applies only to that part of the coverage required by this section. (8) A motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this part. (9) A motor vehicle liability policy may provide for the prorating of the insurance under the policy with other valid and collectible insurance. (10) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers, which policies together meet the requirements. (11) Any binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for the policy. (12) A reduced limits endorsement may not be issued by a company to be attached to a policy issued in compliance with this section. History: En. Sec. 21, Ch. 204, L. 1951; amd. Sec. 4, Ch. 30, L. 1967; amd. Sec. 1, Ch. 177, L. 1973; amd. Sec. 1, Ch. 260, L. 1973; amd. Sec. 1, Ch. 295, L. 1974; amd. Sec. 1, Ch. 526, L. 1975; R.C.M. 1947, 53-438; amd. Sec. 1, Ch. 425, L. 1989; amd. Sec. 1948, Ch. 56, L. 2009; amd. Sec. 22, Ch. 413, L. 2009; amd. Sec. 1, Ch. 216, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-104. Uniformity of interpretation

61-6-104. Uniformity of interpretation. This part shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact it. History: En. Sec. 39, Ch. 204, L. 1951; R.C.M. 1947, 53-456.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-105. Department to administer law and make rules

61-6-105. Department to administer law and make rules. (1) The department shall administer and enforce the provisions of this part and may make rules necessary for the administration of the system. (2) The rules must: (a) establish standards and procedures for accessing the system by authorized personnel of the department, the courts, law enforcement personnel, and any other entities authorized by the department that are consistent with specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards; (b) determine a schedule for the implementation of the system, subject to the testing requirements in 61-6-157; (c) provide for the suspension of a vehicle's registration when: (i) a person fails to respond to a written inquiry from the department or its designee concerning the insurance status of a vehicle; (ii) a person misrepresents or provides false information to the department or its designee regarding the operational status or use of a vehicle for which liability insurance is mandatory; (iii) the department has reason to believe that a vehicle owner is not complying with the mandatory liability insurance requirements of 61-6-301; or (iv) the department receives a report from a court that a person has been convicted of a violation of 61-6-301 or 61-6-302 and the surrender of the vehicle registration receipt and license plates under 61-6-304 has been ordered; (d) prohibit the reinstatement of a vehicle's registration and the new registration of a vehicle unless the applicable reinstatement fees have been paid; (e) set a fee for the reinstatement of a vehicle's registration following a suspension imposed by the department. The fee may not exceed \$100 and is in addition to any other fine or penalty prescribed by the law. (f) provide for periodic insurance data file transfers from insurers under specifications and standards set forth in 61-6-157 to identify vehicles that are not covered by an insurance policy and to monitor ongoing compliance with mandatory vehicle liability insurance requirements; (g) provide for random checks to identify vehicles that are not covered by an insurance policy or specific checks to determine whether a vehicle that has previously been shown as uninsured is now insured; and (h) provide for a hearing for a person aggrieved by a suspension order issued by the department under the provisions of this part. (3) The department may adopt additional rules to: (a) assist authorized users in interpreting responses received from the system and determining the appropriate action to be taken as a result of a response; and (b) otherwise clarify system operations and business rules. History: En. Sec. 2, Ch. 204, L. 1951; amd. Sec. 1, Ch. 164, L. 1957; R.C.M. 1947, 53-419(a), (b); amd. Sec. 61, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 23, Ch. 413, L. 2009; amd. Sec. 3, Ch. 73, L. 2011; amd. Sec. 3, Ch. 142, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-108. Matters not to be evidence in civil suits

61-6-108. Matters not to be evidence in civil suits. Neither the action taken by the department pursuant to this part nor the findings, if

any, of the department upon which such action is based shall be referred to in any way or be any evidence of the negligence or due care of either party at the trial of any action at law to recover damages. History: En. Sec. 11, Ch. 204, L. 1951; amd. Sec. 1, Ch. 184, L. 1974; R.C.M. 1947, 53-428; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-109. Exceptions

61-6-109. Exceptions. This part shall not apply with respect to any motor vehicle owned by the United States, this state, or any political subdivision of this state or any municipality therein; or, except for 61-6-139, with respect to any motor vehicle which is subject to the provisions of 69-12-402, requiring insurance or other security. History: En. Sec. 33, Ch. 204, L. 1951; amd. Sec. 3, Ch. 184, L. 1974; R.C.M. 1947, 53-450.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-110. Other relief not precluded

61-6-110. Other relief not precluded. Nothing in this part shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law. History: En. Sec. 38, Ch. 204, L. 1951; R.C.M. 1947, 53-455.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-112. Surrender of license

61-6-112. Surrender of license. A person whose license has been suspended, whose policy of insurance or bond, when required under this part, has been canceled or terminated, or who neglects to furnish other proof upon request of the department shall immediately return the person's license to the department. If a licensee fails to return to the department the license as required by this section, then a peace officer may seize the license during an investigative stop or arrest and return the license to the department. History: En. Sec. 31, Ch. 204, L. 1951; amd. Sec. 1, Ch. 107, L. 1957; R.C.M. 1947, 53-448; amd. Sec. 1, Ch. 218, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 16, Ch. 309, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-113. through 61-6-120 reserved

61-6-113 through 61-6-120 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-121. Courts to report nonpayment of judgments

61-6-121. Courts to report nonpayment of judgments. (1) Whenever a person fails within 60 days to satisfy a judgment, upon the written request of the judgment creditor or the creditor's attorney, the clerk of the court, or of the judge of a court that does not have a clerk, in which any judgment is rendered within this state shall forward to the department immediately after the expiration of the 60 days a certified copy of the judgment. (2) If the defendant named in any certified copy of a judgment reported to the department is a nonresident, the department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident. History: En. Sec. 12, Ch. 204, L. 1951; R.C.M. 1947, 53-429; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1949, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-122. Suspension for nonpayment of judgments -- exceptions

61-6-122. Suspension for nonpayment of judgments -- exceptions. (1) The department, upon the receipt of a certified copy of a judgment, shall suspend the license and any nonresident's operating privilege of any person against whom a judgment was rendered, except as provided in this section and in 61-6-125. (2) If the judgment creditor consents in writing, in a form that the department prescribes, that the judgment debtor be allowed a license or a nonresident's operating privilege, the department may, in its discretion, allow the debtor a license or nonresident's operating privilege from the date of consent. The debtor's license or nonresident's operating privilege continues until the judgment creditor's consent is revoked in writing notwithstanding default in the payment of the judgment, or of any installments prescribed in 61-6-125, provided the judgment debtor furnishes proof of compliance with 61-6-301. History: En. Sec. 13, Ch. 204, L. 1951; R.C.M. 1947, 53-430; amd. Sec. 2, Ch. 218, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 17, Ch. 309, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-123. Suspension to continue until judgments paid and proof given -- maximum period of suspension

61-6-123. Suspension to continue until judgments paid and proof given -- maximum period of suspension. A license or nonresident's operating privilege remains suspended and may not be renewed, nor may a license be issued in the name of a judgment debtor, including a judgment debtor not previously licensed, until each judgment is stayed, satisfied in full, or satisfied to the extent provided in this part and until the person gives proof of compliance with 61-6-301 subject to the exemptions provided in 61-6-122

and 61-6-125 or 6 years have passed from date judgment was first entered and the person has complied with 61-6-301 and 61-6-302. History: En. Sec. 14, Ch. 204, L. 1951; amd. Sec. 1, Ch. 437, L. 1973; R.C.M. 1947, 53-431; amd. Sec. 5, Ch. 592, L. 1979; amd. Sec. 18, Ch. 309, L. 1999; amd. Sec. 17, Ch. 515, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-124. Satisfaction of judgments

61-6-124. Satisfaction of judgments. (1) Judgments herein referred to shall, for the purposes of this part only, be considered satisfied: (a) when \$25,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident; (b) when, subject to the limit of \$25,000 because of bodily injury to or death of one person, the sum of \$50,000 has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or (c) when \$5,000 has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident. (2) Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section. History: En. Sec. 15, Ch. 204, L. 1951; amd. Sec. 3, Ch. 30, L. 1967; R.C.M. 1947, 53-432; amd. Sec. 62, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-125. Installment payment of judgments -- default

61-6-125. Installment payment of judgments -- default. (1) A judgment debtor upon due notice to the judgment creditor may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments. The court, in its discretion and without prejudice to any other legal remedies that the judgment creditor may have, may order payment in installments and fix the amounts and times of the payments. (2) The department may not suspend a license or a nonresident's operating privilege and shall restore any license or nonresident's operating privilege suspended following nonpayment of a judgment, when the judgment debtor gives proof of compliance with 61-6-301 and obtains an order permitting the payment of the judgment in installments, and while the payment of any installment is not in default. (3) If the judgment debtor fails to pay any installment as specified by a court order, then the department shall, upon notice of the default, suspend the license or nonresident's operating privilege of the judgment debtor until the judgment is satisfied, as provided in this part. History: En. Sec. 16, Ch. 204, L. 1951; R.C.M. 1947, 53-433; amd. Sec. 3, Ch. 218, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 19, Ch. 309, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-126. through 61-6-130 reserved

61-6-126 through 61-6-130 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-131. When proof of financial responsibility required

61-6-131. When proof of financial responsibility required. (1) Whenever the department under any of the laws of this state revokes the license or privilege to drive of any person, the license must remain revoked and may not be restored until the person is otherwise eligible and files a certificate of insurance as provided in 61-6-133 or 61-6-134. (2) The department may not issue a probationary license to a person whose driver's license or privilege to drive is revoked unless the department receives proof of financial responsibility by a certificate of insurance as provided in 61-6-133 or 61-6-134 and the person is otherwise eligible for a probationary license. History: En. Sec. 17, Ch. 204, L. 1951; amd. Sec. 1, Ch. 236, L. 1961; R.C.M. 1947, 53-434; amd. Sec. 4, Ch. 218, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1950, Ch. 56, L. 2009; amd. Sec. 5, Ch. 445, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-132. Alternate methods of giving proof

61-6-132. Alternate methods of giving proof. (1) Proof of financial responsibility when required under this part with respect to a motor vehicle or with respect to a person who is not the owner of a motor vehicle may be given by filing: (a) a certificate of insurance as provided in 61-6-133 or 61-6-134; (b) a bond as provided in 61-6-137; (c) a certificate or deposit of money or securities as provided in 61-6-138; or (d) a certificate of self-insurance, as provided in 61-6-143, supplemented by an agreement by the self-insurer that, with respect to accidents occurring while the certificate is in force, the self-insurer will pay the same judgments and in the same amounts that an insurer would have been obligated to pay under an owner's motor vehicle liability policy if it had issued a policy to the self-insurer. (2) A motor vehicle may not be or continue to be registered in the name of any person required to file proof of financial responsibility unless the proof is furnished for the motor vehicle. History: En. Sec. 18, Ch. 204, L. 1951; R.C.M. 1947, 53-435; amd. Sec. 1951, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-133. Certificate of insurance as proof

61-6-133. Certificate of insurance as proof. Proof of financial responsibility may be furnished by filing with the department the

written certificate of any insurance carrier duly authorized to do business in this state certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. Such certificate shall give the effective date of such motor vehicle liability policy, which date shall be the same as the effective date of the certificate, and shall designate by explicit description or by appropriate reference all motor vehicles covered thereby, unless the policy is issued to a person who is not the owner of a motor vehicle. History: En. Sec. 19, Ch. 204, L. 1951; R.C.M. 1947, 53-436; amd. Sec. 5, Ch. 218, L. 1985; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-134. Certificate furnished by nonresident as proof

61-6-134. Certificate furnished by nonresident as proof. (1) The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the department a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is registered, or if such nonresident does not own a motor vehicle, then in the state in which the insured resides, provided such certificate otherwise conforms to the provisions of this part, and the department shall accept the same upon condition that said insurance carrier complies with the following provisions with respect to the policies so certified: (a) Said insurance carrier shall execute a power of attorney authorizing the department to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state. (b) Said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein. (2) If any insurance carrier not authorized to transact business in this state, which has qualified to furnish proof of financial responsibility, defaults in any said undertaking or agreements, the department shall not thereafter accept as proof any certificate of said carrier whether theretofore filed or thereafter tendered as proof, so long as such default continues. History: En. Sec. 20, Ch. 204, L. 1951; R.C.M. 1947, 53-437; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-135. Notice of cancellation or termination of certified policy

61-6-135. Notice of cancellation or termination of certified policy. When an insurance carrier has certified a motor vehicle liability policy under 61-6-133 or a policy under 61-6-134, the insurance so certified shall not be canceled or terminated until at least 10 days after a notice of cancellation or termination of the insurance so certified shall be filed in the office of the department, except that such a policy subsequently procured and certified shall on the effective date of its certification terminate the insurance previously certified with respect to any motor vehicle designated in both certificates. History: En. Sec. 22, Ch. 204, L. 1951; R.C.M. 1947, 53-439; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-136. Other policies not affected

61-6-136. Other policies not affected. (1) This part does not apply to or affect policies of automobile insurance against liability that are required by any other law of this state, and those policies, if they contain an agreement or are endorsed to conform to the requirements of this part, may be certified as proof of financial responsibility under this part. (2) This part does not apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by persons in the insured's employ or on the insured's behalf of motor vehicles not owned by the insured. History: En. Sec. 23, Ch. 204, L. 1951; R.C.M. 1947, 53-440; amd. Sec. 1952, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-137. Bond as proof of responsibility

61-6-137. Bond as proof of responsibility. (1) Proof of financial responsibility may be furnished by filing with the department the bond of a surety company authorized to transact business in the state or a bond with at least two individual sureties each owning real estate within this state and together having equities equal in value to at least twice the amount of the bond. The real estate must be scheduled in the bond approved by a judge of a court of record. The bond must be conditioned for payments in amounts and under the same circumstances that would be required in a motor vehicle liability policy and may not be cancelable except after 10 days' written notice to the department. Upon the filing of notice to this effect by the department in the office of the county clerk and recorder of the county in which the real estate is located, the bond constitutes a lien in favor of the state upon the scheduled real estate of any surety. The lien exists in favor of any holder of a judgment against the person who has filed the bond. (2) The person in whose favor the lien exists may, for the person's own use and benefit and at the person's sole expense, bring an action or actions in the name of the state against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of any person who has executed the bond. The provisions of the Montana Rules of Civil Procedure, except to the extent that they are inconsistent with the provisions of this part, are applicable to and constitute the rules of practice in the foreclosure actions or proceedings. The provisions of the Montana Rules of Civil Procedure relative to new trials and appeals, except to the extent that they are inconsistent with the provisions of this part, apply to the actions or proceedings. History: En. Sec. 24, Ch. 204, L. 1951; R.C.M. 1947, 53-441; amd. Sec. 63, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1953, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-138. Money or securities as proof of responsibility

61-6-138. Money or securities as proof of responsibility. (1) Proof of financial responsibility may be evidenced by the certificate of the state treasurer that the person named in the certificate has deposited with the treasurer \$55,000 in cash, or securities that may legally be purchased by savings banks or for trust funds of a market value of \$55,000. The state treasurer may not accept any deposit and issue a certificate and the department may not accept the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides. (2) The deposit must be held by the state treasurer to satisfy, in accordance with the provisions of this part, any execution on a judgment issued against the person making the deposit for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use of property, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the deposit was made. Money or securities deposited may not be subject to attachment or execution unless the attachment or execution arises out of a suit for damages as described in this subsection. History: En. Sec. 25, Ch. 204, L. 1951; R.C.M. 1947, 53-442; amd. Sec. 6, Ch. 218, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1954, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-139. Owner permitted to give proof for others

61-6-139. Owner permitted to give proof for others. Whenever any person required to give proof of financial responsibility hereunder is or later becomes an operator in the employ of any owner, or is or later becomes a member of the immediate family or household of the owner, the department shall accept proof given by such owner in lieu of proof by such other person to permit such other person to operate a motor vehicle for which the owner has given proof as herein provided. The department shall designate the restrictions imposed by this section on the face of such person's license. History: En. Sec. 26, Ch. 204, L. 1951; R.C.M. 1947, 53-443; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-140. Substitution of proof of responsibility

61-6-140. Substitution of proof of responsibility. The department shall consent to the cancellation of any bond or certificate of insurance or the department shall direct and the state treasurer shall return any money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this part. History: En. Sec. 27, Ch. 204, L. 1951; R.C.M. 1947, 53-444; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-142. Duration of proof -- when money or securities may be canceled or returned

61-6-142. Duration of proof -- when money or securities may be canceled or returned. (1) The department shall direct and the state treasurer shall return to the person entitled any money or securities deposited pursuant to this part as proof of financial responsibility, or the department shall waive the requirement of filing proof under this part, in any of the following events: (a) at any time after 3 years from the date the proof was required when during the 3-year period preceding the request the department has not received record of a conviction or a forfeiture of bail that would require or permit the suspension or revocation of the license or nonresident's operating privilege of the person by or for whom the proof was furnished; (b) in the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or (c) in the event the person who has given proof surrenders the person's license to the department. (2) However, the department may not consent to the return of any money or securities if any action for damages upon a liability covered by the proof is then pending or any judgment upon any liability is then unsatisfied or if the person who has deposited the money or securities has, within 1 year immediately preceding the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of the facts or that the applicant has been released from all liability or has been finally adjudicated not to be liable for the injury or damage is sufficient evidence in the absence of evidence to the contrary in the records of the department. (3) Whenever any person whose proof has been canceled or returned under subsection (1)(c) applies for a license within a period of 3 years from the date proof was originally required, the application must be refused unless the applicant complies with the insurance or bond requirements under 61-6-301 and 61-6-302. History: En. Sec. 29, Ch. 204, L. 1951; R.C.M. 1947, 53-446; amd. Sec. 6, Ch. 592, L. 1979; amd. Sec. 7, Ch. 218, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1955, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-143. Self-insurers

61-6-143. Self-insurers. (1) Any person in whose name more than 25 motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the department as provided in subsection (2) of this section. (2) The department may, in its discretion, upon the application of such a person, issue a certificate of self-insurance when it is satisfied that such person

is possessed and will continue to be possessed of ability to pay judgments obtained against such person. (3) Upon not less than 5 days' notice and a hearing pursuant to such notice, the department may upon reasonable grounds cancel a certificate of self-insurance. Failure to pay any judgment within 30 days after such judgment shall have become final shall constitute a reasonable ground for the cancellation of a certificate of self-insurance. History: En. Sec. 34, Ch. 204, L. 1951; R.C.M. 1947, 53-451; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-144. Assigned risk plans

61-6-144. Assigned risk plans. After consultation with insurance companies authorized to issue automobile liability policies in this state, the commissioner of insurance shall approve a reasonable plan or plans for the equitable apportionment among such companies of applicants for such policies and for motor vehicle liability policies who are in good faith entitled to but are unable to procure such policies through ordinary methods. When any such plan has been approved, all such insurance companies shall subscribe thereto and participate therein. Any applicant for any such policy, any person insured under any such plan, and any insurance company affected, may appeal to the commissioner of insurance from any ruling or decision of the manager or committee designated to operate such plan. Any person aggrieved hereunder by any order or act of the commissioner of insurance may, within 10 days after notice thereof, file a petition in the district court of Lewis and Clark County for a review thereof. The court shall summarily hear the petition and may make any appropriate order or decree. History: En. Sec. 35, Ch. 204, L. 1951; R.C.M. 1947, 53-452.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-145. through 61-6-150 reserved

61-6-145 through 61-6-150 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-151. Violations -- penalties

61-6-151. Violations -- penalties. (1) Any person who shall forge or, without authority, sign any evidence of proof of financial responsibility or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority shall be fined not more than \$1,000 or imprisoned for not more than 1 year or both. (2) Any person whose license or nonresident's operating privilege has been suspended or revoked under this part and who, during such suspension or revocation drives any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway, except as permitted under this part, shall be fined not more than \$500 or imprisoned not exceeding 6 months or both. (3) Any person willfully failing to return a license as required in 61-6-112 shall be fined not more than \$500 or imprisoned not to exceed 30 days or both. (4) Any person who shall violate any provision of this part for which no penalty is otherwise provided shall be fined not more than \$500 or imprisoned not more than 90 days or both. History: (1) thru (3) En. Sec. 32, Ch. 204, L. 1951; amd. Sec. 2, Ch. 184, L. 1974; Sec. 53-449, R.C.M. 1947; (4) En. Sec. 43, Ch. 204, L. 1951; Sec. 53-458, R.C.M. 1947; R.C.M. 1947, 53-449, 53-458; amd. Sec. 8, Ch. 218, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-152. through 61-6-156 reserved

61-6-152 through 61-6-156 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-157. Creation of online motor vehicle liability insurance verification system

61-6-157. Creation of online motor vehicle liability insurance verification system. (1) The department, in cooperation with the commissioner of insurance, shall establish an accessible common carrier-based motor vehicle insurance verification system to verify the compliance of a motor vehicle owner or operator with motor vehicle liability policy requirements under 61-6-103, 61-6-301, and 61-6-302 and facilitate or monitor proof of financial responsibility filings under 61-6-133 and 61-6-134. (2) The department may contract with a private vendor or vendors to establish and maintain the system. (3) The system must: (a) send requests to insurers for verification of motor vehicle liability insurance using electronic services established by the insurers, through the internet, world wide web, or a similar proprietary or common carrier electronic system in compliance with the specifications and standards of the insurance industry committee on motor vehicle administration and other applicable industry standards; (b) include appropriate provisions to secure its data against unauthorized access and to maintain a record of all requests and responses; (c) be accessible, without fee, to authorized personnel of the department, the courts, law enforcement personnel, county treasurers, and authorized agents under the provisions of 61-3-116; (d) interface, wherever possible, with existing department and law enforcement systems; (e) receive insurance data file transfers from insurers under specifications and standards set forth in subsection (3)(a) to identify vehicles that are not covered by an insurance policy; (f) provide a means by which low-volume insurers that are unable to deploy an online interface with the system can report insurance policy data to the department or its designee for inclusion in the system; (g)

provide a means to track separately or distinguish motor vehicles that are subject to a certificate of self-insurance under 61-6-143, a surety or indemnity bond under 61-6-137, or a deposit of cash or securities under 61-6-138; (h) be available 24 hours a day, 7 days a week, subject to reasonable allowances for scheduled maintenance or temporary system failures, to verify the insurance status of any vehicle in a manner prescribed by the department; and (i) be used only for information-gathering and educational purposes until the completion of an appropriate testing period of not less than 6 months. (4) The provisions of Title 2, chapter 6, parts 10 and 11, do not apply to the information contained in the verification system. (5) Every insurer shall cooperate with the department in establishing and maintaining the system and shall provide access to motor vehicle liability policy status information to verify liability coverage: (a) for a vehicle insured by that company that is registered in this state; and (b) if available, for a vehicle that is insured by that company or that is operated in this state and that is the subject of an accident investigation regardless of where the vehicle is registered. History: En. Sec. 1, Ch. 413, L. 2009; amd. Sec. 4, Ch. 73, L. 2011; amd. Sec. 56, Ch. 348, L. 2015; amd. Sec. 6, Ch. 445, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 1. Motor Vehicle Insurance Responsibility and Verification 61-6-158. Vehicle insurance verification and license plate operating account

61-6-158. Vehicle insurance verification and license plate operating account. (1) There is a vehicle insurance verification and license plate operating account in the state special revenue fund type as provided in 17-2-102. (2) Fees imposed under 61-3-321(7)(b)(ii) and (13), 61-3-333, 61-3-465(1)(b)(i), 61-3-480(2)(c)(i), 61-3-562(1)(a)(ii), or 61-3-701(5) or established and collected under 61-6-105 must be deposited in the account. (3) The money in the vehicle insurance verification and license plate operating account must be used by the department to pay costs incurred in or associated with the operation, maintenance, and enhancement of the system established under 61-6-157 and the contract required in 61-3-338 for the manufacture and distribution of license plates by Montana correctional enterprises or other costs incurred by the department or as otherwise appropriated by the legislature to the department. History: En. Sec. 3, Ch. 413, L. 2009; amd. Sec. 12, Ch. 209, L. 2011; amd. Sec. 8, Ch. 247, L. 2011; amd. Sec. 22, Ch. 323, L. 2017; amd. Sec. 20, Ch. 384, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 2. Liability of Vehicle Owner -- Contract Indemnification Limitations 61-6-201. Liability of owner for negligence of employee driver

61-6-201. Liability of owner for negligence of employee driver. The owner of a vehicle running or traveling upon any highway or road for the conveyance of passengers is liable for all damage to person or property done by any person in the owner's employment as a driver while driving the vehicle, whether done willfully or negligently or otherwise, in the same manner that driver would be liable. History: En. Sec. 5, Ch. 8, Ch. 72, L. 1913; re-en. Sec. 5, Ch. 8, Ch. 141, L. 1915; re-en. Sec. 1748, R.C.M. 1921; Cal. Pol. C. Sec. 2936; re-en. Sec. 1748, R.C.M. 1935; R.C.M. 1947, 32-1112; amd. Sec. 1956, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 2. Liability of Vehicle Owner -- Contract Indemnification Limitations 61-6-202. Motor carrier transportation contract indemnification -- limitation -- definition

61-6-202. Motor carrier transportation contract indemnification -- limitation -- definition. (1) Except as provided in subsection (2), a motor carrier transportation contract provision that requires one party to the contract to indemnify, hold harmless, insure, or defend the other party to the contract or the other party's officers, employees, or agents for liability, damages, losses, or costs that are caused by the negligence, recklessness, or intentional misconduct of the other party or the other party's officers, employees, or agents is void as against the public policy of this state. (2) A motor carrier transportation contract may contain a provision requiring one party to the contract to indemnify, hold harmless, or insure the other party to the contract or the other party's officers, employees, or agents for liability, damages, losses, or costs, including but not limited to reasonable attorney fees, only to the extent that the liability, damages, losses, or costs are caused by the negligence, recklessness, or intentional misconduct of a third party or of the indemnifying party or the indemnifying party's officers, employees, or agents. (3) This section does not apply to the Uniform Intermodal Interchange and Facilities Access Agreement administered by the intermodal association of North America or other agreements providing for the interchange, use, or possession of intermodal chassis or containers or other intermodal equipment. (4) As used in this section, "motor carrier transportation contract" means a contract, agreement, or understanding covering: (a) the transportation of property for compensation or hire by a motor carrier; (b) entrance onto a property by a motor carrier for the purpose of loading, unloading, or transporting property for compensation or hire; or (c) a service incidental to an activity described in subsection (4)(a) or (4)(b), including but not limited to storage of property. History: En. Sec. 1, Ch. 108, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 3. Mandatory Liability Protection 61-6-301. Required motor vehicle insurance -- family member exclusion

61-6-301. Required motor vehicle insurance -- family member exclusion. (1) (a) Except as provided in subsection (1)(b), an owner of a motor vehicle that is registered and operated in Montana by the owner or with the owner's permission shall continuously provide insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any

person caused by maintenance or use of a motor vehicle in an amount not less than that required by 61-6-103, or a certificate of self-insurance issued in accordance with 61-6-143. (b) Notwithstanding the mandatory motor vehicle liability insurance protection provided for in subsection (1)(a), nothing in this part may be construed to prohibit the exclusion from insurance coverage of a named family member in a motor vehicle liability insurance policy. (2) It is unlawful for a person to operate a motor vehicle upon ways of this state open to the public as defined in 61-8-101 without a valid policy of liability insurance in effect in an amount not less than that required by 61-6-103 unless the person has been issued a certificate of self-insurance under 61-6-143 or is operating a vehicle exempt under 61-6-303. History: En. Sec. 1, Ch. 592, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 425, L. 1989; amd. Sec. 1, Ch. 393, L. 1995; amd. Sec. 194, Ch. 542, L. 2005; amd. Sec. 1, Ch. 4, L. 2019; amd. Sec. 7, Ch. 445, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 3. Mandatory Liability Protection 61-6-302. Proof of compliance

61-6-302. Proof of compliance. (1) The registration receipt required by 61-3-322 must contain a statement that unless the vehicle is eligible for an exemption under 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, or a certificate of self-insurance, as required by 61-6-301. (2) (a) Each owner or operator of a motor vehicle shall carry in the motor vehicle as proof of compliance with 61-6-301 either: (i) an insurance card approved by the department but issued by the insurance carrier to the motor vehicle owner; or (ii) an electronic device on which an electronic document issued by the insurance carrier showing proof of compliance with 61-6-301 may be displayed. (b) If the insurance card or electronic document is issued under a commercial automobile insurance policy or a self-insured fleet, the insurance card or electronic document must indicate the status as "commercially insured" or "fleet". (c) A motor vehicle owner or operator shall exhibit the insurance card or display the electronic document on demand of a justice of the peace, a city or municipal judge, a peace officer, a highway patrol officer, or a field deputy or inspector of the department. (d) A person commits an offense under this subsection if the person fails to carry in the motor vehicle the insurance card or an electronic device on which the electronic document may be displayed or fails to exhibit the insurance card or display the electronic document on demand of a person specified in subsection (2)(c). (e) For the purposes of this subsection (2), "insurance card" includes an electronic representation or equivalent of a documentary insurance card that the insurer delivers by electronic means, as defined in 33-15-601, to satisfy the requirements of this subsection (2). (3) In lieu of charging an operator who is not the owner of a vehicle with violating subsection (2), the officer may issue a complaint and notice to appear charging the owner with a violation of 61-6-301 and serve the complaint and notice to appear on the owner of the vehicle: (a) personally; or (b) by certified mail, return receipt requested, at the address for the owner listed on the registration receipt for the vehicle or, following query through available law enforcement systems, at the address maintained for the vehicle's owner by the jurisdiction in which the vehicle is titled and registered, or both. (4) An owner or operator charged with violating subsection (2) may not be convicted if: (a) the arresting or issuing officer or another person authorized to access information from the online motor vehicle liability insurance verification system under 61-6-309 submits to the system, when implemented, a request that provides proof of insurance valid at the time the alleged violation took place; or (b) when the system under 61-6-157 is not available, the person produces in court or the office of the arresting or issuing officer proof of insurance valid at the time the alleged violation took place. History: En. Sec. 2, Ch. 592, L. 1979; amd. Sec. 1, Ch. 409, L. 1981; amd. Sec. 36, Ch. 614, L. 1981; amd. Sec. 5, Ch. 348, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 35, Ch. 611, L. 1987; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 278, L. 1993; amd. Sec. 4, Ch. 365, L. 1993; amd. Sec. 2, Ch. 393, L. 1995; amd. Sec. 1, Ch. 203, L. 2009; amd. Sec. 24, Ch. 413, L. 2009; amd. Sec. 5, Ch. 73, L. 2011; amd. Sec. 1, Ch. 146, L. 2015; amd. Sec. 9, Ch. 369, L. 2015; amd. Sec. 34, Ch. 321, L. 2017; amd. Sec. 8, Ch. 445, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 3. Mandatory Liability Protection 61-6-303. Exempt vehicles

61-6-303. Exempt vehicles. The following vehicles and their drivers are exempt from the provisions of 61-6-301: (1) a vehicle owned by the United States government or any state or political subdivision; (2) an implement of husbandry or special mobile equipment that is only incidentally operated on a highway or property open to use by the public; (3) a vehicle operated upon a highway only for the purpose of crossing the highway from one property to another; (4) a commercial vehicle registered or proportionally registered in this and any other jurisdiction if the vehicle is covered by a motor vehicle liability insurance policy complying with the laws of another jurisdiction in which it is registered; (5) a motorcycle or quadricycle; (6) a vehicle moved solely by human or animal power. History: En. Sec. 3, Ch. 592, L. 1979; amd. Sec. 2, Ch. 212, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 34, Ch. 516, L. 1985; amd. Sec. 1957, Ch. 56, L. 2009; amd. Sec. 2, Ch. 4, L. 2019; amd. Sec. 9, Ch. 445, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 3. Mandatory Liability Protection 61-6-304. Penalties

61-6-304. Penalties. (1) Conviction of a first offense under 61-6-301 or 61-6-302 is punishable by a fine of not less than \$250 or more than \$500. A second conviction is punishable by a fine of \$350. A third or subsequent conviction is punishable by a fine of \$500 or by imprisonment in the county jail for not more than 10 days, or both. (2) Upon a second or subsequent conviction under 61-6-301 or 61-6-302, the sentencing court shall order the surrender of the vehicle registration receipt and license plates for the vehicle operated at the time of the offense if that vehicle was operated by the registered owner or a member of the registered owner's immediate family or by a person whose operation of that vehicle was authorized by the registered owner. The court shall report the

surrender of the registration receipt and license plates to the department, which shall immediately suspend the vehicle's registration. The vehicle's registration status may not be reinstated until proof of compliance with 61-6-301 is furnished to the department, but if the vehicle is transferred to a new owner, the new owner is entitled to register the vehicle. The surrendered license plates must be recycled or destroyed by the court unless the court decides to retain the license plates for the owner until the registration suspension has been completed or the requirements for a restricted registration receipt have been met. Upon proof of compliance with 61-6-301 and payment of fees required under 61-3-333 for replacement license plates and registration decal and under 61-3-341 for a replacement registration receipt, during the period of 90 days from the date of a second conviction or 180 days from the date of a third or subsequent conviction, the department shall issue a restricted registration receipt to the offender. A restricted registration receipt limits the use of the motor vehicle operated at the time of the offense to use solely for employment purposes until the date indicated on the restricted registration receipt. (3) Upon a fourth or subsequent conviction under 61-6-301 or 61-6-302, the court shall order the surrender of the driver's license of the offender, if the vehicle operated at the time of the offense was registered to the offender or a member of the offender's immediate family. The court shall send the driver's license, along with a copy of the complaint and the dispositional order, to the department, which shall immediately suspend the driver's license. The department may not reinstate a driver's license suspended under this subsection until the registered owner provides the department proof of compliance with 61-6-301 and the department determines that the registered owner is otherwise eligible for licensure. (4) An offender is considered to have been previously convicted for the purposes of sentencing if less than 5 years have elapsed between the commission of the present offense and a previous conviction. History: En. Sec. 4, Ch. 592, L. 1979; amd. Sec. 2, Ch. 409, L. 1981; amd. Sec. 178, Ch. 575, L. 1981; amd. Sec. 3, Ch. 212, L. 1985; amd. Sec. 1, Ch. 440, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 155, L. 1987; amd. Sec. 5, Ch. 365, L. 1993; amd. Sec. 3, Ch. 393, L. 1995; amd. Sec. 1, Ch. 534, L. 1995; amd. Sec. 1, Ch. 452, L. 1997; amd. Sec. 1, Ch. 394, L. 2005; amd. Sec. 56, Ch. 329, L. 2007; amd. Sec. 35, Ch. 321, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 3. Mandatory Liability Protection 61-6-305. through 61-6-308 reserved

61-6-305 through 61-6-308 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 6. Responsibility of Vehicle Users and Owners Part 3. Mandatory Liability Protection 61-6-309. Law enforcement use of verification system

61-6-309. Law enforcement use of verification system. (1) Notwithstanding the requirements of 61-6-302, a peace officer or authorized employee of a law enforcement agency may, during the course of a traffic stop or accident investigation, access the verification system provided under 61-6-157 to verify whether a motor vehicle is covered by a valid motor vehicle liability policy that meets the requirements of 61-6-103 and 61-6-301. (2) (a) Except as provided in subsection (2)(b), the response received from the system supersedes an insurance card or electronic document showing proof of compliance with 61-6-301 produced or displayed by a vehicle owner or operator, and notwithstanding the display of an insurance card or electronic document by the owner or operator, the peace officer may issue a complaint and notice to appear to the owner or operator for a violation of 61-6-301 or 61-6-302. (b) Subsection (2)(a) does not apply if the vehicle is: (i) covered under a commercial automobile insurance coverage policy; (ii) part of a self-insured fleet as provided in 61-6-143; or (iii) included in an insurance binder, as allowed by 33-15-411, that has not been entered into the system at the time the system is accessed under subsection (1) of this section. (3) Except upon reasonable cause to believe that a driver has violated another traffic regulation or that the driver's vehicle is unsafe or not equipped as required by law, a peace officer may not use the verification system to stop a driver for operating a motor vehicle in violation of 61-6-301. History: En. Sec. 2, Ch. 413, L. 2009; amd. Sec. 2, Ch. 146, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-101. Short title -- definition

61-7-101. Short title -- definition. (1) This part will be cited as the "Uniform Accident Reporting Act". (2) As used in this part, "accident" means any event in which a vehicle collides with any object, person, deceased person, or animal or any event in which a person is injured or killed or property damage is caused as a result of at least one vehicle's movement. History: En. Sec. 18, Ch. 210, L. 1939; R.C.M. 1947, 32-1217; amd. Sec. 2, Ch. 235, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-102. Application

61-7-102. Application. The provisions of this part shall apply upon highways and elsewhere throughout the state. History: En. Sec. 22, Ch. 263, L. 1955; R.C.M. 1947, 32-2124(part).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-103. Accidents involving another person or deceased person

61-7-103. Accidents involving another person or deceased person. The driver of any vehicle who knows or reasonably should have known that the driver has been in an accident with another person or a deceased person shall immediately stop the vehicle at the scene of the accident or as close to the accident as possible but shall then return to and in every event remain at the scene of the

accident until the driver has fulfilled the requirements of 61-7-105. Each stop at the scene of the accident must be made without obstructing traffic more than is necessary. History: En. Sec. 3, Ch. 210, L. 1939; Subd. (c) amd. Sec. 1, Ch. 212, L. 1947; amd. Sec. 2, Ch. 256, L. 1959; R.C.M. 1947, 32-1202; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 7, Ch. 556, L. 2003; amd. Sec. 2, Ch. 145, L. 2007; amd. Sec. 3, Ch. 235, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-105. Duty to give information and render aid

61-7-105. Duty to give information and render aid. (1) The driver of any vehicle required to stop pursuant to 61-7-103 shall: (a) give the driver's name, address, and the registration number of the vehicle the driver is driving and shall upon request and if available show a driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with; (b) render to any person injured in the accident reasonable assistance, including the transporting or the making of arrangements for the transporting of the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that the treatment is necessary or if transportation is requested by the injured person; and (c) if any person in the accident is injured, deceased, or otherwise incapacitated or if notice is required pursuant to 61-7-108, remain at the scene of the accident until an on-duty peace officer with authority to investigate the accident gives the driver express permission to leave. This subsection (1)(c) does not apply when the driver reasonably believes it is necessary to leave the scene in order to seek emergency medical care for any person involved in the accident or to give notice to authorities pursuant to 61-7-108. (2) A driver may not delegate to another the duties imposed under this section. History: En. Sec. 5, Ch. 210, L. 1939; R.C.M. 1947, 32-1204; amd. Sec. 34, Ch. 443, L. 1987; amd. Sec. 1959, Ch. 56, L. 2009; amd. Sec. 4, Ch. 235, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-106. Duty upon striking unattended vehicle

61-7-106. Duty upon striking unattended vehicle. The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof. History: En. Sec. 6, Ch. 210, L. 1939; R.C.M. 1947, 32-1205.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-107. Duty upon striking fixtures or other property upon highway

61-7-107. Duty upon striking fixtures or other property upon highway. The driver of any vehicle involved in an accident resulting only in damage to fixtures or other property legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of the property of the accident, of the driver's name and address, and of the registration number of the vehicle being driven and shall upon request and if available exhibit a driver's license and shall report the accident when and as required in 61-7-109. History: En. Sec. 7, Ch. 210, L. 1939; amd. Sec. 3, Ch. 256, L. 1959; R.C.M. 1947, 32-1206; amd. Sec. 35, Ch. 443, L. 1987; amd. Sec. 1960, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-108. Immediate notice of accidents

61-7-108. Immediate notice of accidents. The driver of a vehicle who knows or reasonably should have known that the driver has been involved in an accident resulting in injury to or death of any person, striking the body of a deceased person, or property damage to an apparent extent of \$1,000 or more shall immediately by the quickest means of communication give notice of the accident to the local police department if the accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the highway patrol. History: En. Sec. 8, Ch. 210, L. 1939; amd. Sec. 4, Ch. 256, L. 1959; R.C.M. 1947, 32-1207; amd. Sec. 1, Ch. 59, L. 1987; amd. Sec. 1, Ch. 115, L. 1999; amd. Sec. 5, Ch. 235, L. 2011; amd. Sec. 1, Ch. 314, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-109. Written reports of accidents -- additional information -- form of report

61-7-109. Written reports of accidents -- additional information -- form of report. (1) The operator of a motor vehicle that is in any manner involved in an accident within this state in which a person is killed or injured or in which damage to the property of a person in excess of \$1,000 is sustained shall, within 10 days after the accident, report the matter in writing to the department unless the accident was investigated and reported by a law enforcement officer as provided in subsection (3). (2) The department may require the driver of a vehicle involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient and may require witnesses of accidents to render reports. (3) A law enforcement officer who in the regular course of duty investigates a motor vehicle accident in which a person is killed or injured or in which damage to the property of a person exceeds \$1,000, either at the time of and at the scene of the accident or after the accident by interviewing participants or witnesses, shall within 10 days after completing the investigation forward a written report of the accident to the department. (4) The form of the accident report required under this section must contain information sufficient to enable the

department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in chapter 6 of this title. (5) A report required by subsection (1) or (2) may not be used as evidence in any trial, civil or criminal, arising out of an accident. History: En. Sec. 9, Ch. 210, L. 1939; amd. Sec. 5, Ch. 256, L. 1959; amd. Sec. 1, Ch. 52, L. 1971; R.C.M. 1947, 32-1208; amd. Sec. 64, Ch. 421, L. 1979; amd. Sec. 1, Ch. 299, L. 1983; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 59, L. 1987; amd. Sec. 70, Ch. 83, L. 1989; amd. Sec. 1, Ch. 486, L. 1989; amd. Sec. 2, Ch. 115, L. 1999.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-110. When driver unable to report

61-7-110. When driver unable to report. (1) An accident report is not required under this part from any person who is physically incapable of making such report during the period of such incapacity. (2) Whenever the driver of a vehicle is physically incapable of giving an immediate notice of an accident as required in 61-7-108, and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall make or cause to be given the notice not given by the driver. (3) Whenever the driver is physically incapable of making a written report of an accident as required in 61-7-109, and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within 10 days after learning of such accident, make such report not made by the driver. (4) Any person who gives information in reports as required in 61-7-109 or in this section, knowing or having reason to believe that such information is false, shall be fined not more than \$500 or imprisonment for not more than 6 months or both. History: En. Sec. 10, Ch. 210, L. 1939; amd. Sec. 6, Ch. 256, L. 1959; R.C.M. 1947, 32-1209.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-111. Accident report forms

61-7-111. Accident report forms. (1) The department shall prepare and, upon request, supply to police departments, coroners, medical examiners, sheriffs, garages, and other suitable agencies or individuals forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the causes, conditions then existing, and the persons and vehicles involved. (2) Every accident report required to be made in writing shall be made on the appropriate form approved by the department and shall contain all of the information required therein unless not available. (3) The department may suspend the license or permit to drive of any resident or the nonresident operating privilege of any person failing to report an accident as herein provided until such report has been filed. History: En. Sec. 11, Ch. 210, L. 1939; amd. Sec. 7, Ch. 256, L. 1959; R.C.M. 1947, 32-1210; amd. Sec. 31, Ch. 7, L. 1979; amd. Sec. 2, Ch. 299, L. 1983; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-112. Coroners and medical examiners to report

61-7-112. Coroners and medical examiners to report. Each coroner, medical examiner, or other official performing similar functions shall, on or before the 10th day of each month, report in writing to the department the deaths of all persons within the official's respective jurisdiction during the preceding calendar month as the result of traffic accidents, giving the time and place of each accident and the circumstances relating to the accident. History: En. Sec. 12, Ch. 210, L. 1939; amd. Sec. 8, Ch. 256, L. 1959; R.C.M. 1947, 32-1211; amd. Sec. 32, Ch. 7, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1961, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-113. Garages to report

61-7-113. Garages to report. The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been struck by any bullet or involved in an accident of which report must be made as provided in 61-7-109 shall report to the department within 24 hours after such motor vehicle is received, giving the engine number, registration number, and the name and address of the owner or operator of such vehicle. History: En. Sec. 13, Ch. 210, L. 1939; R.C.M. 1947, 32-1212; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-114. Accident reports confidential

61-7-114. Accident reports confidential. (1) All required accident reports and supplemental reports must be without prejudice to the individual reporting and must be for the confidential use of the department or other governmental agencies for accident prevention, roadway design, motor carrier safety monitoring purposes, or for the administration of the laws of this state relating to the deposit of security and proof of financial responsibility by persons driving or the owners of motor vehicles. The department may disclose the identity of a person involved in an accident when the identity is not otherwise known or when the person denies being present at the accident. (2) Except as provided in this section, all accident reports and supplemental information filed as required by this part are confidential and not open to general public inspection. Except as provided in subsection (2)(e), copying of lists of reports is not permitted. The report and supplemental information, including witness statements, filed by law enforcement personnel, as required

by this part, may be examined and copied, without obtaining a court order, by: (a) a person named in the report or involved in the accident; (b) the representative of the person referred to in subsection (2)(a), designated in writing, or the insurance carrier of that person; (c) a party to a civil action arising from the accident; (d) the executor, the administrator, or the attorney representing the executor or administrator if the person is deceased; or (e) the general public, including commercial entities, for purposes of research into the history of vehicles, but the department may not disclose the name, address, or telephone number of, or other information allowing the identification of, any reporting person, accident victim, peace officer, or other person or any insurer named in a report or supplemental information, including witness statements. History: En. Sec. 14, Ch. 210, L. 1939; amd. Sec. 9, Ch. 256, L. 1959; amd. Sec. 1, Ch. 142, L. 1973; R.C.M. 1947, 32-1213; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 486, L. 1989; amd. Sec. 4, Ch. 105, L. 1997; amd. Sec. 1, Ch. 296, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-115. Department to tabulate and analyze accident reports

61-7-115. Department to tabulate and analyze accident reports. The department shall tabulate and may analyze all accident reports and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents. History: En. Sec. 15, Ch. 210, L. 1939; R.C.M. 1947, 32-1214; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-116. Any incorporated city permitted to require accident reports

61-7-116. Any incorporated city permitted to require accident reports. Any incorporated city, town, village, or other municipality may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated city department a report of such accident or a copy of any report herein required to be filed with the department of justice. All such reports shall be for the confidential use of the city department and subject to the provisions of 61-7-114. History: En. Sec. 16, Ch. 210, L. 1939; R.C.M. 1947, 32-1215; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-117. Uniformity of interpretation

61-7-117. Uniformity of interpretation. This part shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. History: En. Sec. 17, Ch. 210, L. 1939; R.C.M. 1947, 32-1216.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 7. Accidents and Accident Reports Part 1. Uniform Accident Reporting Act 61-7-118. Penalty for violation

61-7-118. Penalty for violation. (1) Except as provided in subsections (2) and (3), a person violating any provision of 61-7-103, 61-7-105 through 61-7-110, or 61-7-112 through 61-7-114 is guilty of a misdemeanor. Upon a first conviction, the offender shall be punished by a fine of not less than \$200 or more than \$300 or by imprisonment for not more than 20 days. For a second conviction within 1 year of the first conviction, the offender shall be punished by a fine of not less than \$300 or more than \$400, by imprisonment for not more than 30 days, or both. Upon a third or subsequent conviction within 1 year of the first conviction, an offender shall be punished by a fine of not less than \$400 or more than \$500, by imprisonment for not more than 6 months, or both. (2) A driver failing to comply with any provisions of 61-7-103 or 61-7-105 in an accident resulting in injury to any person shall upon conviction be punished by imprisonment for a term of not less than 30 days or more than 1 year, by a fine of not less than \$100 or more than \$5,000, or by both fine and imprisonment. (3) A driver failing to comply with any provision of 61-7-103 or 61-7-105 in an accident resulting in serious bodily injury, as defined in 45-2-101, or death of any person or resulting in the driver striking the body of a deceased person shall upon conviction be punished by imprisonment in the state prison for a term of not less than 1 year or more than 10 years, by a fine in an amount not to exceed \$50,000, or by both fine and imprisonment. Upon conviction, the department shall also revoke the driver's license, permit to drive, or any nonresident operating privilege for the period prescribed in 61-5-205. (4) Subject to the limitations of 46-18-231(3), an offender who fails to pay a fine shall be imprisoned in the county jail in the county in which the offense was committed, and the punishment must be commuted at the rate of 1 day's incarceration for each \$75 of the fine. History: En. Sec. 3, Ch. 299, L. 1983; amd. Sec. 1, Ch. 364, L. 2003; amd. Sec. 2, Ch. 335, L. 2009; amd. Sec. 6, Ch. 235, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-101. Application -- exceptions -- definition

61-8-101. Application -- exceptions -- definition. (1) As used in this chapter, "ways of this state open to the public" means any highway, road, alley, lane, parking area, or other public or private place adapted and fitted for public travel that is in common use by the public. (2) The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except: (a) where a different place is specifically referred to in a given section; (b) the provisions of 61-8-301 and 61-8-1002(1) and (2), with regard to operating a vehicle while under the influence of drugs, apply anywhere within this state; (c) the provisions of 61-8-301 and 61-8-1002, except under the influence of a dangerous drug and 61-8-1002(2), with regard to operating a vehicle while under the influence of alcohol, apply upon all ways of this state open to the public. (3) The operation of motor vehicles

directly across the public roads and highways of this state, especially as required in the transportation of natural resource products, including agricultural products and livestock, shall not be considered to be the operation of such vehicles on the public roads and highways of this state or on ways of this state open to the public, provided that such crossings are adequately marked with warning signs or devices. Such crossings are subject to provisions relating to stopping before entry and to restoration of any damage as may reasonably be prescribed by the state or local agency in control of safety of operation of the public highway involved. History: (1)En. Sec. 22, Ch. 263, L. 1955; Sec. 32-2124, R.C.M. 1947; (2)En. Sec. 4, Ch. 247, L. 1959; Sec. 32-2124.1, R.C.M. 1947; R.C.M. 1947, 32-2124(part), 32-2124.1; amd. Sec. 65, Ch. 421, L. 1979; amd. Sec. 1, Ch. 659, L. 1983; amd. Sec. 3, Ch. 698, L. 1983; amd. Sec. 2, Ch. 282, L. 2011; amd. Sec. 38, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-102. Uniformity of interpretation -- definitions

61-8-102. Uniformity of interpretation -- definitions. (1) Interpretation of this chapter in this state must be as consistent as possible with the interpretation of similar laws in other states. (2) As used in this chapter, unless the context requires otherwise, the following definitions apply: (a) "Authorized emergency vehicle" means a vehicle of a governmental fire agency organized under Title 7, chapter 33, an ambulance, or an emergency vehicle designated or authorized by the department. (b) "Bicycle" means a vehicle propelled solely by human power on which any person may ride, irrespective of the number of wheels, except scooters, wheelchairs, and similar devices. The term includes an electrically assisted bicycle. (c) "Bicycle trailer" means a device with one or more wheels that is designed to be towed by a bicycle. (d) "Business district" means the territory contiguous to and including a highway when within any 600 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway. (e) "Controlled-access highway" means a highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or roadway except at the points and in the manner as determined by the public authority having jurisdiction over the highway, street, or roadway. (f) "Crosswalk" means: (i) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or (ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface. (g) "Electrically assisted bicycle" means a vehicle on which a person may ride that has two tandem wheels and an electric motor capable of propelling the vehicle and a rider who weighs 170 pounds no faster than 20 miles an hour on a paved, level surface. (h) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic on a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person, except a uniformed traffic enforcement officer exercising the officer's duty as a result of a planned vehicular traffic hazard, must be equipped as required by the rules of the department of transportation. (i) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later dedicated to public use. (j) "Ignition interlock device" means ignition equipment that: (i) analyzes the breath to determine blood alcohol concentration; (ii) is approved by the department pursuant to 61-8-1025; and (iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific amount of an alcoholic beverage. (k) (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one another at or approximately at right angles or the area within which vehicles traveling on different highways joining at any other angle may come in conflict. (ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways must be regarded as a separate intersection. (l) "Laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic. (m) "Local authorities" means every county, municipal, and other local board or body having authority to enact laws relating to traffic under the constitution and laws of this state. (n) "Moped" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an independent power source providing a maximum of 2 brake horsepower. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour on a level surface. The device must be equipped with a power drive system that functions directly or automatically only and does not require clutching or shifting by the operator after the drive system is engaged. (o) "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but is not limited to the vehicles listed in 61-1-101(10)(b). (p) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic. (q) "Pedestrian" means any person on foot or any person in a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person. (r) "Police vehicle" means a vehicle used in the service of any law enforcement agency. (s) "Private road" or "driveway" means a way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons. (t) "Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is primarily improved with residences or residences and buildings in use for business. (u) "Right-of-way" means the privilege of the immediate use of the roadway. (v) "Roadway" means the portion of a highway that is improved, designed, or ordinarily used for vehicular travel, including the paved shoulder. (w) "School bus" has the

meaning provided in 20-10-101. (x) "Sidewalk" means the portion of a street that is between the curb lines or the lateral lines of a roadway and the adjacent property lines and that is intended for use by pedestrians. (y) "Traffic control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed. (z) "Urban district" means the territory contiguous to and including any street that is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a distance of one-fourth mile or more. History: En. Sec. 155, Ch. 263, L. 1955; R.C.M. 1947, 32-21-158; amd. Sec. 1, Ch. 20, L. 2003; amd. Sec. 7, Ch. 233, L. 2005; amd. Sec. 195, Ch. 542, L. 2005; amd. Sec. 57, Ch. 329, L. 2007; amd. Sec. 41, Ch. 449, L. 2007; amd. Sec. 5, Ch. 296, L. 2011; amd. Sec. 1, Ch. 255, L. 2015; amd. Sec. 4, Ch. 374, L. 2015; amd. Sec. 5, Ch. 309, L. 2019; amd. Sec. 39, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-103. Provisions uniform throughout state -- power of local authorities

61-8-103. Provisions uniform throughout state -- power of local authorities. The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any ordinance, rule, or regulation in conflict with the provisions of this chapter unless expressly authorized herein. Local authorities may, however, adopt additional traffic regulations which are not in conflict with the provisions of this chapter. History: En. Sec. 27, Ch. 263, L. 1955; amd. Sec. 1, Ch. 201, L. 1957; R.C.M. 1947, 32-2130.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-104. Required obedience to traffic laws

61-8-104. Required obedience to traffic laws. It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor punishable as provided in 61-8-711 for any person to do any act forbidden or fail to perform any act required in this chapter. History: En. Sec. 23, Ch. 263, L. 1955; R.C.M. 1947, 32-2125; amd. Sec. 1, Ch. 40, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-105. Obedience to peace officers, flag persons, crossing guards, and public safety workers

61-8-105. Obedience to peace officers, flag persons, crossing guards, and public safety workers. A person may not willfully fail or refuse to comply with a lawful order or direction of a peace officer, flag person, crossing guard, or public safety worker pertaining to the use of the highways by traffic. For purposes of this section: (1) "peace officer" has the meaning provided in 7-32-303; and (2) "public safety worker" means a person who is authorized to provide assistance at the scene of an incident that requires traffic control and who is either a member of a paid or volunteer fire department, an emergency medical service provider, a member of a search and rescue team, or a civilian accident investigator appointed by a law enforcement agency. History: En. Sec. 24, Ch. 263, L. 1955; R.C.M. 1947, 32-2126; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 2, Ch. 431, L. 1997; amd. Sec. 2, Ch. 20, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-106. Responsibility of public officers and employees

61-8-106. Responsibility of public officers and employees. (1) The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, or town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this chapter with reference to authorized emergency vehicles. (2) Unless specifically made applicable, the provisions of this chapter except those contained in part 5 of chapter 8 shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work. History: En. Sec. 25, Ch. 263, L. 1955; R.C.M. 1947, 32-2127.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-107. Police vehicles and authorized emergency vehicles

61-8-107. Police vehicles and authorized emergency vehicles. (1) The driver of a police vehicle or authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions in this section. (2) The driver of a police vehicle or authorized emergency vehicle may: (a) park or stand, irrespective of the provisions of this chapter; (b) proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation; (c) exceed the speed limits as long as the driver does not endanger life or property; (d) disregard regulations governing direction of movement or turning in specified directions. (3) The exemptions granted to a police vehicle or authorized emergency vehicle apply only when the vehicle is making use of an audible or visual signal, or both, meeting the requirements of 61-9-402. (4) The provisions of this section do not relieve the driver of a police vehicle or authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, and the provisions do not protect the driver from the consequences of the driver's reckless disregard for the safety of others. History: En. Sec. 25.1, Ch. 263, L. 1955; amd. Sec. 1, Ch. 169, L. 1957; amd. Sec. 2, Ch. 153, L. 1975; R.C.M. 1947, 32-2128; amd. Sec. 1, Ch. 11, L. 1981; amd. Sec. 1962, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-108.

Traffic laws applicable to persons driving animal-drawn vehicles

61-8-108. Traffic laws applicable to persons driving animal-drawn vehicles. Every person driving an animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application. History: En. Sec. 26, Ch. 263, L. 1955; R.C.M. 1947, 32-2129.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-109. Rights of owners of real property not affected -- when

61-8-109. Rights of owners of real property not affected -- when. Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner from prohibiting such use or from requiring other or different or additional conditions than those specified in this chapter, or otherwise regulating such use as may seem best to such owner. History: En. Sec. 29, Ch. 263, L. 1955; R.C.M. 1947, 32-2132.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-110. Forest development road, special service road defined

61-8-110. Forest development road, special service road defined. For the purpose of 61-8-111 and 61-8-112 a "forest development road" is defined as a road located on national forest lands or on a right-of-way acquired by the United States and used for the protection, administration, and utilization of the national forests and other lands administered by the United States forest service; and a "special service road" is defined as a forest development road or segment thereof, the right-of-way for which is controlled by the United States and which is not a part of the highway system of the state or of a county or other public road authority of this state, designated by the forest service, pursuant to the regulations of the secretary of the United States department of agriculture, as a special service road for the purpose of controlling and regulating its use to accomplish the purposes of the secretary of agriculture's regulations applicable to the administration of the forest development transport system. History: En. Sec. 1, Ch. 139, L. 1971; R.C.M. 1947, 32-2124.3.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-111. State laws applicable on forest development roads -- enforcement

61-8-111. State laws applicable on forest development roads -- enforcement. Forest development roads in the state, whether or not they meet the definition of a public highway by the laws of this state, are subject to the traffic laws of this state and the Montana highway patrol and county sheriffs of this state shall have jurisdiction thereon to investigate accidents and enforce the Montana traffic laws. History: En. Sec. 2, Ch. 139, L. 1971; R.C.M. 1947, 32-2124.4.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 1. General Provisions 61-8-112. Special service roads not subject to state law enforcement -- when

61-8-112. Special service roads not subject to state law enforcement -- when. When forest development roads, or segments thereof, are designated as special service roads by the United States forest service and by such designation are subjected to traffic rules in addition to or in conflict with the Montana traffic laws, neither the additional nor conflicting traffic rules so prescribed by the forest service nor the Montana traffic law with which they conflict shall be within the jurisdiction of law enforcement officers of this state as to such special service road. History: En. Sec. 3, Ch. 139, L. 1971; R.C.M. 1947, 32-2124.5.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1001. Definitions

61-8-1001. Definitions. As used in this part, unless the context requires otherwise and unless a different meaning plainly is required, the following definitions apply: (1) "Aggravated driving under the influence" means a person is in violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d) and: (a) the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.16 or more; (b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device; (c) the person's driver's license or privilege to drive is suspended, cancelled, or revoked as a result of a prior violation of driving under the influence, including a violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence, or a similar offense under previous laws of this state or the laws of another state; or (d) the person refuses to give a breath sample as required in 61-8-1016 and the person's driver's license or privilege to drive was suspended, cancelled, or revoked under the provisions of an implied consent statute. (2) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains 0.5% or more of alcohol by volume. (3) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath, including as used in 16-6-305, 23-2-535, 45-5-207, 67-1-211, and this title. (4) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers, including the driver. (5) "Camper" has the meaning provided in 61-1-101. (6) "Commercial motor vehicle" has the meaning provided in 61-1-101. (7) "Drug" means any substance that when taken into the human body can impair a person's ability to operate a vehicle safely. The term includes the meanings provided in 50-32-101(6), (7), and (14). (8) "DUI court" means any court that has established a special docket for handling cases involving persons convicted

under 61-8-1007 or 61-8-1008 and that implements a program of incentives and sanctions intended to assist a participant to complete treatment ordered pursuant to 61-8-1009 and to end the participant's criminal behavior associated with the use of alcohol or drugs. (9) "Highway" has the meaning provided in 61-1-101, including the shoulders of the highway. (10) "Motor home" has the meaning provided in 61-1-101. (11) "Motor vehicle" has the meaning provided in 61-1-101. (12) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains any amount of an alcoholic beverage and that is open or has a broken seal or the contents of which are partially removed. (13) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a passenger is seated in the vehicle, including an unlocked glove compartment. (14) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished. (15) "Vehicle" has the meaning provided in 61-1-101, except that the term does not include a bicycle. History: En. Sec. 1, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1002. Driving under influence

61-8-1002. Driving under influence. (1) A person commits the offense of driving under the influence if the person drives or is in actual physical control of: (a) a vehicle or a commercial motor vehicle upon the ways of this state open to the public while under the influence of alcohol, any drug, or a combination of alcohol and any drug; (b) a noncommercial vehicle upon the ways of this state open to the public while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.08 or more; (c) a commercial motor vehicle within this state while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.04 or more; (d) a noncommercial vehicle or commercial motor vehicle within this state while the person's tetrahydrocannabinol level, excluding inactive metabolites, as shown by analysis of the person's blood or other bodily substance, is 5 ng/ml or more; or (e) a vehicle within this state when the person is under 21 years of age at the time of the offense while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.02 or more. (2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's blood, breath, or other bodily substance drawn or taken within a reasonable time after the alleged act, gives rise to the following inferences: (a) if there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person was not under the influence of alcohol; (b) if there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be considered with other competent evidence in determining the guilt or innocence of the person; and (c) if there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person was under the influence of alcohol. The inference is rebuttable. (3) The provisions of subsection (2) do not limit the introduction of any other competent evidence bearing on the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs. (4) Each municipality in this state is given authority to enact this section, with the word "state" changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance and the imposition of the fines and penalties provided in the ordinance. (5) Absolute liability, as provided in 45-2-104, is imposed for a violation of this section. (6) When the same acts may establish the commission of an offense under subsection (1), a person charged with the conduct may be prosecuted for a violation of another relevant subsection under subsection (1). However, the person may be convicted of only one offense under this section or of a similar offense under previous laws of this state. History: En. Sec. 2, Ch. 498, L. 2021; amd. Sec. 2, Ch. 723, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1003. through 61-8-1006 reserved

61-8-1003 through 61-8-1006 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1007. Penalty for driving under influence -- first through third offenses

61-8-1007. Penalty for driving under influence -- first through third offenses. (1) (a) Except as provided in subsection (1)(b) or (1)(c), a person convicted of a violation of 61-8-1002(1)(a) shall be punished as follows: (i) for a first violation, by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000; (ii) for a second violation, by imprisonment for not less than 7 days or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 14 days or more than 1 year and a fine of not less than \$2,400 or more than \$4,000; or (iii) for a third violation, by imprisonment for not less than 30 days or more than 1 year and by a fine of not less than \$2,500 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 60 days or more than 1 year and by a fine of not less than \$5,000 or more than \$10,000. (b) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in

61-8-1008. (c) If the person has a prior conviction or pending charge for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), or a similar offense under previous laws of this state or the laws of another state that meets the definition of aggravated driving under the influence in 61-8-1001, the person shall be punished as provided in subsection (4). (d) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. (e) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-1009. During any suspended portion of sentence imposed by the court: (i) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI courts, if available; (ii) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program, if available and if imposed by the court; and (iii) if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended. (2) (a) Except as provided in subsection (2)(b) or (2)(c), a person convicted of a violation of 61-8-1002(1)(b), (1)(c), or (1)(d) shall be punished as follows: (i) for a first violation, by imprisonment for not more than 6 months and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not more than 6 months and by a fine of not less than \$1,200 or more than \$2,000; (ii) for a second violation, by imprisonment for not less than 5 days or more than 1 year and by a fine of not less than \$1,200 or more than \$2,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 10 days or more than 1 year and by a fine of not less than \$2,400 or more than \$4,000; or (iii) for a third violation, by imprisonment for not less than 30 days or more than 1 year and by a fine of not less than \$2,500 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 60 days or more than 1 year and by a fine of not less than \$5,000 or more than \$10,000. (b) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-1008. (c) If the person has a prior conviction or pending charge for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), or a similar offense under previous laws of this state or the laws of another state that meets the definition of aggravated driving under the influence in 61-8-1001, the person shall be punished as provided in subsection (4). (d) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. (e) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-1009. During any suspended portion of sentence imposed by the court: (i) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI courts, if available; (ii) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program, if available and if imposed by the court; and (iii) if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended. (3) (a) A person convicted of a violation of 61-8-1002(1)(e) shall be punished as follows: (i) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500. (ii) Upon a second conviction under this section, a person shall be punished by a fine of not less than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days. (iii) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days. (iv) In addition to the punishment provided in this section, regardless of disposition: (A) the person shall comply with the chemical dependency education course and chemical dependency treatment provisions in 61-8-1009 as ordered by the court; and (B) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted or probationary driver's license may not be issued during the suspension period until the person has paid a license reinstatement fee in accordance with 61-2-107 and, if the person was under the age of 18 at the time of the offense, has completed at least 30 days of the suspension period. (b) A conviction under this section may not be counted as a prior offense or conviction under 61-8-1007, 61-8-1008, and 61-8-1011. (4) (a) A person convicted of a violation under 61-8-1002 charged as aggravated driving under the influence, as defined in 61-8-1001, shall be punished as follows: (i) for a first violation, by imprisonment for not less than 2 days or more than 1 year and by a fine of \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 4 consecutive days or more than 1 year and by a fine of \$2,000; (ii) for a second violation, by imprisonment for not less than 15 days or more than 1 year and by a fine of \$2,500, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 45 days or more than 1 year and by a fine of \$5,000; or (iii) for a third violation, by imprisonment for not less than 40 consecutive days or more than 1 year and by a fine of \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 90 consecutive days or more than 1 year and by a fine of \$10,000. (b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. (c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-1009. During any suspended portion of sentence imposed by the court: (i) the person is subject to all conditions of the suspended sentence imposed by the court, including mandatory participation in drug or DUI

courts, if available; (ii) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program, if available and if imposed by the court; and (iii) if the person violates any condition of the suspended sentence or any treatment requirement, the court may impose the remainder of any imprisonment term that was imposed and suspended. (d) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-1008. (5) In addition to the punishment provided in this section, regardless of disposition, the person shall comply with the chemical dependency education course and chemical dependency treatment provisions in 61-8-1009 as ordered by the court. (6) A person punished pursuant to this section is subject to mandatory revocation or suspension of the person's driver's license as provided in chapter 5. History: En. Sec. 3, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1008. Penalty for driving under influence -- fourth and subsequent offenses

61-8-1008. Penalty for driving under influence -- fourth and subsequent offenses. (1) (a) A person convicted of a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, who has also been convicted under either 45-5-106 or any combination of three or more convictions under 45-5-104, 45-5-205, 45-5-628(1)(e), driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, any drug, or any combination of alcohol and any drug, as provided in 61-8-1002(1)(a), is guilty of a felony and shall be punished by: (i) being sentenced to the department of corrections for a term of not less than 13 months or more than 2 years for placement in either an appropriate correctional facility or a program, followed by a consecutive term of 5 years to the Montana state prison or the Montana women's prison, all of which must be suspended, and a fine of not less than \$5,000 or more than \$10,000; or (ii) being sentenced to a term of up to 5 years in an appropriate treatment court program, with required completion, and a fine of not less than \$5,000 or more than \$10,000. If sentenced under this alternative, the person may be entitled to a suspended sentence but is not eligible for a deferred imposition of sentence. (b) Regarding the sentence provided for in subsection (1)(a)(i): (i) the imposition or execution of the sentence may not be deferred or suspended, and the person is not eligible for parole; (ii) the program in subsection (1)(a)(i) may be a residential alcohol treatment program approved by the department of corrections; (iii) following initial placement of a defendant in a residential alcohol treatment program facility, the department of corrections may, at its discretion, place the offender in another facility or program; (iv) the court shall order that if the person successfully completes a residential alcohol treatment program approved by the department of corrections, the remainder of the 13-month to 2-year term must be served on probation with the conditions that: (A) the person abide by the standard conditions of probation promulgated by the department of corrections; (B) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment under this section does so; (C) the person may not frequent an establishment where alcoholic beverages are served; (D) the person may not consume alcoholic beverages; (E) the person may not operate a motor vehicle unless authorized by the person's probation officer; (F) the person enter in and remain in an aftercare treatment program for the entirety of the probationary period; (G) the person submit to random or routine drug and alcohol testing; and (H) if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system; and (v) the sentencing judge may impose on the defendant any other reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited to: (A) payment of a fine as provided in 46-18-231; (B) payment of costs as provided in 46-18-232 and 46-18-233; (C) payment of costs of assigned counsel as provided in 46-8-113; (D) community service; (E) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society; or (F) any combination of the restrictions or conditions listed in subsections (1)(b)(v)(A) through (1)(b)(v)(E). (2) A person convicted of a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, and who has also been convicted under either 45-5-106 or any combination of four or more prior convictions under 45-5-104, 45-5-205, 45-5-628(1)(e), driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-1002(1)(a), and the person was previously sentenced under subsection (1)(a)(i) or (1)(a)(ii), the person shall be punished by a fine of not less than \$5,000 or more than \$10,000, and by imprisonment in the state prison for a term of not more than 10 years. The person is not eligible for a deferred imposition of sentence. (3) If a person has previously been convicted and sentenced under subsection (2), the person shall be punished by a fine of not less than \$5,000 or more than \$10,000 and by imprisonment in the state prison for a term of not more than 25 years. The person is not eligible for a deferred imposition of sentence. (4) If a person who is presently being sentenced has previously been convicted and sentenced under subsection (3) on one or more occasions, the person shall be punished by a fine of not less than \$5,000 or more than \$10,000 and by imprisonment in the state prison for a term of not less than 5 years or more than 25 years. The first 5 years of the sentence may not be suspended. (5) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and 46-23-1031 apply to a person sentenced under this section. (6) A person punished pursuant to this section is subject to mandatory revocation or suspension of the person's driver's license as provided in chapter 5. History: En. Sec. 4, Ch. 498, L. 2021; amd. Sec. 2, Ch. 473, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1009. Driving under influence -- assessment, education, and treatment required

61-8-1009. Driving under influence -- assessment, education, and treatment required. (1) In addition to the punishments provided in 61-8-1007 and 61-8-1008, regardless of disposition, a defendant convicted of a violation of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state shall complete a chemical dependency assessment and: (a) for a first conviction, except as provided in subsection (8)(b), a chemical dependency education course; and (b) for a second or subsequent conviction for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, except a fourth or subsequent conviction for which the defendant completes a residential alcohol treatment program under 61-8-1008(1)(a)(i), or as required by subsection (8) of this section, chemical dependency treatment. (2) The sentencing judge may, in the judge's discretion, require the defendant to complete the chemical dependency assessment prior to sentencing the defendant. If the assessment is not ordered or completed before sentencing, the judge shall order the chemical dependency assessment as part of the sentence. (3) The chemical dependency assessment and the chemical dependency education course must be completed at a treatment program approved by the department of public health and human services and must be conducted by a licensed addiction counselor. Approved programs must be evidence-based programs. The defendant may attend a treatment program of the defendant's choice as long as the treatment services are provided by a licensed addiction counselor. The defendant shall pay the cost of the assessment, the education course, and chemical dependency treatment and may use health insurance to cover the costs when possible. (4) The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. The assessment must conform to quality standards required by the department of public health and human services. A defendant who disagrees with the initial assessment may, at the defendant's cost, obtain a second assessment provided by a licensed addiction counselor or a program approved by the department of public health and human services. (5) The treatment provided to the defendant at a treatment program must be at a level appropriate to the defendant's alcohol or drug problem, or both, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. The rules must include evidence-based treatment programs or courses approved by the department that are likely to reduce recidivism. Upon determination, the court shall order the defendant's appropriate level of treatment. If more than one counselor makes a determination as provided in this subsection, the court shall order an appropriate level of treatment based on the determination of one of the counselors. (6) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a chemical dependency education course or treatment program. If the defendant fails to attend the course or treatment program, the counselor shall notify the court of the failure. (7) A court or counselor may not require attendance at a self-help program other than at an open meeting, as that term is defined by the self-help program. A defendant may voluntarily participate in self-help programs. (8) (a) Chemical dependency treatment must be ordered for a first-time or second-time offender convicted of a violation of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state upon a finding of moderate or severe alcohol or drug use disorder made by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. (b) If treatment is ordered under subsection (8)(a) for a first-time offender, the offender may not also be required to attend a chemical dependency education course. (9) (a) On a second or subsequent conviction, the treatment program provided for in subsection (5) must be followed by monthly monitoring for a period of at least 1 year from the date of admission to the program. (b) If a defendant fails to comply with the monitoring program imposed under subsection (9)(a), the court shall revoke the suspended sentence, if any, impose any remaining portion of the suspended sentence, and may include additional monthly monitoring for up to an additional 1 year. (10) Notwithstanding 46-18-201(2), whenever a judge suspends a sentence imposed under 61-8-1007 and orders the person to complete chemical dependency treatment under this section, the judge retains jurisdiction to impose any suspended sentence for up to 1 year. History: En. Sec. 5, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1010. Driving under influence -- ignition interlock device -- 24/7 sobriety and drug monitoring program

61-8-1010. Driving under influence -- ignition interlock device -- 24/7 sobriety and drug monitoring program. (1) For a person convicted of a first offense of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under the laws of another state, in addition to the punishments listed in 61-8-1007, the court may, regardless of disposition and if a probationary license is recommended by the court, require the person to comply with the conditions listed in subsection (2)(a) or (2)(b). (2) On a second or subsequent conviction for a violation of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under the laws of another state, or a second or subsequent conviction under 61-5-212 when the reason for the suspension or revocation was that the person was convicted of a violation of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, or the suspension was under 61-8-1016 or a similar law of another state for

refusal to take a test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the influence, in addition to the punishments listed in 61-8-1002 and 61-8-1007, the court shall: (a) require the person to participate in the 24/7 sobriety and drug monitoring program provided for in 44-4-1203 or require the person to participate in a court-approved alcohol or drug detection testing program and to pay the fees associated with the program; (b) if recommending that a probationary license be issued to the person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device during the probationary period and require the person to pay the reasonable cost of leasing, installing, and maintaining the device; or (c) order that each motor vehicle owned by the person at the time of the offense be seized and subjected to the forfeiture procedure provided under 61-8-1033. A vehicle used by a person as a common carrier in the transaction of business as a common carrier is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission established by the owner to have been committed or omitted by a person other than the owner while the vehicle was unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state or the United States. Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest if the person did not know and could not have reasonably known of the unlawful possession, use, or other act on which the forfeiture is sought. (3) All court-approved alcohol or drug detection testing programs allowed under this section are required to use the state's data management system pursuant to 44-4-1203. History: En. Sec. 6, Ch. 498, L. 2021; amd. Sec. 2, Ch. 151, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1011. Driving under influence -- conviction defined -- place of imprisonment -- home arrest -- exceptions -- deferral of sentence not allowed

61-8-1011. Driving under influence -- conviction defined -- place of imprisonment -- home arrest -- exceptions -- deferral of sentence not allowed. (1) (a) For the purpose of determining the number of convictions for prior offenses referred to in 61-8-1001, 61-8-1002, 61-8-1007, and 61-8-1008, "conviction" means: (i) a final conviction, as defined in 45-2-101, in this state, in another state, or on a federally recognized Indian reservation; (ii) a forfeiture, which has not been vacated, of bail or collateral deposited to secure the defendant's appearance in court in this state, in another state, or on a federally recognized Indian reservation; or (iii) a conviction for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, or a violation of a similar statute or regulation in another state or on a federally recognized Indian reservation. (b) An offender is considered to have been previously convicted for the purposes of sentencing if less than 10 years have elapsed between the commission of the present offense and a previous conviction unless the offense is the offender's third or subsequent offense, in which case all previous convictions must be used for sentencing purposes. (c) A previous conviction for a violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, or a violation of a similar statute or regulation in another state or on a federally recognized Indian reservation, and as otherwise defined in subsection (1)(a) may be counted for the purposes of determining the number of a subsequent conviction for a violation of driving under the influence under 61-8-1002. (d) A previous conviction for a violation of 45-5-104 for which the offense under 45-5-104 occurred while the person was operating a vehicle in violation of driving under the influence, including 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or the laws of another state, and a previous conviction for a violation of 45-5-205 or 45-5-628(1)(e) may also be counted for the purposes of determining the number of a subsequent conviction for a violation of driving under the influence under 61-8-1002. (2) Except as provided in 61-8-1008, the court may order that a term of imprisonment imposed under 61-8-1007 or 61-8-1008 be served in another facility made available by the county and approved by the sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment in the facility. The court may impose restrictions on the defendant's ability to leave the premises of the facility and may require that the defendant follow the rules of the facility. The facility may be, but is not required to be, a community-based prerelease center as provided for in 53-1-203. The prerelease center may accept or reject a defendant referred by the sentencing court. (3) Subject to the limitations set forth in 61-8-1007 concerning minimum periods of imprisonment, the court may order that a term of imprisonment imposed under 61-8-1007 be served by imprisonment under home arrest, as provided in Title 46, chapter 18, part 10. (4) A court may not defer imposition of sentence under 61-8-1007 or 61-8-1008. (5) The provisions of 61-2-107, 61-5-205(2), and 61-5-208(2), relating to suspension of driver's licenses and later reinstatement of driving privileges, apply to any conviction under 61-8-1007 for a violation of 61-8-1002. History: En. Sec. 7, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1012. through 61-8-1015 reserved

61-8-1012 through 61-8-1015 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1016. Implied consent -- blood or breath tests for alcohol, blood or oral fluid for drugs, or testing for both -- alcohol and drugs using recognized methods for each -- refusal to submit to test -- administrative license suspension

61-8-1016. Implied consent -- blood or breath tests for alcohol, blood or oral fluid for drugs, or testing for both -- alcohol and drugs using recognized methods for each -- refusal to submit to test -- administrative license suspension.(1) (a) A person who operates or is in actual physical control of a vehicle or commercial motor vehicle upon the ways of this state open to the public is considered to have given consent to a test or tests of the person's blood or breath for the purpose of determining any measured amount or detected presence of alcohol or blood or oral fluid for the purpose of determining any measured amount or detected presence of drugs in the person's body. (b) The tests in subsection (1)(a) include but are not limited to a preliminary alcohol screening test of the person's breath for the purpose of estimating the person's alcohol concentration. (c) A preliminary alcohol screening test may not be conducted or requested under this section unless both the peace officer and the instrument used to conduct the test have been certified by the department pursuant to rules adopted under the authority of 61-8-1019(5). (d) The person's obligation to submit to a test in subsection (1)(a) is not satisfied by the person submitting to a preliminary alcohol screening test pursuant to this section. (2) (a) The test or tests must be administered at the direction of a peace officer when: (i) the peace officer has particularized suspicion to believe that the person has been driving or has been in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been detained for a violation of driving under the influence as provided in 61-8-1002 or an offense that meets the definition of aggravated driving under the influence in 61-8-1001; (ii) the person is under the age of 21 and the peace officer has particularized suspicion to believe that the person has been driving or in actual physical control of a vehicle in violation of 61-8-1002(1)(e); or (iii) the peace officer has probable cause to believe that the person was driving or in actual physical control of a vehicle or commercial motor vehicle: (A) in violation of driving under the influence, as provided in 61-8-1002, and the person has been placed under arrest; (B) in violation of driving under the influence as provided in 61-8-1002, and the person has been involved in a motor vehicle crash or collision resulting in property damage; (C) and the person has been involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in 45-2-101, or death; or (D) in violation of driving under the influence as provided in 61-8-1002 and meets the definition of aggravated driving under the influence in 61-8-1001. (b) A peace officer may designate which test or tests are administered. (c) The peace officer shall inform the person of the right to refuse the test and that the refusal to submit to the test will result in the suspension for up to 1 year of that person's driver's license. (d) A hearing as provided for in 61-8-1017 must be available. The issues in the hearing must be limited to determining whether a peace officer had a particularized suspicion that the person was in violation of 61-8-1002 or an offense meeting the definition of aggravated driving under the influence in 61-8-1001, and whether the person refused to submit to the test. (e) If a person refuses a preliminary alcohol screening test and another test during the same incident, the department may not consider each a separate refusal for purposes of suspension of the person's driver's license. (3) A person who is unconscious or who is otherwise in a condition rendering the person incapable of refusal is considered not to have withdrawn the consent requested in subsection (1). (4) (a) If an arrested person refuses to submit to one or more tests requested and designated by the peace officer, the refused test or tests may not be given unless the person has refused to provide a breath, blood, urine, or other bodily substance in a prior investigation in this state or under a substantially similar statute in another jurisdiction or the arrested person has a prior conviction or pending offense for a violation of 45-5-104, 45-5-106, 45-5-205, or driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, or a similar offense under previous laws of this state or a similar statute in another jurisdiction. (b) On the person's refusal to provide the breath, blood, urine, oral fluid, or other bodily substance requested by the peace officer pursuant to subsection (1) and this subsection (4) may apply for a search warrant to be issued pursuant to 46-5-224 to collect a sample of the person's blood or oral fluid for testing. (c) (i) On the person's refusal to provide a breath, blood, urine, oral fluid, or other bodily substance, the peace officer shall, on behalf of the department, immediately seize the person's driver's license. The peace officer shall immediately forward the license to the department, along with a report certified under penalty of law stating which of the conditions set forth in subsection (2)(a) provides the basis for the testing request and confirming that the person refused to submit to one or more tests requested and designated by the peace officer. Upon receipt of the report, the department shall suspend the license for the period provided in 61-8-1032. (ii) Upon seizure of a driver's license, the peace officer shall issue, on behalf of the department, a temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of issuance, and shall provide the driver with written notice of the license suspension and the right to a hearing as provided in 61-8-1017. (iii) A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests. (5) This section does not apply to tests, samples, and analyses of blood, breath, or urine used for purposes of medical treatment or care of an injured motorist, related to a lawful seizure for a suspected violation of an offense not in this part, or performed pursuant to a search warrant. (6) This section does not prohibit the release of information obtained from tests, samples, and analyses of blood, breath, or urine for law enforcement purposes as provided in 46-4-301 and 61-8-1019(6). History: En. Sec. 8, Ch. 498, L. 2021; amd. Sec. 3, Ch. 151, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1017. Right of appeal to court

61-8-1017. Right of appeal to court.(1) Within 30 days after notice of the right to a hearing has been given by a peace officer, a person may file a petition to challenge the license suspension or revocation in the district court in the county where the arrest was made. (2) The court has jurisdiction and shall set the matter for hearing. The court shall give at least 10 days' written notice of the hearing to the county attorney of the county where the arrest was made and to the city attorney if the incident leading to the suspension or revocation resulted in a charge filed in a city or municipal court. The county attorney or city attorney may represent

the state. If the county attorney and the city attorney cannot agree on who will represent the state, the county attorney shall represent the state. (3) Upon request of the petitioner, the court may order the department to return the seized license or issue a stay of the suspension or revocation action pending the hearing. (4) The court shall take testimony, examine the facts of the case, and determine whether the petitioner is entitled to a license or whether the petitioner's license is subject to suspension or revocation based on no other issues than: (a) whether a peace officer had a basis for requesting a test or tests as set forth in 61-8-1016, and (b) whether the person refused to submit to one or more tests designated by the peace officer. (5) This section does not grant a right of appeal to a state court if a driver's license is initially seized, suspended, or revoked pursuant to a tribal law or regulation that requires alcohol or drug testing of motor vehicle operators. History: En. Sec. 9, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1018. Evidence admissible -- conditions of admissibility

61-8-1018. Evidence admissible -- conditions of admissibility. (1) Upon the trial of a criminal action or other proceeding arising out of acts alleged to have been committed by a person in violation of driving under the influence, including 61-8-1002, an offense that meets the definition of aggravated driving under the influence in 61-8-1001, a similar offense under previous laws of this state or the laws of another state, or 61-8-805: (a) evidence of any measured amount or detected presence of alcohol, drugs, or a combination of alcohol and drugs in the person at the time of a test, as shown by an analysis of the person's blood, breath, or oral fluid is admissible. A positive test result does not, in itself, prove that the person was under the influence of a drug or drugs at the time the person was in control of a vehicle. A person may not be convicted of a violation of 61-8-1002(1)(a) based on the presence of a drug or drugs in the person unless some other competent evidence exists that tends to establish that the person was under the influence of a drug or drugs while driving or in actual physical control of a motor vehicle within this state. (b) a report of the facts and results of one or more tests of a person's blood, breath, or oral fluid is admissible in evidence if: (i) a breath test, oral fluid screening test, or preliminary alcohol screening test was performed by a person certified by the forensic sciences division of the department to administer the test; or (ii) a blood sample was analyzed in a laboratory operated or certified by the department or in a laboratory exempt from certification under the rules of the department and the blood was withdrawn from the person by a person competent to do so under 61-8-1019(1); and (c) a report of the facts and results of a physical, psychomotor, or physiological assessment of a person is admissible in evidence if it was made by a person trained by the department or by a person who has received training recognized by the department. (2) If the person under arrest refused to submit to one or more tests under 61-8-1016, whether or not a sample was subsequently collected for any purpose, proof of refusal is admissible in any criminal action or proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical control of a vehicle upon the ways of this state open to the public while under the influence of alcohol, drugs, or a combination of alcohol and drugs. The trier of fact may infer from the refusal that the person was under the influence. The inference is rebuttable. (3) The provisions of this part do not limit the introduction of any other competent evidence bearing on the question of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs. History: En. Sec. 10, Ch. 498, L. 2021; amd. Sec. 4, Ch. 151, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1019. Administration of tests

61-8-1019. Administration of tests. (1) Only a licensed physician, registered nurse, or other qualified person acting under the supervision and direction of a physician or registered nurse may, at the request of a peace officer, withdraw blood for the purpose of determining any measured amount or detected presence of alcohol, drugs, or any combination of alcohol and drugs in the person. This limitation does not apply to the sampling of breath or oral fluid. (2) In addition to any test administered at the direction of a peace officer, a person may request that an independent blood sample be drawn by a physician or registered nurse for the purpose of determining any measured amount or detected presence of alcohol, drugs, or any combination of alcohol and drugs in the person. The peace officer may not unreasonably impede the person's right to obtain an independent blood test. The peace officer may but has no duty to transport the person to a medical facility or otherwise assist the person in obtaining the test. The cost of an independent blood test is the sole responsibility of the person requesting the test. The failure or inability to obtain an independent test by a person does not preclude the admissibility in evidence of any test given at the direction of a peace officer. (3) Upon the request of the person tested, full information concerning any test given at the direction of the peace officer must be made available to the person or the person's attorney. (4) A physician, registered nurse, or other qualified person acting under the supervision and direction of a physician or registered nurse does not incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer to administer a test. (5) The department in cooperation with any appropriate agency shall adopt uniform rules for the giving of tests and may require certification of training to administer the tests as considered necessary. (6) If a peace officer has probable cause to believe that a person has violated 61-8-1002, meets the definition of aggravated driving under the influence as defined in 61-8-1001, or has violated 61-8-805 and a sample of blood, breath, oral fluid, urine, or other bodily substance is taken from that person for any reason, a portion of that sample sufficient for analysis must be provided to a peace officer if requested for law enforcement purposes and upon issuance of a subpoena as provided in 46-4-301. History: En. Sec. 11, Ch. 498, L. 2021; amd. Sec. 5, Ch. 151, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1020. through 61-8-1023 reserved

61-8-1020 through 61-8-1023 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1024. Ignition interlock device -- assisting in starting and operating -- circumventing -- penalty

61-8-1024. Ignition interlock device -- assisting in starting and operating -- circumventing -- penalty. (1) It is unlawful for a person who is subject to a restriction under 61-8-1010 to operate a vehicle that is not equipped with an ignition interlock device. (2) A person may not knowingly assist a person who is restricted to the use of an ignition interlock device to start and operate the restricted person's vehicle. (3) A person may not knowingly circumvent the operation of an ignition interlock device. (4) A person convicted of a violation of this section shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months or both. (5) This section does not apply if: (a) the starting of a motor vehicle or the request to start a motor vehicle equipped with an ignition interlock device is done for the purpose of safety or mechanical repair of the device or the vehicle; and (b) the person subject to the restriction does not operate the vehicle. History: En. Sec. 12, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1025. Department rules regarding ignition interlock devices -- ignition interlock device provider requirements

61-8-1025. Department rules regarding ignition interlock devices -- ignition interlock device provider requirements. (1) The department shall adopt rules providing for the approval of ignition interlock devices and the installation, calibration, repair, and removal of approved devices. (2) The department's rules must be based on federal standards issued for similar devices. (3) An ignition interlock device that is approved by the department must also: (a) be designed so it does not impede safe operation of the vehicle; (b) correlate well with the level established for alcohol impairment; (c) work accurately and reliably in an unsupervised environment and under extreme weather conditions; (d) require a deep lung breath sample or use an equally accurate measure of blood alcohol concentration equivalence; (e) resist tampering and show evidence of tampering if it is attempted; (f) be difficult to circumvent; (g) minimize inconvenience of a sober user; (h) operate reliably over the range of automobile environments and in connection with various manufacturing standards; and (i) be manufactured by a person who is adequately insured for product liability. (4) An ignition interlock device provider shall include in any lease agreement for an ignition interlock device a warning that a person who knowingly tampers with, circumvents, or otherwise misuses the device is subject to criminal prosecution. History: En. Sec. 13, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1026. Unlawful possession of open alcoholic beverage container in motor vehicle on highway

61-8-1026. Unlawful possession of open alcoholic beverage container in motor vehicle on highway. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in or on a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway. (2) This section does not apply to an open alcoholic beverage container: (a) in a locked glove compartment or storage compartment; (b) in a motor vehicle trunk or luggage compartment or rack, or in a truck bed or cargo compartment; (c) behind the last upright seat of a motor vehicle that is not equipped with a trunk; (d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or (e) in the immediate possession of a passenger: (i) of a bus, taxi, or limousine that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or (ii) in the living quarters of a camper, travel trailer, or motor home. (3) (a) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100. (b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, and 46-18-236 may not be imposed for a violation of this section. History: En. Sec. 14, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1027. Unlawful possession of marijuana, marijuana products, or marijuana paraphernalia in motor vehicle on highway

61-8-1027. Unlawful possession of marijuana, marijuana products, or marijuana paraphernalia in motor vehicle on highway. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of marijuana, marijuana products, or marijuana paraphernalia in a motor vehicle if the person knowingly possesses marijuana, marijuana products, or marijuana paraphernalia, as those terms are defined in 16-12-102, within the passenger area of a motor vehicle on a highway. (2) This section does not apply to marijuana, marijuana products, or marijuana paraphernalia: (a) purchased from a dispensary and that remains in its unopened, original packaging; (b) in a locked glove compartment or storage compartment; (c) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment; (d) behind the last upright seat of a motor vehicle that is not equipped with a trunk; or (e) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger. (3) (a) A person convicted of the offense of unlawful possession of marijuana, marijuana products, or

marijuana paraphernalia in a motor vehicle shall be fined an amount not to exceed \$100. (b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, or 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, and 46-18-236 may not be imposed for a violation of this section. History: En. Sec. 8, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1028. through 61-8-1030 reserved

61-8-1028 through 61-8-1030 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1031. Suspension of imprisonment sentence for DUI court participation

61-8-1031. Suspension of imprisonment sentence for DUI court participation. (1) If a person participates in a DUI court, the court may, at the court's discretion, suspend all or a portion of an imprisonment sentence under 61-8-1007, except for the mandatory minimum imprisonment term. (2) If a person participating in a DUI court fails to comply with the conditions imposed by the DUI court, the court shall revoke the suspended imprisonment sentence and any sentence subsequently imposed must commence from the effective date of the revocation. History: En. Sec. 15, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1032. Mandatory suspension of license following certain implied consent action

61-8-1032. Mandatory suspension of license following certain implied consent action. (1) The department shall suspend an individual's driver license if the department receives a report for an implied consent violation from law enforcement or another reporting jurisdiction that, pursuant to 61-8-1016, an individual has refused a test or tests of the person's blood, breath, oral fluid, urine, or other bodily substance for determining any measured amount or detected presence of alcohol or drugs in the person's body. (2) (a) Except as permitted by law, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended may not have the license or privilege renewed or restored until the revocation or suspension duration has been completed. (b) The department shall apply the appropriate sanction to the driver based on the reported conviction and prior offenses. (c) The driver shall pay all reinstatement and administrative fees owed to the department before a driver's license or privilege to drive is restored. (d) The duration of the suspension commences from the date of violation. (e) If a person refuses tests for the same incident, the department may not consider each a separate refusal for purposes of suspension. (f) The department may not issue a probationary license during the suspension issued under this part. (3) (a) A person who has an implied consent violation shall pay the department an administrative fee of \$300, which must be deposited in the state special revenue account established pursuant to subsection (3)(b). (b) There is a blood-draw search warrant processing account in the state special revenue fund established pursuant to 17-2-102(1)(b). Money provided to the department of justice pursuant to this subsection (3) must be deposited in the account and may be used only for providing forensic analysis of a driver's blood or breath to determine the presence of alcohol or drugs. (4) (a) Upon receiving a report of an implied consent violation, the department shall: (i) for a first violation, suspend the driver's license or driving privilege for 6 months with no provision for a restricted probationary license; or (ii) for a second or subsequent violation within 5 years of a previous refusal, as determined from the records of the department, suspend the driver's license or driving privilege for 1 year with no provision for a restricted probationary license. (b) If a person who refuses to submit to one or more tests under this section is the holder of a commercial driver's license, in addition to any action taken against the driver's noncommercial driving privileges, the department shall: (i) upon a first refusal, suspend the person's commercial driver's license for 1 year; and (ii) upon a second or subsequent refusal, suspend the person's commercial driver's license for life, subject to department rules adopted to implement federal rules allowing for license reinstatement, if the person is otherwise eligible, upon completion of a minimum suspension period of 10 years. If the person has a prior conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same effect as a previous testing refusal. (5) A nonresident driver's license seized under this section must be sent by the department to the licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or more tests. (6) The department may recognize the seizure of a license of a tribal member by a peace officer acting under the authority of a tribal government or an order issued by a tribal court suspending, revoking, or reinstating a license or adjudicating a license seizure if the actions are conducted pursuant to tribal law or regulation requiring alcohol or drug testing of motor vehicle operators and the conduct giving rise to the actions occurred within the exterior boundaries of a federally recognized Indian reservation in this state. Action by the department under this subsection is not reviewable under 61-8-1017. History: En. Sec. 16, Ch. 498, L. 2021; amd. Sec. 2, Ch. 373, L. 2021; amd. Sec. 6, Ch. 151, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 10. Driving Under Influence of Alcohol or Drugs 61-8-1033. Forfeiture procedure

61-8-1033. Forfeiture procedure. (1) A motor vehicle forfeited under 61-8-1010 must be seized by the arresting agency within 10 days after the conviction and disposed of as provided in Title 44, chapter 12, part 2. Except as provided in this section, the provisions of Title 44, chapter 12, part 2, apply to the extent applicable. (2) Forfeiture proceedings under 44-12-207 through

44-12-211 must be instituted by the arresting agency within 20 days after the seizure of the motor vehicle. (3) (a) For purposes of 44-12-213, the proceeds of the sale of the motor vehicle must be distributed first to the holders of security interests who have presented proper proof of their claims, up to the amount of the interests or the amount received from the sale, whichever is less, and the remainder to the general fund of the arresting agency. (b) A holder of a security interest may petition the sentencing court for transfer of title to the motor vehicle to the holder of the security interest if the secured interest is equal to or greater than the estimated value of the motor vehicle. (4) Actions the court may take under 44-12-212(3) to protect the rights of innocent persons include return of the motor vehicle without a sale to an owner who is unable to present an adequate defense under this section but is found by the court to be without fault. History: En. Sec. 17, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-201. Obedience to traffic control devices -- exception for certain vehicles and funeral processions

61-8-201. Obedience to traffic control devices -- exception for certain vehicles and funeral processions. (1) Unless otherwise directed by a peace officer, flag person, crossing guard, or public safety worker, the driver of a vehicle shall obey the instructions of an official traffic control device applicable to the driver's vehicle and placed in accordance with the provisions of this chapter. The driver of an authorized emergency vehicle, a police vehicle, or a highway patrol vehicle and the driver of a motor vehicle in a funeral procession are exempt from obedience to official traffic control devices and flag persons as provided in this chapter. (2) A provision of this chapter for which traffic control devices or flag persons are required may not be enforced against an alleged violator if at the time and place of the alleged violation an official traffic control device or flag person is not in proper position and sufficiently legible or visible to be seen by an ordinarily observant person. Whenever a particular section of this chapter does not state that official traffic control devices or flag persons are required, the section is effective even though traffic control devices are not erected or in place. (3) Official traffic control devices or flag persons that are placed or held in position substantially conforming to the requirements of this chapter and the requirements of the uniform system adopted by the department of transportation pursuant to 61-8-202 are presumed to have been placed by an official act or at the discretion of a lawful authority. History: En. Sec. 33, Ch. 263, L. 1955; R.C.M. 1947, 32-2136; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 338, L. 1991; amd. Sec. 1, Ch. 53, L. 2003; amd. Sec. 196, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-202. Department of transportation to adopt manual

61-8-202. Department of transportation to adopt manual. The department of transportation shall adopt a manual for a uniform system of traffic control devices consistent with this chapter for use upon highways within the state. The manual adopted by the department of transportation must correlate with and so far as possible conform to the Manual on Uniform Traffic Control Devices, as amended, published by the United States federal highway administration. History: En. Sec. 30, Ch. 263, L. 1955; amd. Sec. 1, Ch. 241, L. 1959; amd. Sec. 52, Ch. 316, L. 1974; R.C.M. 1947, 32-2133; amd. Sec. 1, Ch. 37, L. 1981; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 2, Ch. 53, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-203. Department of transportation to place traffic control devices on highways it maintains and approve traffic control devices on highways under its jurisdiction

61-8-203. Department of transportation to place traffic control devices on highways it maintains and approve traffic control devices on highways under its jurisdiction. (1) The department of transportation shall place and maintain traffic control devices, conforming to its manual and specifications, upon all highways maintained by the department of transportation that the department considers necessary to carry out the provisions of chapter 9 and this chapter or to regulate, warn, or guide traffic. (2) A local authority or other entity may not place or maintain a traffic control device upon a highway under the jurisdiction of the department of transportation except with the department's permission. (3) The unauthorized erection of a sign, marker, emblem, or other traffic control device on a highway under the jurisdiction of the department of transportation by any other entity is a misdemeanor and is punishable as provided in 61-8-712. (4) The erection or maintenance of a sign, marker, emblem, or traffic control device on a highway under the jurisdiction of the department of transportation is subject to the rules and specifications that the department adopts and publishes in the interest of public safety and convenience. (5) (a) An automated enforcement system designed to detect traffic violations that is attached to a traffic control device may not be used to enforce traffic laws. (b) Subsection (5)(a) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings. History: En. Sec. 31, Ch. 263, L. 1955; amd. Sec. 1, Ch. 224, L. 1959; amd. Sec. 53, Ch. 316, L. 1974; R.C.M. 1947, 32-2134(a) thru (d); amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 3, Ch. 53, L. 2003; amd. Sec. 1, Ch. 447, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-204. Reward for information on injury to or removal of sign or marker

61-8-204. Reward for information on injury to or removal of sign or marker. Upon conviction under the provisions of 61-8-713, a person who furnishes information to law enforcement officers leading to the arrest and conviction of the accused person must be paid a reward from the highway nonrestricted account provided for in 15-70-125 in the sum of \$100. History: En. Sec. 2, Ch. 184, L.

1965; R.C.M. 1947, 32-2134.2; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 57, Ch. 509, L. 1995; amd. Sec. 18, Ch. 267, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-206. Local traffic control devices

61-8-206. Local traffic control devices. (1) Local authorities in their respective jurisdictions shall place and maintain traffic control devices upon highways under their jurisdiction that they consider necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All traffic control devices must conform to the state manual and specifications. (2) (a) An automated enforcement system designed to detect traffic violations that is attached to a traffic control device may not be used to enforce traffic laws. (b) Subsection (2)(a) does not apply to automated enforcement systems attached to traffic control devices at railroad grade crossings. History: En. Sec. 32, Ch. 263, L. 1955; R.C.M. 1947, 32-2135; amd. Sec. 2, Ch. 447, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-207. Traffic control signal legend

61-8-207. Traffic control signal legend. Except for lane use control signals and special pedestrian control signals carrying a legend, whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored lighted arrows successively one at a time or in combination, only the colors green, red, and yellow may be used. The lights indicate and apply to drivers of vehicles and pedestrians as follows: (1) (a) Vehicular traffic facing a circular green signal may proceed straight through or turn left or right unless a traffic control device at the place prohibits either turn. However, vehicular traffic, including vehicles turning right or left, must yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited. (b) Vehicular traffic facing a green arrow signal shown alone or in combination with another indication may cautiously enter the intersection only to make either the movement indicated by the arrow or another movement that is permitted by another indication shown at the same time. Vehicular traffic making the movements permitted by this subsection (1)(b) must yield the right-of-way to pedestrians who are lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection. (c) Unless otherwise directed by a pedestrian control signal as provided in 61-8-208, a pedestrian facing a green signal, except when the only green signal is a turn arrow, may proceed in the direction of the green signal across the roadway within any marked or unmarked crosswalk. A driver of a vehicle shall yield the right-of-way to the pedestrian. (2) (a) Vehicular traffic facing a steady circular yellow or yellow arrow signal is warned that the traffic movement permitted by the related green signal is being terminated or that a red signal will be exhibited immediately thereafter. Vehicular traffic may not enter the intersection when the red signal is exhibited after the yellow signal. (b) Unless otherwise directed by a pedestrian control signal as provided in 61-8-208, a pedestrian facing a steady circular yellow or yellow arrow signal is advised that there is insufficient time to cross the roadway before a red indication is shown. (3) (a) Vehicular traffic facing a steady circular red signal must stop at a marked stop line. If there is not a marked stop line, vehicular traffic must stop before entering the crosswalk on the near side of the intersection. If there is not a marked crosswalk, vehicular traffic must stop before entering the intersection and, except as provided in subsection (3)(c), must remain standing until an indication to proceed is shown. (b) Vehicular traffic facing a steady red arrow signal may not enter the intersection to make the movement indicated by the arrow and must stop at a marked stop line unless the traffic is entering the intersection to make a movement indicated by another signal. If there is not a marked stop line, vehicular traffic must stop before entering the crosswalk on the near side of the intersection. If there is not a marked crosswalk, vehicular traffic must stop before entering the intersection and must remain standing until an indication is shown that permits movement. (c) (i) Except when a traffic control device is in place that prohibits a turn, vehicular traffic facing a steady circular red signal may cautiously enter the intersection to turn right or to turn left from a one-way street onto another one-way street after stopping as required under subsection (3)(a). After stopping, the operator of a vehicle shall yield the right-of-way to any vehicle in the intersection or approaching the intersection close enough to constitute an immediate hazard during the time that the operator is moving within the intersection. (ii) An operator of a vehicle entering an intersection as provided in subsection (3)(c)(i) shall yield the right-of-way to pedestrians within the intersection or within an adjacent crosswalk. (d) Unless otherwise directed by a pedestrian control signal as provided in 61-8-208, a pedestrian facing a steady circular red or red arrow signal alone may not enter the roadway. (4) (a) If an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section are applicable except as to those provisions that by their very nature can have no application. (b) A required stop must be made at a sign or marking on the pavement indicating where the stop must be made, but in the absence of any sign or marking, the stop must be made at the signal. History: En. Sec. 34, Ch. 263, L. 1955; amd. Sec. 1, Ch. 211, L. 1963; amd. Sec. 1, Ch. 206, L. 1974; R.C.M. 1947, 32-2137; amd. Sec. 1, Ch. 62, L. 1979; amd. Sec. 47, Ch. 16, L. 1991; amd. Sec. 1, Ch. 44, L. 1993; amd. Sec. 4, Ch. 53, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-208. Pedestrian control signals

61-8-208. Pedestrian control signals. Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk" or symbols of a walking person or an upraised palm are in place, the signals indicate as follows: (1) A pedestrian facing a "Walk" signal or a walking person symbol may proceed across the roadway in the direction of the signal and the operators of all vehicles shall yield the right-of-way to the pedestrian. (2) A pedestrian may not start to cross the roadway in the direction of a signal exhibiting a flashing or steady "Don't Walk" signal or upraised palm symbol, but a pedestrian who has partially completed crossing

on the "Walk" signal or walking person symbol shall proceed to a sidewalk or safety island while the "Don't Walk" signal or upraised palm symbol is showing. An operator of a vehicle shall yield the right-of-way to a pedestrian who has partially completed crossing and is proceeding to the sidewalk or safety island. (3) A pedestrian may not start to cross a roadway in the direction of a steady "Don't Walk" signal or upraised palm symbol. History: En. Sec. 35, Ch. 263, L. 1955; R.C.M. 1947, 32-2138; amd. Sec. 5, Ch. 53, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-209. Flashing signals

61-8-209. Flashing signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic control device, it requires obedience by vehicular traffic as follows: (a) When a red lens is illuminated with rapid intermittent flashes, an operator of a vehicle shall stop at a marked stop line. If there is no marked stop line, an operator shall stop before entering the nearest crosswalk at an intersection. If there is no crosswalk, an operator shall stop at the point nearest the intersecting roadway where the operator has a view of approaching traffic. The right to proceed is subject to the rules applicable after making a stop at a stop sign, as provided in 61-8-344. (b) When a yellow lens is illuminated with rapid intermittent flashes, the operator of a vehicle may proceed through the intersection or past the flashing yellow signal only with caution. (2) This section does not apply at railroad grade crossings. Conduct of an operator of a vehicle approaching a railroad grade crossing is governed by the provisions of 61-8-347. History: En. Sec. 36, Ch. 263, L. 1955; amd. Sec. 2, Ch. 169, L. 1957; R.C.M. 1947, 32-2139; amd. Sec. 6, Ch. 53, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-210. Display of unauthorized signs, signals, or markings

61-8-210. Display of unauthorized signs, signals, or markings. (1) A person may not place, maintain, or display upon or in view of a highway any unauthorized sign, signal, marking, or device that purports to be or is an imitation of or resembles an official traffic control device, that attempts to direct the movement of traffic, or that hides from view or interferes with the effectiveness of any official traffic control device or flag person. (2) A person may not place or maintain and a public authority may not permit commercial advertising on an official traffic control device on a highway, except for business signs included as a part of official motorist service panels or roadside area information panels approved by the department of transportation. (3) This section does not prohibit the erection of signs upon private property adjacent to highways that give useful directional information and that are of a type that cannot be mistaken for official signs. History: En. Sec. 37, Ch. 263, L. 1955; R.C.M. 1947, 32-2140(a) thru (d); amd. Sec. 8, Ch. 53, L. 2003; amd. Sec. 197, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-211. Lane use control signals

61-8-211. Lane use control signals. When lane use control signals are placed over individual lanes, the signals indicate and apply to operators of vehicles as follows: (1) An operator of a vehicle may drive in the lane over which a steady downward green arrow signal is located. (2) An operator of a vehicle must be prepared to vacate, in a safe manner, the lane over which a steady yellow X signal is located because a lane control change is being made to a steady red X signal. (3) An operator of a vehicle may not use the lane over which the steady red X signal is located. (4) An operator of a vehicle may use a lane over which a steady white two-way left-turn arrow signal is located for a left turn but not for through travel. The operator must be aware that common use of the lane by oncoming vehicular traffic is also permitted. (5) An operator of a vehicle may use a lane over which a steady white one-way left-turn arrow signal is located for a left turn but not for through travel. History: En. Sec. 7, Ch. 53, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 2. Traffic Control Devices 61-8-212. Inoperative traffic control device

61-8-212. Inoperative traffic control device. An operator of a vehicle approaching an intersection in which an electronic traffic control device is inoperative shall stop in the manner prescribed in 61-8-344, except when directed to proceed by a police officer, highway patrol officer, or traffic control signal. History: En. Sec. 1, Ch. 143, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-301. Reckless driving

61-8-301. Reckless driving. (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(7). (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. History: En. Sec. 40, Ch. 263, L. 1955; amd. Sec. 4, Ch. 201, L. 1957; amd. Sec. 1, Ch. 287, L. 1977; R.C.M. 1947, 32-2143(1), (4); amd. Sec. 1, Ch. 209, L. 1979; amd. Sec. 1, Ch. 221, L. 1985; amd. Sec. 1, Ch. 561, L. 2001; amd. Sec. 1, Ch. 46, L. 2003; amd. Sec. 1, Ch. 352, L. 2003; amd. Sec. 3, Ch. 379, L. 2003; amd. Sec. 1, Ch. 426, L. 2017; amd. Sec. 1, Ch. 478, L. 2021; amd. Sec. 7,

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-302. Careless driving

61-8-302. Careless driving. (1) A person operating or driving a vehicle upon ways of this state open to the public shall drive it in a careful and prudent manner that does not unduly or unreasonably endanger the life, limb, property, or other rights of a person using the ways of this state open to the public. (2) A person who is convicted of the offense of careless driving is subject to the penalties provided in 61-8-711 or 61-8-716. History: En. 32-2143.3 by Sec. 1, Ch. 294, L. 1977; R.C.M. 1947, 32-2143.3; amd. Sec. 2, Ch. 561, L. 2001; amd. Sec. 2, Ch. 552, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-303. Speed restrictions

61-8-303. Speed restrictions. (1) Except as provided in 61-8-309, 61-8-310, and 61-8-312, the speed limit for vehicles traveling: (a) on an interstate highway outside an urbanized area of 50,000 population or more is 80 miles an hour at all times and the speed limit for vehicles traveling on interstate highways within an urbanized area of 50,000 population or more is 65 miles an hour at all times; (b) on any other public highway of this state is 70 miles an hour during the daytime and 65 miles an hour during the nighttime; (c) in an urban district is 25 miles an hour. (2) A vehicle subject to the speed limits imposed in subsection (1) may exceed the speed limits imposed in subsection (1) by 10 miles an hour in order to overtake and pass a vehicle and return safely to the right-hand lane under the following circumstances: (a) while traveling on a two-lane road; and (b) in a designated passing zone. (3) Subject to the maximum speed limits set forth in subsection (1), a person shall operate a vehicle in a careful and prudent manner and at a reduced rate of speed no greater than is reasonable and prudent under the conditions existing at the point of operation, taking into account the amount and character of traffic, visibility, weather, and roadway conditions. (4) Except when a special hazard exists that requires lower speed for compliance with subsection (3), the limits specified in this section are the maximum lawful speeds allowed. (5) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour. (6) The speed limits set forth in this section may be altered by the transportation commission or a local authority as authorized in 61-8-309, 61-8-310, 61-8-313, and 61-8-314. (7) A person who violates this section is subject to the penalties provided in 61-8-725. History: En. Sec. 41, Ch. 263, L. 1955; amd. Sec. 1, Ch. 190, L. 1967; amd. Sec. 55, Ch. 316, L. 1974; R.C.M. 1947, 32-2144; amd. Sec. 1, Ch. 173, L. 1989; amd. Sec. 6, Ch. 75, L. 1995; amd. Sec. 1, Ch. 78, L. 1995; amd. Sec. 2, Ch. 287, L. 1995; amd. Sec. 3, Ch. 473, L. 1997; amd. Sec. 2, Ch. 43, L. 1999; amd. Sec. 2, Ch. 352, L. 2003; amd. Sec. 1, Ch. 540, L. 2003; amd. Sec. 1, Ch. 349, L. 2007; amd. Sec. 5, Ch. 393, L. 2013; amd. Sec. 1, Ch. 395, L. 2015; amd. Sec. 1, Ch. 125, L. 2017; amd. Sec. 27, Ch. 299, L. 2019; amd. Sec. 1, Ch. 161, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-308. Permission of authorities to hold speed contest

61-8-308. Permission of authorities to hold speed contest. (1) No race or contest for speed shall be held and no person shall engage in or aid or abet in any motor vehicle speed contest or exhibition of speed on a public highway or street without written permission of the authorities of the state, county, or city having jurisdiction and unless the same is fully and efficiently patrolled for the entire distance over which such race or contest for speed is to be held. (2) A person who is convicted of violating this section is subject to the penalties provided in 61-8-717. History: En. Sec. 1, Ch. 100, L. 1967; R.C.M. 1947, 32-2143.1; amd. Sec. 2, Ch. 161, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-309. Establishment of special speed zones and temporary special reduced speed limits -- engineering and traffic investigation

61-8-309. Establishment of special speed zones and temporary special reduced speed limits -- engineering and traffic investigation. (1) (a) (i) If the commission determines on the basis of an engineering and traffic investigation that a speed limit set by 61-8-303 or 61-8-312 is greater or less than is reasonable or safe under the conditions found to exist at an intersection, curve, or dangerous location or on a segment of a highway less than 50 miles in length under its jurisdiction, or on a highway corridor under its jurisdiction greater than 50 miles in length on which increased crash frequency or fatal crash data is observed, the commission may set a reasonable and safe special speed limit at that location or corridor. In the case of a school zone adjacent to a state highway, the commission is not required to base its speed limit determination solely on the results of the engineering and traffic investigation. (ii) In the event of a vehicle emergency, adverse weather condition, or identification of another highway safety factor that warrants decreasing the speed limit for reasonable and safe travel, the commission may, in advance of the safety event, adopt localized geographic area temporary special reduced speed limits that are lower than a speed limit set by 61-8-303 or 61-8-312. The temporary special reduced speed limit becomes effective upon posting appropriate fixed or variable signs and shall remain in effect while the fixed or variable signs remain posted. (b) If a local authority requests the department of transportation or an engineer, as provided in subsection (1)(c)(i), to conduct an engineering and traffic investigation based on the belief that a speed limit on a highway under the jurisdiction of the department of transportation is greater than is reasonable or safe, the commission may not increase the speed limit under consideration as a result of the investigation. (c) (i) A local authority may request at its own expense

that an engineering and traffic investigation be completed by a licensed professional engineer selected from a list compiled and approved by a committee as provided in subsection (1)(c)(ii). (ii) A committee containing two department of transportation staff appointed by the director and two representatives of associations whose membership comprises cities, towns, and counties, as authorized by 7-5-2141 and 7-5-4141, shall review credentials submitted by licensed professional engineers and shall determine who appears on the list of individuals authorized to conduct engineering and traffic investigations for local governments. The list must be updated every 2 years. (iii) Upon completion of an engineering and traffic investigation conducted for a local government, the department of transportation shall submit a report to the commission with findings and recommendations. The commission shall decide on an appropriate speed limit based on the traffic investigation within 120 days from the date the investigation is submitted to the department of transportation. (d) A local authority may request a temporary special reduced or increased speed zone for a route or route segment that is under consideration for a reduced or increased speed limit under subsection (1)(a), (1)(b), or (1)(c). If a local authority makes multiple requests for temporary special reduced or increased speed zones, the local authority shall prioritize the requests. The department of transportation shall conduct a preliminary visual and engineering review of a route or a route segment for which a temporary special speed zone is requested. The reviewing party must include a representative of the local authority. Upon completion of the preliminary review, if the department of transportation concurs with the local authority that a temporary special reduced or increased speed limit is warranted, a temporary special reduced or increased speed zone may be established upon formal approval by the commission. The temporary special reduced or increased speed limit remains in effect until a complete traffic and engineering study has been done on the route or route segment and the commission has made a determination on changing the speed limit. (2) Pending completion of an engineering and traffic investigation as provided for in subsection (1), the commission may temporarily set a speed limit of not less than 75 miles an hour on a segment of an interstate highway that it reasonably believes is not suitable for the limit established in 61-8-303(1)(a). (3) The department of transportation shall erect and maintain appropriate signs giving notice of special limits. If the special limits apply to a school zone, the department shall consider the use of electronic signs in lieu of or in addition to other appropriate signs. When the signs are erected, the limits are effective for those zones at all times or at other times that the commission sets. (4) The authority of the commission under this section includes the authority: (a) to set reduced nighttime speed limits on curves and other dangerous locations; and (b) to reassess and reset speed limits set by the transportation commission pursuant to this section. (5) This section does not authorize the commission to set a statewide speed limit. (6) (a) The violation of a speed limit established under this section, except subsection (2), is a misdemeanor offense and is punishable as provided in 61-8-711. (b) The violation of a speed limit established under subsection (2) is punishable as provided in 61-8-725. History: En. Sec. 42, Ch. 263, L. 1955; amd. Sec. 1, Ch. 204, L. 1959; amd. Sec. 1, Ch. 178, L. 1961; amd. Sec. 56, Ch. 316, L. 1974; R.C.M. 1947, 32-2145; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 1, Ch. 73, L. 1995; amd. Sec. 1, Ch. 206, L. 1997; amd. Sec. 4, Ch. 43, L. 1999; amd. Sec. 1, Ch. 93, L. 2001; amd. Sec. 1, Ch. 261, L. 2013; amd. Sec. 6, Ch. 393, L. 2013; amd. Sec. 2, Ch. 395, L. 2015; amd. Sec. 28, Ch. 299, L. 2019; amd. Sec. 1, Ch. 440, L. 2019; amd. Sec. 1, Ch. 480, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-310. When local authorities may and shall alter limits or establish or alter area of school zone

61-8-310. When local authorities may and shall alter limits or establish or alter area of school zone. (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under 61-8-303 and 61-8-309 through 61-8-313 is greater or less than is reasonable and safe under the conditions found to exist upon a highway or part of a highway, the local authority may set a reasonable and safe limit that: (a) decreases the limit at an intersection; (b) increases the limit within an urban district, but not to more than 65 miles an hour during the nighttime; (c) decreases the limit outside an urban district, but not to less than 35 miles an hour on a paved road or less than 25 miles an hour on an unpaved road; or (d) decreases the limit in a school zone or in an area near a senior citizen center, as defined in 23-5-112, or a designated crosswalk that is close to a school or a senior citizen center to not less than 15 miles an hour. If warranted by an engineering and traffic investigation, a local authority may adopt variable speed limits to adapt to traffic conditions by time of day, provided that the variable limits comply with the provisions of 61-8-206. (2) A board of county commissioners may set limits, as provided in subsections (1)(c) and (1)(d), without an engineering and traffic investigation on a county road. (3) A local authority in its jurisdiction may determine the proper speed for all arterial streets and shall set a reasonable and safe limit on arterial streets that may be greater or less than the speed permitted under 61-8-303 for an urban district. (4) (a) An altered limit established as authorized under this section is effective at all times or at other times determined by the authority when appropriate signs giving notice of the altered limit are erected upon the highway. (b) If a local authority decreases a speed limit in a school zone, the local authority shall erect signs conforming with the manual adopted by the department of transportation under 61-8-202 giving notice that the school zone has been entered, of the altered speed limit and the penalty provided in 61-8-726, and that the school zone has ended. (5) The commission has exclusive jurisdiction to set special speed limits on all state highways or highways located on the commission-designated highway system as defined in 60-1-103 in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309. (6) A local authority establishing or altering the area of a school zone shall consult with the department of transportation and the commission if the school zone includes a state highway or a highway located on the commission-designated highway system as defined in 60-1-103. (7) A local authority shall consult with district officials for a school when: (a) establishing or altering the area of a school zone near the school; or (b) setting a speed limit pursuant to subsection (1)(d) in a school zone near the school. (8) A speed limit set on an unpaved road under subsection (1)(c) must be the same for all types of motor vehicles that may be operated on the road. (9) The violation of a speed limit established under subsections (1)(a) through (1)(c) is a misdemeanor offense and is punishable as provided in 61-8-711.

The violation of a speed limit established under subsection (1)(d) is a misdemeanor offense and is punishable as provided in 61-8-726. History: En. Sec. 43, Ch. 263, L. 1955; amd. Sec. 1, Ch. 89, L. 1971; amd. Sec. 57, Ch. 316, L. 1974; R.C.M. 1947, 32-2146; amd. Sec. 2, Ch. 614, L. 1985; amd. Sec. 1, Ch. 686, L. 1991; amd. Sec. 1, Ch. 213, L. 1993; amd. Sec. 3, Ch. 287, L. 1995; amd. Sec. 5, Ch. 43, L. 1999; amd. Sec. 198, Ch. 542, L. 2005; amd. Sec. 2, Ch. 83, L. 2009; amd. Sec. 1, Ch. 204, L. 2011; amd. Sec. 7, Ch. 393, L. 2013; amd. Sec. 1, Ch. 174, L. 2019; amd. Sec. 29, Ch. 299, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-311. Minimum speed regulations

61-8-311. Minimum speed regulations. (1) A person may not drive a motor vehicle at a speed slow enough to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. (2) On a two-lane highway where passing is unsafe because of oncoming traffic or other conditions, the operator of a slow-moving vehicle behind which four or more vehicles are formed in line shall turn off the roadway at the nearest area where a sufficient and safe turnout exists in order to permit the vehicles following it to proceed. If the shoulder of the highway to the right of the slow-moving vehicle is wide enough and is in a condition allowing safe travel, the operator of the slow-moving vehicle may drive onto the shoulder and proceed at a safe speed until passed. As used in this section, a slow-moving vehicle is one that is proceeding at a rate of speed less than the normal flow of traffic at the particular time and place. The department of transportation is authorized to designate and construct turnouts and to erect official traffic control devices at appropriate places advising motorists of this statute. (3) If the department of transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway impede the normal and reasonable movement of traffic, the commission or the local authority may set a minimum speed limit below which a person may not operate a vehicle except when necessary for safe operation or in compliance with law. History: En. Sec. 44, Ch. 263, L. 1955; amd. Sec. 1, Ch. 387, L. 1973; amd. Sec. 58, Ch. 316, L. 1974; R.C.M. 1947, 32-2147; amd. Sec. 1, Ch. 15, L. 1983; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 3, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-312. Special speed limitations on trucks, truck tractors, and motor-driven cycles

61-8-312. Special speed limitations on trucks, truck tractors, and motor-driven cycles. (1) Except as provided in 61-8-303, 61-8-309, 61-8-310, and subsection (2) of this section, the speed limit for a truck or truck tractor of more than 1 ton "manufacturer's rated capacity" traveling on: (a) an interstate highway, as defined in 60-1-103, is 70 miles an hour; and (b) any other public highway is 65 miles an hour. (2) Except as provided in 61-8-303, 61-8-309, and 61-8-310, the speed limit for a vehicle subject to a term permit under 61-10-124(2)(d) or a truck-trailer-trailer or truck tractor-semitrailer-trailer-trailer combination of vehicles subject to special permits under 61-10-124(3) is 65 miles an hour unless otherwise stated in the permit. (3) A person may not operate a motor-driven cycle at any time mentioned in 61-9-201 at a speed greater than 35 miles an hour unless the motor-driven cycle is equipped with a headlamp or lamps that are adequate to reveal a person or vehicle at a distance of 300 feet ahead. (4) A person who violates this section is subject to the penalties provided in 61-8-725. History: En. Sec. 45, Ch. 263, L. 1955; amd. Sec. 1, Ch. 241, L. 1957; amd. Sec. 1, Ch. 119, L. 1961; amd. Sec. 1, Ch. 253, L. 1971; R.C.M. 1947, 32-2148; amd. Sec. 1, Ch. 474, L. 1987; amd. Sec. 1, Ch. 437, L. 1989; amd. Sec. 48, Ch. 16, L. 1991; amd. Sec. 1, Ch. 232, L. 1997; amd. Sec. 6, Ch. 43, L. 1999; amd. Sec. 4, Ch. 352, L. 2003; amd. Sec. 3, Ch. 395, L. 2015; amd. Sec. 30, Ch. 299, L. 2019; amd. Sec. 1, Ch. 438, L. 2019; amd. Sec. 2, Ch. 89, L. 2021; amd. Sec. 3, Ch. 161, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-313. Special speed limitations

61-8-313. Special speed limitations. (1) A person may not drive a vehicle equipped with solid rubber or cushion tires at a speed greater than 10 miles per hour. (2) A person may not drive a vehicle over a bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to the bridge or structure when the structure is signposted as provided in this section. (3) The department of transportation upon request from a local authority may, or upon its own initiative shall, conduct an investigation of a bridge or other elevated structure constituting a part of a highway, and if it finds on investigation that the structure cannot safely withstand vehicles traveling at the speed otherwise permissible under this chapter, the commission shall set the maximum speed of vehicles which the structure can withstand, and the department shall erect and maintain suitable signs stating the maximum speed at a distance of not less than 100 feet before each end of the structure. (4) Upon the trial of a person charged with a violation of this section, proof of the setting of the maximum speed by the commission and the existence of the signs is conclusive evidence of the maximum speed which can be maintained with safety to the bridge or structure. History: En. Sec. 46, Ch. 263, L. 1955; amd. Sec. 59, Ch. 316, L. 1974; R.C.M. 1947, 32-2149; amd. Sec. 3, Ch. 512, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-314. Traffic violations in work zone -- definitions

61-8-314. Traffic violations in work zone -- definitions. (1) As used in this section, the following definitions apply: (a) "Highway

worker" has the same meaning as in 61-8-301. (b) "Public highway" has the same meaning as in 60-1-103. (c) "Work zone" means an area on a public highway or on the adjacent right-of-way where construction, repair, maintenance, or survey work is being performed by the department of transportation, a local authority, a utility company, or a private contractor with the department of transportation or with a local authority. The boundaries of the work zone must be clearly identified by the posting of signs. (2) A person may not operate a motor vehicle in a work zone on a public highway in violation of any of the provisions of part 3 of this chapter. (3) The speed limit in a work zone must be set by the department of transportation or the local authority based on traffic conditions or the condition of the construction, repair, maintenance, or survey project. (4) (a) If the department of transportation, the local authority, the utility company, or the private contractor determines, based on traffic conditions or the condition of the construction, repair, maintenance, or survey project, that special speed limits in work zones are warranted, then the department, the local authority, the utility company, or the private contractor shall post signs that: (i) conform to the department of transportation's manual on uniform traffic control devices; (ii) indicate the boundaries of the work zone; and (iii) display the speed limit in effect within the work zone. (b) The department of transportation, the local authority, the utility company, or the private contractor shall clearly indicate at the boundary of a work zone that a person who violates any of the provisions of part 3 of this chapter in the work zone is subject to the fine provided in subsection (5)(a). (c) The department of transportation, the local authority, the utility company, or the private contractor shall remove or cover the signs when no work is in progress and no hazard exists. (5) A person convicted of a traffic violation in a work zone is guilty of a misdemeanor. On arrest and conviction: (a) if a highway worker was present in the work zone at the time of the traffic violation and within 1,000 feet of the traffic violation, the person shall be punished by a fine of not less than double the penalty provided for the violation in part 7 of this chapter; or (b) if no highway worker was present in the work zone at the time and place of the traffic violation, the person is subject to the penalty provided for the violation in part 7 of this chapter. History: En. Sec. 1, Ch. 473, L. 1997; amd. Sec. 1, Ch. 430, L. 1999; amd. Sec. 2, Ch. 426, L. 2017; amd. Sec. 1, Ch. 219, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-316. Fleeing from or eluding peace officer

61-8-316. Fleeing from or eluding peace officer. (1) A person operating a motor vehicle commits the offense of fleeing from or eluding a peace officer if a uniformed peace officer operating a police vehicle in the lawful performance of the peace officer's duty gives the person a visual or audible signal by hand, voice, emergency light, or siren directing the person to stop the motor vehicle and the person knowingly fails to obey the signal by increasing the speed of the motor vehicle, continuing at a speed that is 10 or more miles an hour above the applicable speed limit, extinguishing the motor vehicle's lights, or otherwise fleeing from, eluding, or attempting to flee from or elude the peace officer. (2) (a) Except as provided in subsection (2)(b), a person convicted of or pleading guilty or nolo contendere to an offense under subsection (1) shall be imprisoned for a term not to exceed 1 year or fined an amount not to exceed \$2,000, or both. (b) A person convicted of an offense of fleeing from or eluding a peace officer during which the person causes serious bodily injury to or the death of any other person shall be imprisoned for a term not to exceed 10 years or fined an amount not to exceed \$10,000, or both. History: En. Sec. 1, Ch. 379, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-317. Right-of-way for vehicles engaged in mobile highway maintenance

61-8-317. Right-of-way for vehicles engaged in mobile highway maintenance. The operator of a vehicle shall yield the right-of-way to an authorized vehicle that is engaged in highway maintenance activities when the authorized vehicle is displaying flashing lights that meet the requirements of the department of transportation. History: En. Sec. 5, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-318. and 61-8-319 reserved

61-8-318 and 61-8-319 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-320. Right-of-way for bicycles

61-8-320. Right-of-way for bicycles. (1) The operator of a motor vehicle may not: (a) intentionally interfere with the movement of a person who is lawfully riding a bicycle; or (b) overtake and pass a person riding a bicycle unless the operator of the motor vehicle can do so safely without endangering the person riding the bicycle. (2) The operator of a motor vehicle shall yield the right-of-way to a person who is riding a bicycle within a designated bicycle lane. History: En. Sec. 24, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-321. Drive on right side of roadway -- exceptions

61-8-321. Drive on right side of roadway -- exceptions. (1) Upon all roadways of sufficient width, a vehicle must be operated upon the right half of the roadway, except as follows: (a) when overtaking and passing another vehicle proceeding in the same direction under the rules governing the passing movement; (b) when the right half of a roadway is closed to traffic while under construction or repair; (c) upon a roadway divided into three marked lanes for traffic under the rules applicable on a divided roadway; (d) upon a

roadway designated by official traffic control devices for one-way traffic; (e) when the operator of a vehicle is complying with the provisions of 61-8-387 or 61-8-388; (f) when an obstruction exists that makes it necessary to drive to the left of the center of the roadway; or (g) when a police vehicle or authorized emergency vehicle is performing a job-related duty as provided in 61-8-107. (2) A person operating a vehicle to the left of the center of the roadway for any of the reasons provided in subsection (1) shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the roadway that are within a distance that constitutes an immediate hazard. (3) (a) Except as provided in subsection (3)(b) and subject to subsection (4), upon all roadways having two or more lanes for traffic moving in the same direction, a vehicle must be driven in the right-hand lane. (b) A vehicle being operated upon a roadway having two or more lanes for traffic moving in the same direction is not required to be driven in the right-hand lane when: (i) overtaking and passing another vehicle proceeding in the same direction; (ii) traveling at a speed greater than the traffic flow; (iii) moving left to allow traffic to merge; (iv) traveling on a roadway within the official boundaries of a city or town, except as provided in subsection (4); (v) preparing for a left turn at an intersection or into a private road or driveway when a left turn is legally permitted; (vi) exiting onto a left-hand exit from a controlled-access highway; (vii) an obstruction or hazardous conditions make it necessary to drive in a lane other than the right-hand lane; (viii) road or vehicle conditions make it safer to drive in a lane other than the right-hand lane; or (ix) authorized snow-removal equipment is operating on the roadway. (4) When traveling upon an interstate highway, as defined in 60-1-103, within the official boundaries of a city or town, a vehicle must be driven in the right-hand lane unless otherwise directed or permitted by an official traffic control device. History: En. Sec. 48, Ch. 263, L. 1955; R.C.M. 1947, 32-2151; amd. Sec. 6, Ch. 352, L. 2003; amd. Sec. 1, Ch. 236, L. 2017; amd. Sec. 31, Ch. 299, L. 2019; amd. Sec. 8, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-322. Passing vehicles proceeding in opposite directions

61-8-322. Passing vehicles proceeding in opposite directions. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main-traveled portion of the roadway. History: En. Sec. 49, Ch. 263, L. 1955; R.C.M. 1947, 32-2152; amd. Sec. 67, Ch. 421, L. 1979.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-323. Overtaking vehicle on left

61-8-323. Overtaking vehicle on left. The following rules govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations, exceptions, and special rules provided in this chapter: (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left of the other vehicle at a safe distance and may not again drive to the right side of the roadway until safely clear of the overtaken vehicle. (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle upon an audible signal or the use of signal lamps, as provided in 61-9-218, and may not increase the speed of the vehicle until completely passed by the overtaking vehicle. When giving way to the right on a two-lane highway, the operator of the vehicle being overtaken may travel upon the shoulder at a safe speed until passed if the shoulder is wide enough and is in a condition allowing safe travel. History: En. Sec. 50, Ch. 263, L. 1955; R.C.M. 1947, 32-2153; amd. Sec. 2, Ch. 15, L. 1983; amd. Sec. 1, Ch. 119, L. 1997; amd. Sec. 7, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-324. Overtaking vehicle on right

61-8-324. Overtaking vehicle on right. (1) The operator of a vehicle may overtake and pass on the right of another vehicle only under the following conditions: (a) when the vehicle overtaken is making or about to make a left turn; or (b) on a roadway with unobstructed pavement of sufficient width for two or more lanes of vehicles moving lawfully in the direction being traveled by the overtaking vehicle. (2) The operator of a vehicle may overtake and pass another vehicle on the right only under conditions permitting safe movement. The movement may not be made by driving off the pavement or main-traveled portion of the roadway, except that a person operating a bicycle may pass on the shoulder, provided the movement may be done in safety. History: En. Sec. 51, Ch. 263, L. 1955; R.C.M. 1947, 32-2154; amd. Sec. 8, Ch. 352, L. 2003; amd. Sec. 2, Ch. 255, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-325. Limitations on overtaking on the left

61-8-325. Limitations on overtaking on the left. (1) A vehicle may not be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit the overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. (2) A vehicle may not be driven to the left side of the roadway under the following conditions: (a) when approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within a distance that creates a hazard in the event that another vehicle might approach from the opposite direction; (b) when approaching within 100 feet of or traversing any intersection or railroad grade crossing, unless

otherwise indicated by an official traffic control device; or (c) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel. (3) The limitations provided in this section do not apply upon a one-way roadway. History: En. Secs. 52, 53, Ch. 263, L. 1955; R.C.M. 1947, 32-2155, 32-2156; amd. Sec. 9, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-326. No-passing zones

61-8-326. No-passing zones. (1) The department of transportation and local authorities may determine those portions of a highway in their respective jurisdictions where overtaking and passing or driving to the left side of the center of the roadway would be especially hazardous, and they may by official traffic control devices on the highway indicate the beginning and end of these zones. When the official traffic control devices are in place and clearly visible to an ordinarily observant person, an operator of a vehicle shall obey the directions of those devices. (2) (a) Except as provided in subsection (2)(b), where official traffic control devices are in place to define a no-passing zone as set forth in subsection (1) an operator of a vehicle may not drive on the left side of the center of the roadway within the no-passing zone or on the left side of a pavement striping designed to mark the no-passing zone throughout its length. (b) Subsection (2)(a) does not apply to the operator of a faster vehicle passing a bicycle when: (i) the bicycle is traveling at less than half the posted speed limit; (ii) the faster vehicle is capable of overtaking and passing the bicycle without exceeding the posted speed limit; and (iii) there is sufficient clear sight distance to the left side of the center of the roadway to meet the overtaking and passing requirements in 61-8-325. (3) The provisions of this section do not apply under the conditions provided in 61-8-321(1) or to the operator of a vehicle that is turning left into or from an alley, private road, or driveway. (4) A person who is convicted of violating this section is subject to the penalties provided in 61-8-724. History: En. Sec. 54, Ch. 263, L. 1955; amd. Sec. 1, Ch. 97, L. 1957; amd. Sec. 60, Ch. 316, L. 1974; R.C.M. 1947, 32-2157; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 10, Ch. 352, L. 2003; amd. Sec. 3, Ch. 255, L. 2015; amd. Sec. 4, Ch. 161, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-327. One-way roadways, rotary traffic islands, and roundabouts

61-8-327. One-way roadways, rotary traffic islands, and roundabouts. (1) The department of transportation or a local authority may designate a highway, roadway, part of a roadway, or specific lanes under its respective jurisdiction for one-way traffic and shall erect official traffic control devices giving notice of that designation. (2) Upon a roadway designated by official traffic control devices for one-way traffic a vehicle may be driven only in the direction designated. (3) A vehicle passing around a rotary traffic island or a roundabout may be driven only to the right of the island or the center of the roundabout. (4) For the purposes of this section, a "roundabout" is a circular intersection where all entering traffic must yield to the vehicles within the intersection. History: En. Sec. 55, Ch. 263, L. 1955; amd. Sec. 61, Ch. 316, L. 1974; R.C.M. 1947, 32-2158; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 11, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-328. Driving on roadways laned for traffic

61-8-328. Driving on roadways laned for traffic. Whenever a roadway has been divided into two or more clearly marked lanes for traffic, the following rules, in addition to all other consistent rules, apply: (1) A vehicle must be operated as nearly as practicable entirely within a single lane and may not be moved from the lane until the operator has first ascertained that the movement can be made with safety. (2) Upon a roadway that is divided into three lanes and that provides for two-way movement of traffic, a vehicle may not be operated in the center lane except: (a) when overtaking and passing another vehicle traveling in the same direction where passing is allowed and where the center lane is clear of traffic within a safe distance; or (b) when the center lane is at the time allocated exclusively to traffic moving in the direction that the vehicle is proceeding and the allocation is designated by official traffic control devices. (3) Official traffic control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. Operators of vehicles shall obey the directions of every official traffic control device that designates use of specific lanes. (4) A person may turn a vehicle left across a lane marked with two yellow lines into a public or private parking lot, private road, private driveway, or roadway if the turn can be made safely and if the person does not hinder the flow of oncoming traffic. (5) Official traffic control devices may be installed that prohibit the changing of lanes on sections of a roadway, and operators of vehicles shall obey the directions of those devices. (6) A motor vehicle may not be driven or parked in a bicycle lane that is signed and delineated as a bicycle lane by official traffic control devices. History: En. Sec. 56, Ch. 263, L. 1955; R.C.M. 1947, 32-2159; amd. Sec. 2, Ch. 119, L. 1997; amd. Sec. 12, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-329. Following too closely

61-8-329. Following too closely. (1) The driver of a motor vehicle may not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the roadway. (2) A motor vehicle being driven upon a roadway outside of a business or residence district, including in a caravan or motorcade, whether or not towing other vehicles, must be operated in a manner that allows sufficient space between each vehicle or combination of vehicles to

enable any other vehicle to enter and occupy the space without danger. This provision does not apply to funeral processions. History: En. Sec. 57, Ch. 263, L. 1955; R.C.M. 1947, 32-2160; amd. Sec. 13, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-330. Driving on divided highways

61-8-330. Driving on divided highways. (1) Where a highway has been divided into two or more roadways by leaving a space delineated by two double yellow lines or two yellow lines with a crosshatch pattern or by a physical barrier or a clearly indicated dividing section that is constructed in a way that impedes vehicular traffic, a vehicle may be driven only upon the right-hand roadway unless directed or permitted by official traffic control devices or police officers to use another roadway. (2) A vehicle may not be driven over, across, or within a space, barrier, or section described in subsection (1) except through an opening in the physical barrier or dividing section or space or at an established crossover or intersection unless specifically prohibited by a public authority. History: En. Sec. 58, Ch. 263, L. 1955; R.C.M. 1947, 32-2161; amd. Sec. 14, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-331. Restricted and controlled access

61-8-331. Restricted and controlled access. (1) A person may not operate a vehicle onto or from a controlled-access roadway except at entrances and exits that are established by public authority. (2) On a controlled-access highway or facility a person may not: (a) operate a vehicle over, upon, or across a curb, central dividing section, or other separation or dividing line; (b) make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb, section, separation, or line if travel through the opening is not prohibited by an official traffic control device; (c) operate a vehicle except in the proper lane, in the proper direction, and to the right of the central dividing curb, separation, section, or line; (d) operate a vehicle from a local service road except through an opening provided for that purpose in the dividing curb, section, or line that separates the service road from the highway or facility; (e) construct, operate, or maintain a road or private driveway connecting with the highway or facility without first obtaining permission in writing from the public authority having jurisdiction. (3) (a) A person who is convicted of violating subsection (1) is subject to the penalties provided in 61-8-711. (b) A person who is convicted of violating subsection (2) is subject to the penalties provided in 61-8-720. History: (1) En. Sec. 59, Ch. 263, L. 1955; Sec. 32-2162, R.C.M. 1947; (2) En. Sec. 10-111, Ch. 197, L. 1965; Sec. 32-4311, R.C.M. 1947; R.C.M. 1947, 32-2162, 32-4311(1); amd. Sec. 15, Ch. 352, L. 2003; amd. Sec. 5, Ch. 161, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-332. Restrictions on use of controlled-access roadway

61-8-332. Restrictions on use of controlled-access roadway. (1) The department of transportation may by rule and local authorities may by ordinance regulate or prohibit the use of a controlled-access highway under their respective jurisdictions by any class or kind of traffic that is found to be incompatible with the normal and safe movement of traffic or by any vehicle. (2) The department or the local authority that adopts the prohibitory regulation shall erect and maintain official traffic control devices on the controlled-access highway on which these regulations are applicable. A person may not violate the restrictions stated on the official traffic control devices. History: En. Sec. 60, Ch. 263, L. 1955; amd. Sec. 62, Ch. 316, L. 1974; R.C.M. 1947, 32-2163; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 16, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-333. Required position and method of turning at intersections

61-8-333. Required position and method of turning at intersections. (1) The operator of a vehicle intending to turn at an intersection shall do so as follows: (a) Both the approach for a right turn and a right turn must be made as close as practicable to the right-hand curb or edge of the roadway. (b) At an intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn must be made in that portion of the right half of the roadway nearest the center line of the roadway and by passing to the right of the center line where it enters the intersection. After entering the intersection, the left turn must be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn must be made in that portion of the intersection to the left of the center of the intersection. (c) At an intersection where traffic is restricted to one direction on one or more of the roadways, the operator of a vehicle intending to turn left shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of the vehicle. After entering the intersection, the left turn must be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in the direction upon the roadway being entered. (d) A person making a turn under subsection (1)(a), (1)(b), or (1)(c) is entitled to the full use of the lane from which the turn may be legally made. (2) (a) A person operating a bicycle who intends to turn left shall follow the course described in subsection (1) or in subsection (2)(b). (b) A person operating a bicycle who intends to turn left shall approach the turn as close as practicable to the right curb or edge of the roadway. After proceeding across the intersecting roadway, the person shall make the turn as close as practicable to the curb or edge of the roadway on the far right side of the intersection. After turning, the person shall yield to through traffic and shall comply with any official traffic control device or police officer regulating traffic on the highway along which the person intends to proceed. (3) Local authorities in their

respective jurisdictions may place official traffic control devices within or adjacent to intersections, directing that a different course from that specified in this section be traveled by vehicles turning at an intersection. Where official traffic control devices that direct a different course are placed, the operator of a vehicle may not turn the vehicle other than as directed by the official traffic control devices. (4) Where a special lane has been indicated by official traffic control devices allowing operators of vehicles proceeding in opposite directions to make left turns: (a) a left turn may not be made from any other lane; and (b) a vehicle may not be operated in the lane except when making a left turn from or onto the roadway or when making a U-turn when that movement is permitted by law. History: En. Sec. 61, Ch. 263, L. 1955; R.C.M. 1947, 32-2164; amd. Sec. 3, Ch. 450, L. 1983; amd. Secs. 17, 51(2)(a), Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-334. Limitation on U-turns -- turning on curve or crest of grade prohibited

61-8-334. Limitation on U-turns -- turning on curve or crest of grade prohibited. An operator of a vehicle may not turn the vehicle to proceed in the opposite direction: (1) unless the movement can be made safely and without interfering with other traffic; or (2) upon any curve or upon the approach to or near the crest of a grade where the vehicle cannot be seen by the operator of any other vehicle approaching from either direction within 500 feet. History: En. Sec. 62, Ch. 263, L. 1955; R.C.M. 1947, 32-2165; amd. Sec. 18, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-335. Starting parked vehicle

61-8-335. Starting parked vehicle. No person shall start a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety. History: En. Sec. 63, Ch. 263, L. 1955; R.C.M. 1947, 32-2166.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-336. Turning movements and required signals

61-8-336. Turning movements and required signals. (1) A person may not turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required by 61-8-333 or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless the movement can be made with reasonable safety and until an appropriate signal has been given. A person may not turn a vehicle without giving an appropriate signal in the manner provided in this section. (2) A signal of intention to turn right or left, other than when passing, must be given continuously during not less than the last 100 feet traveled by the vehicle before turning in any business district, residence district, or urban district. (3) A signal of intention to turn right or left, other than when passing, must be given continuously during not less than the last 300 feet traveled by the vehicle before turning in areas other than those set forth in subsection (2). (4) A person may not stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal to the operator of a vehicle immediately to the rear when there is opportunity to give the signal. History: En. Sec. 64, Ch. 263, L. 1955; R.C.M. 1947, 32-2167; amd. Sec. 1, Ch. 14, L. 1981; amd. Sec. 4, Ch. 450, L. 1983; amd. Sec. 19, Ch. 352, L. 2003; amd. Sec. 199, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-337. Signals by hand and arm or signal device

61-8-337. Signals by hand and arm or signal device. (1) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by a signal lamp or lamps, except as otherwise provided in subsection (2). (2) Any motor vehicle in use on a highway shall be equipped with and required signal shall be given by a signal lamp or lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of such motor vehicle exceeds 24 inches or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds 14 feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles. History: En. Sec. 65, Ch. 263, L. 1955; amd. Sec. 1, Ch. 105, L. 1957; R.C.M. 1947, 32-2168.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-338. Method of giving hand-and-arm signals

61-8-338. Method of giving hand-and-arm signals. (1) Except as provided in subsection (2), all signals required in this part that are given by hand and arm must be given from the left side of the vehicle by the operator of the vehicle in the following manner: (a) For a left turn, the operator's hand and arm must be extended horizontally. (b) For a right turn, the operator's hand and forearm must be extended upward. (c) For a stop or a decrease in speed, the operator's hand and arm must be extended downward. (2) The person operating a bicycle may signal a right turn by extending the right hand and arm horizontally. History: En. Sec. 66, Ch. 263, L. 1955; R.C.M. 1947, 32-2169; amd. Sec. 5, Ch. 450, L. 1983; amd. Secs. 20, 51(2)(b), Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-339. Vehicle approaching or entering intersection

61-8-339. Vehicle approaching or entering intersection. (1) (a) Except as provided in subsection (1)(b), when two or more vehicles

enter or approach an intersection from different highways, the driver of the vehicle on the left shall yield the right-of-way to all vehicles approaching from the right that are close enough to constitute an immediate hazard. (b) The driver of a vehicle on a highway that intersects another highway without crossing it shall yield the right-of-way to all vehicles approaching from the other highway that are close enough to constitute an immediate hazard. (2) The right-of-way rule declared in subsection (1) is modified at through highways and otherwise as stated in this chapter. History: En. Sec. 67, Ch. 263, L. 1955; amd. Sec. 1, Ch. 175, L. 1965; R.C.M. 1947, 32-2170; amd. Sec. 68, Ch. 421, L. 1979; amd. Sec. 1, Ch. 106, L. 1997; amd. Sec. 1, Ch. 104, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-340. Vehicle turning left at intersection

61-8-340. Vehicle turning left at intersection. The operator of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction that is within the intersection or close enough to the intersection to constitute an immediate hazard. Once the operator has yielded and provided the operator is giving a signal when and as required by this chapter, the operator may make the left turn and the operators of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn. The provisions of this section do not apply where it is otherwise directed by official traffic control devices. History: En. Sec. 68, Ch. 263, L. 1955; R.C.M. 1947, 32-2171; amd. Sec. 21, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-341. Vehicle entering through highway -- definition

61-8-341. Vehicle entering through highway -- definition. (1) The operator of a vehicle shall stop as required by 61-8-344 at the entrance to a through highway and shall yield the right-of-way to other vehicles that are approaching close enough on the through highway to constitute an immediate hazard. Once the operator has yielded, the operator may proceed and the operators of all other vehicles approaching the intersection on the through highway shall yield the right-of-way to the vehicle proceeding into or across the through highway. (2) As used in this section, "through highway" means a highway or portion of a highway at the entrances to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing and when stop signs are erected as provided in this chapter. History: En. Sec. 69, Ch. 263, L. 1955; amd. Sec. 3, Ch. 169, L. 1957; R.C.M. 1947, 32-2172; amd. Sec. 22, Ch. 352, L. 2003; amd. Sec. 200, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-342. Vehicles approaching "Yield" sign

61-8-342. Vehicles approaching "Yield" sign. An operator of a vehicle approaching a "Yield" sign is subject to the following provisions: (1) The operator shall slow to a speed that is reasonable for existing conditions and, if required for safety, shall stop before entering the intersection. (2) After slowing or stopping, the operator shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway close enough to constitute an immediate hazard during the time that the operator is moving across or within the intersection or junction of roadways. (3) An operator of a vehicle shall yield the right-of-way to pedestrians within crosswalks at the intersection. (4) If an operator of a vehicle, after having driven past a "Yield" sign, is involved in a collision with another vehicle at an intersection or junction of roadways or with a pedestrian in an adjacent crosswalk, the collision is considered prima facie evidence of the operator's failure to yield right-of-way. History: En. Sec. 71, Ch. 263, L. 1955; amd. Sec. 1, Ch. 96, L. 1963; amd. Sec. 63, Ch. 316, L. 1974; R.C.M. 1947, 32-2174; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 23, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-343. Vehicle entering roadway from private road, driveway, alley, or public approach ramp

61-8-343. Vehicle entering roadway from private road, driveway, alley, or public approach ramp. The operator of a vehicle about to enter or cross a roadway from a private road, driveway, alley, or public approach ramp shall yield the right-of-way to all vehicles approaching on the roadway. History: En. Sec. 70, Ch. 263, L. 1955; amd. Sec. 1, Ch. 52, L. 1965; R.C.M. 1947, 32-2173; amd. Sec. 25, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-344. Vehicles to stop at stop signs

61-8-344. Vehicles to stop at stop signs. (1) The department of transportation and local authorities in their respective jurisdictions may designate through highways and erect stop signs at specified entrances to these highways or may designate an intersection as a stop intersection and erect stop signs at one or more entrances to that intersection. (2) The stop sign and its placement must conform to the sign manual adopted by the department of transportation. (3) An operator of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, the operator shall stop at a clearly marked stop line. If there is not a clearly marked stop line, the operator shall stop at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering the intersection except when directed to proceed by a police officer, highway patrol officer, or traffic control signal. History: En. Sec. 92, Ch. 263, L. 1955;

amd. Sec. 65, Ch. 316, L. 1974; R.C.M. 1947, 32-2195; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 26, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-345. Stop before emerging from alley, driveway, private road, or building

61-8-345. Stop before emerging from alley, driveway, private road, or building. The operator of a vehicle within a business or residence district who is emerging from an alley, driveway, private road, or building shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across an alley, driveway, or private road and shall yield the right-of-way to pedestrians. Upon entering the roadway, the operator shall yield the right-of-way to all vehicles approaching on the roadway. History: En. Sec. 93, Ch. 263, L. 1955; R.C.M. 1947, 32-2196; amd. Sec. 27, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-347. Obedience to signal indicating approach of train or other on-track equipment

61-8-347. Obedience to signal indicating approach of train or other on-track equipment. (1) When a person operating a vehicle approaches a railroad crossing under any of the circumstances stated in this section, the operator of the vehicle shall slow the vehicle in order to stop as close as practicable but not less than 15 feet from the nearest rail of the railroad and may not proceed until the operator can do so safely. These requirements apply when: (a) a clearly visible electric or mechanical signal device gives warning of the presence or immediate approach of a railroad train or other on-track equipment; (b) a crossing gate is lowered or when a flag person gives a signal of the approach or passage of a railroad train or other on-track equipment; (c) a railroad train approaching the crossing emits an audible signal, except at crossings within quiet zones established under 69-14-620, indicating that the train is an immediate hazard because of its speed or nearness to the crossing; (d) an approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing; (e) there is insufficient space to drive completely through the crossing without stopping; or (f) there is insufficient undercarriage clearance to clear the railroad crossing. (2) A person may not operate a vehicle through, around, or under any crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed. History: En. Sec. 88, Ch. 263, L. 1955; R.C.M. 1947, 32-2191; amd. Sec. 29, Ch. 352, L. 2003; amd. Sec. 2, Ch. 527, L. 2003; amd. Sec. 1, Ch. 256, L. 2009; amd. Sec. 23, Ch. 323, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-348. All vehicles to stop at certain railroad grade crossings

61-8-348. All vehicles to stop at certain railroad grade crossings. (1) The department of transportation and local authorities in their respective jurisdictions may designate particularly dangerous highway grade crossings of railroads and erect stop signs at these crossings. Where these stop signs are erected, the operator of a vehicle shall stop as close as practicable but not less than 15 feet from the nearest rail of the railroad and may proceed only upon exercising due care. (2) The operator of a vehicle upon a highway outside of the limits of an incorporated city or town who is approaching a highway grade crossing where a flag person or a mechanical device is not in place or maintained to warn the public of approaching trains or other on-track equipment shall, before crossing the railroad tracks, stop the vehicle as close as practicable but not less than 15 feet from the nearest rail if: (a) a curve in the tracks or vegetation or some other feature or characteristic obscures the view of approaching trains or other on-track equipment; or (b) a moving train or other on-track equipment is within sight or hearing. History: En. Sec. 89, Ch. 263, L. 1955; amd. Sec. 64, Ch. 316, L. 1974; R.C.M. 1947, 32-2192; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 30, Ch. 352, L. 2003; amd. Sec. 2, Ch. 256, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-349. Certain vehicles to stop at all railroad grade crossings

61-8-349. Certain vehicles to stop at all railroad grade crossings. (1) (a) Except as provided in subsection (1)(b), the driver of a motor vehicle carrying seven or more passengers for hire, a school bus with or without passengers, or a vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, before crossing at grade any track or tracks of a railroad, shall stop the vehicle as close as practicable but not less than 15 feet from the nearest rail of the railroad and while stopped shall open the door, in the case of a school bus, and shall listen and look in both directions along the track for an approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment and may not proceed until the driver can do so safely. After stopping as required in this section and upon proceeding when it is safe to do so, the operator of a vehicle may cross only in a gear of the vehicle that requires no changing gears while traversing the crossing. The operator may not shift gears while crossing the track or tracks. (b) A stop is not required at a crossing where a police officer, highway patrol officer, or official traffic control device directs traffic to proceed. (2) As used in this section, "official traffic control device" does not include a railroad grade crossing signal. History: (1) En. Sec. 1, Ch. 151, L. 1919; re-en. Sec. 3842, R.C.M. 1921; re-en. Sec. 3842, R.C.M. 1935; amd. Sec. 1, Ch. 115, L. 1957; amd. Sec. 20, Ch. 315, L. 1974; Sec. 72-164, R.C.M. 1947; (2) thru (4) Ap p. Sec. 90, Ch. 263, L. 1955; amd. Sec. 1, Ch. 244, L. 1977; Sec. 32-2193, R.C.M. 1947; Ap. p. Sec. 284, Ch. 5, L. 1971; Sec. 75-7007, R.C.M. 1947; R.C.M. 1947, 32-2193, 72-164(part), 75-7007(part); amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 449, L. 1991; amd. Sec. 31, Ch. 352, L. 2003; amd. Sec. 3, Ch. 256, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating

Requirements 61-8-350. Moving heavy equipment at railroad grade crossings

61-8-350. Moving heavy equipment at railroad grade crossings. (1) A person shall comply with the provisions of this section before operating or moving upon or across the tracks at a railroad grade crossing any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure that has: (a) a normal operating speed of 10 or less miles an hour; or (b) a vertical body or load clearance measured above the surface of the roadway of: (i) less than one-half inch for each foot of the distance between any two adjacent axles; or (ii) at least 9 inches. (2) Notice of an intended crossing must be given to a representative of the railroad and reasonable time must be given to the railroad to provide proper protection at the crossing. (3) Before making a crossing, the person operating or moving the vehicle or equipment shall first stop the vehicle or equipment as close as practicable but not less than 15 feet from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for any approaching train or other on-track equipment and for signals indicating the approach of a train or other on-track equipment. The person may not proceed until the crossing can be made safely. (4) A crossing may not be made when warning is given by automatic signal, crossing gates, a flag person, or other official traffic control device of the immediate approach of a railroad train or car or other on-track equipment. If a flag person is provided by the railroad, movement over the crossing must be under the flag person's direction. History: En. Sec. 91, Ch. 263, L. 1955; R.C.M. 1947, 32-2194; amd. Sec. 32, Ch. 352, L. 2003; amd. Sec. 4, Ch. 256, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-351. Meeting or passing school bus -- vehicle operator liability for violation -- penalty

61-8-351. Meeting or passing school bus -- vehicle operator liability for violation -- penalty. (1) (a) When a school bus that has stopped on the roadway or street to receive or discharge school children has actuated flashing red lights as specified in 61-9-402, a driver of a motor vehicle that is approaching the school bus from either direction: (i) shall stop the motor vehicle not less than approximately 30 feet from the school bus; and (ii) may not proceed past the school bus until the school bus ceases operation of its flashing red lights. (b) A driver of a motor vehicle may not overtake a stopped school bus on the right side of the school bus. (2) When a school bus that is preparing to stop on the highway or street to receive or discharge school children has actuated flashing amber lights as specified in 61-9-402, a driver of a motor vehicle that is approaching the school bus from either direction shall slow to a rate of speed that is reasonable under the conditions existing at the point of operation and must be prepared to stop on the actuation of flashing red lights when the school bus has stopped. (3) Each bus used for the transportation of school children must bear upon the front and rear plainly visible signs containing the words "SCHOOL BUS" in letters not less than 8 inches in height. (4) (a) Each bus used for the transportation of school children must be equipped with visual signals meeting the requirements of 61-9-402. Amber flashing lights must be actuated by the driver approximately 150 feet in cities and approximately 500 feet in other areas before the bus is stopped to receive or discharge school children on the highway or street. Red lights must be actuated by the driver of the school bus only when the school bus is stopped on the highway or street to receive or discharge school children. (b) A school district board of trustees may adopt a policy prohibiting the operation of amber or red lights when a school bus is stopped at the school site to receive or discharge school children and the receipt or discharge does not involve street crossing by the children. The lights may not be operated in violation of that policy. (c) If a school bus is stopped outside of the roadway and the school bus will receive or discharge school children in a location outside of the roadway, the school bus may not actuate the flashing red lights so long as the school children do not enter the roadway. (5) (a) When a school bus route includes a bus stop that requires a school child to cross a roadway, the school bus must be equipped with an extended stop arm that partially obstructs the roadway. A school child may not cross a roadway to enter or exit from a school bus unless the roadway has been partially obstructed by the extended stop arm. (b) The extended stop arm must be equipped with additional flashing red lights as specified in 61-9-402 and must be capable of extending a distance of at least 54 inches from the school bus at a height of not less than 36 inches. (c) The board of trustees shall approve each school bus stop that requires a school child to cross a roadway. (d) A school bus that experiences a mechanical problem or an emergency that requires the school bus to stop at a nondesignated bus stop is not subject to the requirements of this subsection (5). (6) When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or for school functions, all markings on the bus indicating "SCHOOL BUS" must be covered or concealed. (7) The driver of a motor vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus that is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone that is a part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway. (8) (a) A person who observes a violation of this section may prepare a written, in addition to an oral, report indicating that a violation has occurred. The report may contain information concerning the violation, including: (i) the time and approximate location at which the violation occurred; (ii) the license plate number and color of the motor vehicle involved in the violation; (iii) identification of the motor vehicle as a passenger car, truck, bus, motorcycle, or other type of motor vehicle; and (iv) a description of the person operating the motor vehicle when the violation occurred. (b) A report under subsection (8)(a) constitutes particularized suspicion under 46-5-401(1) that an operator of the vehicle committed a violation of this section. (c) A person who observes a violation of this section may file a written or oral complaint with the county sheriff's office. At the sheriff's discretion, the report may be transferred to the highway patrol or city police department. The report must be investigated by a peace officer, and the investigating officer shall contact the reporting party within 30 days to provide an update on the status or outcome of the investigation. (9) (a) A person who violates subsection (1)(a) is guilty of a misdemeanor and is subject to the following penalties: (i) for a first offense, a fine of not less than \$500 or more than \$1,000, a sentence of community service of not less than 50 hours or more than 100 hours, or both; (ii)

for a second offense, a fine of not less than \$1,000 or more than \$2,000, a sentence of community service of not less than 100 hours or more than 200 hours, or both; and (iii) for a third or subsequent offense, a fine of not less than \$3,000 or more than \$5,000, a sentence of imprisonment for a term of not less than 30 days, or both. (b) Violation of subsection (1)(b) is a misdemeanor and is punishable on conviction by a fine of not more than \$1,000, by imprisonment for not more than 6 months, or both. (c) A driver of a motor vehicle who makes contact with any portion of a school bus stopped pursuant to subsection (5), including making contact with an extended stop arm or a school child within 30 feet of a school bus, is guilty of a misdemeanor and is subject to the penalties allowed in subsection (9)(a). History: Ap. p. Sec. 94, Ch. 263, L. 1955; amd. Sec. 1, Ch. 100, L. 1961; amd. Sec. 2, Ch. 250, L. 1965; amd. Sec. 1, Ch. 45, L. 1971; amd. Sec. 2, Ch. 244, L. 1977; Sec. 32-2197, R.C.M. 1947; Ap. p. Sec. 284, Ch. 5, L. 1971; Sec. 75-7007, R.C.M. 1947; R.C.M. 1947, 32-2197, 75-7007(part); amd. Sec. 1, Ch. 305, L. 1979; amd. Sec. 2, Ch. 221, L. 1985; amd. Sec. 1, Ch. 366, L. 1985; amd. Sec. 1, Ch. 132, L. 1993; amd. Sec. 2, Ch. 46, L. 2003; amd. Sec. 1, Ch. 417, L. 2005; amd. Sec. 1, Ch. 58, L. 2013; amd. Sec. 2, Ch. 478, L. 2021; amd. Sec. 1, Ch. 613, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-352. Prohibited operation of special lighting equipment on school buses

61-8-352. Prohibited operation of special lighting equipment on school buses. It shall be unlawful to operate any flashing prewarning or warning signal light on any school bus except when the school bus is preparing to stop or is stopped on a highway for the purpose of permitting school children to board or alight from said school bus. History: Ap. p. Sec. 95, Ch. 263, L. 1955; amd. Sec. 3, Ch. 250, L. 1965; Sec. 32-2198, R.C.M. 1947; Ap. p. Sec. 284, Ch. 5, L. 1971; Sec. 32-2198, R.C.M. 1947; R.C.M. 1947, 32-2198, 75-7007(part).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-353. Stopping, standing, or parking outside of business or residence districts

61-8-353. Stopping, standing, or parking outside of business or residence districts. (1) Upon any highway outside of a business or residence district no person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of the highway when it is practical to stop, park, or so leave such vehicle off such part of said highway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles. No person shall stop, stand, or park any vehicle upon such highway unless such vehicle can be seen by the driver of any other vehicle approaching from either direction within 500 feet and unless drivers approaching from opposite directions are visible to each other when both are at least 500 feet from the vehicle to be stopped, turned, or parked, except in cases of justifiable emergency. (2) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. History: En. Sec. 96, Ch. 263, L. 1955; R.C.M. 1947, 32-2199.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-354. Stopping, standing, or parking prohibited in specified places -- exceptions -- definition

61-8-354. Stopping, standing, or parking prohibited in specified places -- exceptions -- definition. (1) A person may not stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer, highway patrol officer, or official traffic control device, in any of the following places: (a) on a sidewalk; (b) in front of a public or private driveway; (c) within an intersection; (d) within 15 feet of a fire hydrant; (e) on a crosswalk; (f) within 20 feet of a crosswalk at an intersection; (g) within 30 feet upon the approach to any flashing beacon, stop sign, or official traffic control device located at the side of a roadway; (h) between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the local authorities indicate a different length by signs or markings; (i) within 50 feet of the nearest rail of a railroad crossing; (j) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted; (k) alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic; (l) on the roadway side of any vehicle stopped or parked at the edge or curb of a street; (m) upon any bridge or other elevated structure upon a highway or within a highway tunnel; (n) at any place where official traffic control devices prohibit stopping. (2) A public bus stop may not be established in the areas described in subsections (1)(a) through (1)(c) and (1)(e). Otherwise, this section does not prohibit the establishment of public bus stops and the regulation of their use by the authority having jurisdiction. A bus stop may only be established pursuant to a traffic and engineering study. (3) A person may not move a vehicle not lawfully under the person's control into a prohibited area or an unlawful distance away from a curb. (4) As used in this section, "safety zone" means the area or space that is officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. History: En. Sec. 98, Ch. 263, L. 1955; R.C.M. 1947, 32-21-101; amd. Sec. 1, Ch. 417, L. 1981; amd. Sec. 6, Ch. 450, L. 1983; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 3, Ch. 512, L. 1991; amd. Secs. 33, 51(1), Ch. 352, L. 2003; amd. Sec. 201, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-355. Additional parking regulations

61-8-355. Additional parking regulations.(1) Except as otherwise provided in this section, a vehicle that is stopped or parked on a two-way roadway must be stopped or parked with the right-hand wheels of the vehicle parallel to and within 18 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder. (2) Except when otherwise provided by the authority having jurisdiction, a vehicle that is stopped or parked on a one-way roadway must be stopped or parked parallel to the curb or edge of the roadway in the direction of authorized traffic movement, with its right-hand wheels within 18 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder or with its left-hand wheels within 18 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder. (3) A local authority may by ordinance permit angle parking on a roadway, except that angle parking may not be permitted on any commission-designated highway system or state highway, as defined in 60-1-103, unless the department of transportation determines that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. (4) The authority having jurisdiction may place official traffic control devices prohibiting or restricting the stopping, standing, or parking of vehicles on a highway where in its judgment this stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic. History: En. Sec. 99, Ch. 263, L. 1955; amd. Sec. 66, Ch. 316, L. 1974; R.C.M. 1947, 32-21-102; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 34, Ch. 352, L. 2003; amd. Sec. 32, Ch. 299, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-356. Prohibition against parking or leaving vehicles on public property -- presumption of ownership

61-8-356. Prohibition against parking or leaving vehicles on public property -- presumption of ownership.(1) A vehicle may not be parked or left standing upon the right-of-way of a public highway for a period longer than 48 hours or upon a city street or state, county, or city property for a period longer than 5 days. (2) The abandonment of a vehicle, other than a bicycle, on a public highway, a city street, public property, or private property creates a prima facie presumption that the last-registered owner of the vehicle is responsible for the abandonment and is liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less the amount realized if the vehicle is sold. (3) The filing of a theft report with a law enforcement agency prior to the abandonment relieves the last-registered owner of liability under subsection (2). (4) A person who is convicted of violating this section is subject to the penalties provided in 61-8-719. History: En. Sec. 1, Ch. 288, L. 1967; amd. Sec. 1, Ch. 169, L. 1969; R.C.M. 1947, 53-901; amd. Sec. 13, Ch. 283, L. 1995; amd. Sec. 252, Ch. 42, L. 1997; amd. Sec. 35, Ch. 352, L. 2003; amd. Sec. 7, Ch. 161, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-357. Unattended motor vehicles

61-8-357. Unattended motor vehicles.A person driving or in charge of a motor vehicle may not permit it to stand unattended without first safely securing it in a manner to prevent the vehicle from rolling onto the roadway. History: En. Sec. 100, Ch. 263, L. 1955; R.C.M. 1947, 32-21-103; amd. Sec. 1, Ch. 50, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-358. Limitations on backing

61-8-358. Limitations on backing.The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. History: En. Sec. 101, Ch. 263, L. 1955; R.C.M. 1947, 32-21-104.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-359. Riding on motorcycles or quadricycles

61-8-359. Riding on motorcycles or quadricycles.(1) A person operating a motorcycle on public streets or highways may ride only upon the permanent and regular seat attached to the motorcycle. The operator may not carry any other person and another person may not ride on a motorcycle unless the motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons or upon another seat firmly attached to the rear or side of the operator. (2) A passenger may not be carried in a position that will interfere with the operation of the motorcycle or the view of the operator. (3) A person operating a motorcycle may not carry any packages, bundles, or articles that would prevent the operator from keeping both hands on the handlebars or that would interfere with the operation of the vehicle in a safe and prudent manner. (4) A person may ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle. (5) Except as provided in subsections (5)(a) and (5)(b) and subject to 61-9-101(4), motorcycles must be operated with lights on at all times when operated on any public roadway. A motorcycle may be operated without lights from one-half hour before sunrise to one-half hour after sunset if: (a) the motorcycle is registered under 61-3-411 as a collector's item and if persons and vehicles are clearly discernible at a distance of 500 feet; or (b) the motorcycle is being driven to the nearest repair facility for headlamp repair. (6) No more than two motorcycles may be operated side by side in a single traffic lane. (7) All motor vehicles, including motorcycles and quadricycles, are entitled to the full use of a traffic lane, and a vehicle may not be driven or operated in a manner that deprives any other vehicle of the full use of a traffic lane, except that motorcycles may, with the consent of both drivers, be operated no more than two abreast in a single traffic lane. (8) Every person riding a motorcycle or quadricycle upon a roadway is granted all of the rights and is subject to all of the duties applicable to the driver of a motor vehicle except for those provisions

which, by their nature, can have no application. (9) A person operating a motorcycle or quadricycle shall operate the motorcycle or quadricycle in a reasonable and prudent manner at all times. History: En. Sec. 102, Ch. 263, L. 1955; amd. Sec. 1, Ch. 175, L. 1967; R.C.M. 1947, 32-21-105; amd. Sec. 1, Ch. 345, L. 1983; amd. Sec. 35, Ch. 516, L. 1985; amd. Sec. 36, Ch. 352, L. 2003; amd. Sec. 2, Ch. 434, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-360. Obstruction to driver's view or driving mechanism

61-8-360. Obstruction to driver's view or driving mechanism. (1) A person may not operate a vehicle, other than a bicycle, with more than three people in the front seat or with any load or number of people in the front seat that would obstruct the view of the operator to the front or sides of the vehicle or that would interfere with the operator's control over the driving mechanism of the vehicle. (2) A passenger in a vehicle may not ride in a position that interferes with the operator's view ahead or to the sides or that interferes with the operator's control over the driving mechanism of the vehicle. History: En. Sec. 103, Ch. 263, L. 1955; R.C.M. 1947, 32-21-106; amd. Sec. 37, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-361. Driving on mountain highways

61-8-361. Driving on mountain highways. The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold the motor vehicle under control and as near the right-hand edge of the roadway as reasonably possible. History: En. Sec. 104, Ch. 263, L. 1955; R.C.M. 1947, 32-21-107; amd. Sec. 38, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-362. Coasting prohibited

61-8-362. Coasting prohibited. The driver of a motor vehicle when traveling upon a downgrade may not coast with the transmission of the vehicle in neutral or with the clutch manually disengaged. History: En. Sec. 105, Ch. 263, L. 1955; R.C.M. 1947, 32-21-108; amd. Sec. 39, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-363. Following fire apparatus prohibited

61-8-363. Following fire apparatus prohibited. The operator of a vehicle other than one on official business may not follow a fire apparatus traveling in response to a fire call closer than 500 feet or drive into or stop the vehicle within 500 feet of where the fire apparatus has stopped in answer to a fire call. History: En. Sec. 106, Ch. 263, L. 1955; R.C.M. 1947, 32-21-109; amd. Sec. 40, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-364. Crossing firehose

61-8-364. Crossing firehose. A vehicle may not be operated over an unprotected hose of a governmental fire agency organized under Title 7, chapter 33, when the hose is laid down on any roadway, private road, or private driveway, to be used at any fire or alarm of fire, without the consent of the agency official in command. History: En. Sec. 107, Ch. 263, L. 1955; R.C.M. 1947, 32-21-110; amd. Sec. 41, Ch. 352, L. 2003; amd. Sec. 42, Ch. 449, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-365. Putting refuse on highway prohibited

61-8-365. Putting refuse on highway prohibited. (1) A person may not throw or deposit upon a highway glass bottles, glass, nails, tacks, wire, cans, plastic bottles, plastic, paper, or any other debris. A person may not throw or deposit upon a highway any substance likely to injure a person or animal or damage a vehicle upon the highway. (2) A person who drops or permits to be dropped or thrown upon a highway destructive or injurious material shall immediately remove the material or cause it to be removed. (3) A person who removes a wrecked or damaged vehicle from a highway shall remove glass or any other injurious substance dropped upon the highway from the vehicle. (4) Except as provided in 61-8-372 and subsection (5) of this section, a person convicted of violating this section shall be fined not more than \$250. Except for the maximum fine of \$250 as provided in this subsection and except for the maximum fine of \$500 as provided in 61-8-372, the penalty provisions of 61-8-711 apply to this section. (5) A person may not throw or deposit upon a highway plastic bottles or any other containers in which urine or feces have been deposited. A person convicted of violating this subsection shall be fined not more than \$1,000. The department shall make information about this subsection available at all weigh stations. History: En. Sec. 108, Ch. 263, L. 1955; R.C.M. 1947, 32-21-111; amd. Sec. 1, Ch. 510, L. 1979; amd. Sec. 4, Ch. 67, L. 1997; amd. Sec. 1, Ch. 513, L. 2001; amd. Sec. 42, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-366. Riding on fenders or running boards prohibited

61-8-366. Riding on fenders or running boards prohibited. Any person driving a vehicle shall not permit passengers to ride on the

fenders or running boards, nor shall any passenger ride on the fenders or running boards of a vehicle. History: En. Sec. 109, Ch. 263, L. 1955; R.C.M. 1947, 32-21-112.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-367. Riding in house trailers

61-8-367. Riding in house trailers. No person or persons may occupy a house trailer while it is being moved upon a public highway unless the trailer is of a semitrailer design where some part of its own weight and that of its cargo rests upon or is carried by its towing unit through the use of a fifth-wheel type trailer hitch mounted on no less than a one-half ton rated truck. History: En. Sec. 109.1, Ch. 263, L. 1955, as added by Sec. 1, Ch. 167, L. 1957; amd. Sec. 1, Ch. 21, L. 1975; R.C.M. 1947, 32-21-112.1.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-368. Opening and closing vehicle doors

61-8-368. Opening and closing vehicle doors. A person may not open a door of a motor vehicle unless it is reasonably safe to do so without interfering with the movement of other traffic. A person may not leave a door open on a side of a vehicle adjacent to moving traffic for a period of time longer than is necessary to load or unload passengers. History: En. Sec. 109.2, Ch. 263, L. 1955, as added by Sec. 1, Ch. 167, L. 1957; R.C.M. 1947, 32-21-112.2; amd. Sec. 7, Ch. 450, L. 1983; amd. Sec. 43, Ch. 352, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-369. Shooting from or across road or highway right-of-way

61-8-369. Shooting from or across road or highway right-of-way. Except as provided in 87-2-803(5), a person may not shoot a firearm from or across the right-of-way of a highway. History: En. Sec. 110, Ch. 263, L. 1955; amd. Sec. 1, Ch. 25, L. 1974; R.C.M. 1947, 32-21-113; amd. Sec. 1, Ch. 214, L. 1985; amd. Sec. 1, Ch. 416, L. 1985; amd. Sec. 44, Ch. 352, L. 2003; amd. Sec. 3, Ch. 449, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-370. Securing of load -- requirement -- exemptions -- violation

61-8-370. Securing of load -- requirement -- exemptions -- violation. (1) (a) A person operating a loaded vehicle on a public highway shall load the vehicle or secure the load sufficiently to prevent littering or creating an obstruction dangerous to the public traveling on the highway. (b) A person operating a loaded vehicle on a public highway from which any object escapes that may create an obstruction dangerous to the public traveling on the highway, including but not limited to building materials, furniture, and appliances, shall: (i) remove the object or cause it to be removed from the roadway when removal can be completed safely; and (ii) if state or local resources are used to complete the removal, pay the cost of the removal as determined by the applicable roadway authority. (2) The following vehicles are exempt from the provisions in subsection (1): (a) a commercial motor vehicle that is operating in compliance with state and federal laws and requirements governing the securing of loads; (b) a vehicle transporting processed or unprocessed agricultural products or inputs, including but not limited to fertilizer, manure, and pesticides; (c) a vehicle performing road maintenance; and (d) a vehicle in a marked work zone. (3) A person who violates the requirements of subsection (1) is guilty of a misdemeanor. History: En. Sec. 1, Ch. 374, L. 1991; amd. Sec. 1, Ch. 428, L. 2009; amd. Sec. 3, Ch. 426, L. 2017; amd. Sec. 1, Ch. 196, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-371. Operation of motor vehicle or off-highway vehicle below high-water mark on certain state or federal lands prohibited -- exceptions

61-8-371. Operation of motor vehicle or off-highway vehicle below high-water mark on certain state or federal lands prohibited -- exceptions. (1) Except as provided in 77-1-111(3), 77-1-806(4), and subsections (2) and (3) of this section, a person may not operate a motor vehicle or an off-highway vehicle below the ordinary high-water mark, as defined in 23-2-301, of class I or class II waters, as defined in 23-2-301, that occurs on state or federal lands or below the ordinary high-water mark of class I waters flowing through private lands, within that portion of the streambed that is covered with water. (2) A motor vehicle or an off-highway vehicle may be operated below the ordinary high-water mark on state or federal lands on an established road or trail that enters or crosses a stream, but the stream crossing must be by the shortest practical or designated route to the road or trail on the opposite bank. (3) The prohibition in subsection (1) does not apply to: (a) off-highway or motor vehicle use that occurs on state or federal land that is designated for off-highway or motor vehicle use below the ordinary high-water mark if the use is in accordance with the requirements of the authorization; (b) off-highway or motor vehicle use conducted on state or federal land pursuant to and in accordance with a specific written authorization from the appropriate land management agency for that use below the ordinary high-water mark; and (c) operation of an off-highway vehicle by a nonambulatory person who is using the vehicle for recreational use, as defined in 23-2-301, as long as operation of the vehicle is prudent and minimizes destruction. (4) The state may authorize the use of a motor vehicle or off-highway vehicle on state property below the ordinary high-water mark only when the state has determined that the use will have a minimal impact on the streambed and on the fish and wildlife ecology of the stream or river. Federal land management agencies are requested to apply the same criteria when authorizing use of federal land. History: En. Sec. 1,

Ch. 491, L. 1991; amd. Sec. 202, Ch. 542, L. 2005; amd. Sec. 5, Ch. 472, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-372. Littering with lighted matches, cigarettes, and other burning material and dumping ashtray prohibited -- penalty -- posting

61-8-372. Littering with lighted matches, cigarettes, and other burning material and dumping ashtray prohibited -- penalty -- posting. (1) A person may not throw away lighted matches, tobacco, cigarettes, cigars, or other lighted material on a forest road, private road, city street, county road, public highway, or railroad right-of-way, except lighted materials used as safety signaling devices, in this state. (2) A person may not empty an ashtray containing matches, ashes, cigarette or cigar refuse, or other related material on a forest road, private road, city street, county road, public highway, or railroad right-of-way in this state. (3) A person convicted of violating subsection (1) or (2) shall be fined a maximum of \$500. (4) Municipalities, the forest service, county governments, property owners, public transit operators, federal highway administrators, and any other appropriate entity may, at their discretion, post copies of this section in conspicuous locations. History: En. Sec. 1, Ch. 67, L. 1997; amd. Sec. 2, Ch. 513, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-373. and 61-8-374 reserved

61-8-373 and 61-8-374 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-375. Unlawful operation of motorized nonstandard vehicle -- exception

61-8-375. Unlawful operation of motorized nonstandard vehicle -- exception. A person may not operate a motorized nonstandard vehicle on ways of this state open to the public unless the operation is specifically authorized by ordinance or regulation passed by the local governing body of the county, city, or town for a public way under its jurisdiction. History: En. Sec. 3, Ch. 468, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-376. Authorized operation of electric personal assistive mobility devices

61-8-376. Authorized operation of electric personal assistive mobility devices. Electric personal assistive mobility devices, as defined in 61-1-101, are permitted to operate on sidewalks, unless they are prohibited by official traffic control devices, on bike paths, and on roads and streets that have a speed limit of 35 miles an hour or less. History: En. Sec. 4, Ch. 468, L. 2005; amd. Sec. 12, Ch. 468, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-377. Medium-speed electric vehicle -- operating requirements

61-8-377. Medium-speed electric vehicle -- operating requirements. (1) A medium-speed electric vehicle may be operated only on a highway for which the posted speed limit does not exceed 45 miles an hour. (2) Except as provided in subsection (1), the provisions of this chapter apply to the operator of a medium-speed electric vehicle. History: En. Sec. 2, Ch. 233, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-378. Low-speed electric vehicle -- golf cart operated by person with low-speed restricted driver's license -- operating requirements

61-8-378. Low-speed electric vehicle -- golf cart operated by person with low-speed restricted driver's license -- operating requirements. (1) A low-speed electric vehicle may be operated only by a person with a low-speed restricted driver's license. (2) A low-speed electric vehicle or golf cart operated by a person with a low-speed restricted driver's license may be operated only on a highway for which the posted speed limit does not exceed 25 miles per hour. (3) A low-speed electric vehicle or golf cart operated by a person with a low-speed restricted driver's license may not cross a highway with a posted speed limit of greater than 45 miles per hour. (4) Except as provided in subsections (1) through (3), the provisions of this chapter apply to a low-speed electric vehicle or golf cart operated by a person with a low-speed restricted driver's license. History: En. Sec. 1, Ch. 209, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-379. Definitions

61-8-379. Definitions. As used in 61-8-380 through 61-8-384, the following definitions apply: (1) "Funeral escort vehicle" means a motor vehicle properly equipped pursuant to 61-8-381. (2) "Funeral lead vehicle" means a motor vehicle, including a funeral hearse that is properly equipped pursuant to 61-8-381, leading and facilitating the movement of a funeral procession. (3) "Funeral procession" means two or more motor vehicles, one of which is carrying the remains of a deceased person, in the daylight hours, including a funeral lead vehicle and a funeral escort vehicle. History: En. Sec. 203, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating

Requirements 61-8-380. Funeral procession right-of-way -- funeral lead vehicle and funeral escort vehicle in funeral procession

61-8-380. Funeral procession right-of-way -- funeral lead vehicle and funeral escort vehicle in funeral procession. (1) Except as provided in subsection (4), pedestrians and operators of motor vehicles shall yield the right-of-way to a motor vehicle that is part of a funeral procession being led by a funeral lead vehicle or a funeral escort vehicle. (2) After a funeral lead vehicle enters an intersection, the other vehicles in the funeral procession may continue to follow the funeral lead vehicle through the intersection despite any official traffic control device, right-of-way provisions of this chapter, or local ordinance if the operator exercises reasonable care toward any other vehicle or pedestrian. When the funeral lead vehicle arrives at an intersection, it must comply with the requirements of any official traffic control device, right-of-way provision of this chapter, and local ordinance. (3) Except as provided in subsection (4), a driver of a funeral escort vehicle may direct the drivers of other vehicles in a funeral procession to proceed through an intersection or to make turns or other movements despite any official traffic control device. The driver of a funeral escort vehicle may direct and control the drivers of vehicles not in a funeral procession, including those in or approaching an intersection, to stop, proceed, or make turns or other movements without regard to an official traffic control device. Persons directing traffic shall comply with the requirements for a flag person as defined in 61-8-102. However, use of a funeral escort vehicle is not required. (4) A vehicle in a funeral procession has the right-of-way at intersections regardless of official traffic control devices provided the driver of that vehicle and the drivers of all vehicles in the funeral procession meet all the requirements of 61-8-379 through 61-8-384, except that an operator of a vehicle in a funeral procession shall yield the right-of-way to an approaching authorized emergency vehicle giving an audible or visual signal or when directed to do so by a highway patrol officer or police officer. This section does not relieve the driver of a vehicle in a funeral procession from the duty to drive with due regard for the safety of all persons using the highway. History: En. Sec. 5, Ch. 338, L. 1991; amd. Sec. 204, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-381. Equipment required for funeral vehicle -- restricted light use

61-8-381. Equipment required for funeral vehicle -- restricted light use. (1) A funeral escort vehicle or a funeral lead vehicle must be equipped with at least one lighted rotating or oscillating lamp exhibiting an amber light or lens visible under normal atmospheric conditions for a distance of 500 feet from the front of the vehicle. (2) A funeral escort vehicle or a funeral lead vehicle may illuminate a rotating or oscillating amber light only when the vehicle is in use in a funeral procession. History: En. Sec. 6, Ch. 338, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-382. Driving in funeral procession

61-8-382. Driving in funeral procession. (1) A vehicle in a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practicable and safe. (2) An ordinance, law, or regulation requiring that motor vehicles be operated to allow sufficient space between them to enable another vehicle to enter and occupy that space without danger does not apply to vehicles in a funeral procession. (3) The driver of a motor vehicle in a funeral procession may not drive the vehicle at a speed greater than: (a) 55 miles per hour on a highway where the posted speed limit is 55 miles per hour or more; or (b) 5 miles per hour below the posted speed limit on other streets or roads. (4) A vehicle being operated in a funeral procession must have its headlights and taillights illuminated. (5) The turn signals must be flashing simultaneously as warning lights on a vehicle that: (a) is the first vehicle in a funeral procession; or (b) the driver has reason to believe is the last vehicle in a funeral procession. History: En. Sec. 7, Ch. 338, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-383. Vehicles not in funeral procession

61-8-383. Vehicles not in funeral procession. The driver of a vehicle that is not part of a funeral procession may not: (1) drive between the vehicles forming a funeral procession while they are in motion except when: (a) authorized to do so by a police officer; or (b) driving an authorized emergency vehicle emitting an audible or visible signal; (2) join a funeral procession to secure the right-of-way granted by 61-8-380; (3) pass a funeral procession on a multiple-lane highway on the funeral procession's right side unless the funeral procession is in the farthest left lane; (4) enter an intersection, even if the driver is facing a green traffic control signal, when a funeral procession being conducted in compliance with 61-8-379 through 61-8-384 is proceeding through a red traffic control signal at that intersection as permitted by 61-8-380 unless the driver can do so without crossing the path of the funeral procession. If the red signal changes to green while the funeral procession is within the intersection, the driver of a vehicle facing a green signal may proceed subject to the right-of-way of a vehicle participating in a funeral procession. History: En. Sec. 8, Ch. 338, L. 1991; amd. Sec. 205, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-384. Liability

61-8-384. Liability. The operator of a vehicle in a funeral procession, including a funeral lead vehicle or a funeral escort vehicle, is not negligent if the person operates the vehicle in accordance with the requirements of 61-8-379 through 61-8-384. When no

negligence exists on the part of the operator of a vehicle in a funeral procession, none may be imputed to the funeral director or mortician organizing the procession, to the agent of the funeral director or mortician, or to a member of a local law enforcement agency acting as the agent, with or without compensation, of the funeral director or mortician. History: En. Sec. 9, Ch. 338, L. 1991; amd. Sec. 206, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-385. Short title

61-8-385. Short title. Sections 61-8-385 through 61-8-390 may be cited as the "Yield -- Slow Down -- Move Over Act". History: En. Sec. 1, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-386. Definitions

61-8-386. Definitions. As used in 61-8-387 through 61-8-390, the following definitions apply: (1) "Emergency lights" means: (a) for a law enforcement vehicle or an authorized emergency vehicle, visual signals meeting the requirements of 61-9-402; and (b) for a highway worker vehicle, visible signals of flashing or rotating amber, red, or green lights. (2) "Highway worker" means an employee of the department of transportation, a local authority, or any other entity authorized to work on a public highway when operating or working within 100 feet of a highway worker vehicle using its emergency lights. (3) "Highway worker vehicle" means a vehicle authorized to work within a public highway. The term also includes a tow truck, a snow plow, or any other vehicle with additional lighting equipment activated in addition to its original equipment manufacturer lights. (4) "Siren" means an audible signal meeting the requirements of 61-9-402. History: En. Sec. 2, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-387. Yielding to moving emergency vehicle

61-8-387. Yielding to moving emergency vehicle. (1) When being approached by a law enforcement vehicle or authorized emergency vehicle using its siren or emergency lights, the operator of a moving vehicle, unless otherwise directed by a law enforcement officer, shall: (a) yield the right-of-way to the law enforcement vehicle or authorized emergency vehicle; and (b) unless already stationary and out of the way of the law enforcement vehicle or authorized emergency vehicle: (i) drive cautiously to a position that is parallel to and as close as possible to the right-hand edge or curb of the roadway and is not in an intersection; and (ii) remain stationary until the law enforcement vehicle or authorized emergency vehicle has passed. (2) An operator of a vehicle who violates this section is subject to the penalties provided in 61-8-715(3). History: En. Sec. 3, Ch. 567, L. 2023; amd. Sec. 14, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-388. Approaching stationary emergency vehicle or stationary highway worker vehicle

61-8-388. Approaching stationary emergency vehicle or stationary highway worker vehicle. When approaching a stationary law enforcement vehicle or authorized emergency vehicle using its siren or emergency lights or a stationary highway worker vehicle using its emergency lights, the operator of a moving vehicle shall: (1) cautiously and carefully reduce the vehicle's speed to the temporary posted speed limit. If a temporary speed limit has not been posted, the operator of a moving vehicle shall reduce the vehicle's speed to a speed: (a) 20 miles an hour below the posted speed limit on the interstate if the operator of a moving vehicle is able to move lanes, or to one-half the posted speed limit if the operator of a moving vehicle is not able to move lanes; (b) 30 miles an hour below the posted speed limit on a state highway or county road if the operator of a moving vehicle is able to move lanes, or to one-half the posted speed limit if the operator of a moving vehicle is not able to move lanes; and (c) one-half the posted speed limit on any other road; and (2) follow flagger instructions or instructions on a temporary sign board. If flaggers or a temporary sign board are not yet posted: (a) if on a multi-lane highway, move to a lane that is not adjacent to the lane in which the stationary law enforcement vehicle, authorized emergency vehicle, or highway worker vehicle is located; or (b) move over as far as safely possible under the circumstances. History: En. Sec. 4, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-389. Reckless endangerment of emergency personnel -- reckless endangerment of highway workers

61-8-389. Reckless endangerment of emergency personnel -- reckless endangerment of highway workers. (1) (a) An operator of a vehicle who violates 61-8-388 when an emergency vehicle is stationary and using its emergency lights or siren commits the offense of reckless endangerment of emergency personnel. (b) An operator of a vehicle who violates 61-8-388 when a highway worker vehicle is stationary and using its emergency lights commits the offense of reckless endangerment of highway workers. (2) An operator of a vehicle commits the offense of reckless endangerment of highway workers if the person purposely, knowingly, or negligently drives a motor vehicle in a highway work zone, as defined in 61-8-314, 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 work zone for reasons other than: (a) avoidance of an obstacle; (b) an emergency; or (c) to protect the health and safety of an occupant of the vehicle or of another person. (3) Reckless endangerment of emergency personnel or reckless endangerment of highway workers is punishable

under 61-8-715. History: En. Sec. 5, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-390. Duty of emergency driver -- duty of highway worker

61-8-390. Duty of emergency driver -- duty of highway worker. (1) Sections 61-8-387 and 61-8-388 do not relieve the driver of a law enforcement vehicle or authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (2) Section 61-8-388 does not relieve a highway worker of the duty to take standard safety precautions or to behave reasonably under the circumstances. History: En. Sec. 6, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-391. Operation of golf carts -- unlawful operation -- exception -- required equipment

61-8-391. Operation of golf carts -- unlawful operation -- exception -- required equipment. (1) A person may not operate a golf cart on a public street or highway open to the public unless the operation is specifically authorized by ordinance or regulation passed by the local governing body of the county, city, or town for a public street or highway under its jurisdiction. (2) A person operating a golf cart under this section must have a valid driver's license. (3) A golf cart may not be operated on a public street or highway when permitted by this section unless it is equipped with: (a) at least one and not more than two headlamps; (b) at least one taillamp; (c) at least one reflector; (d) stop lamps; (e) a horn; and (f) a mirror that reflects to the driver a view of the highway. (4) Except as provided in 61-3-321, a golf cart is exempt from titling, registration, and mandatory liability insurance requirements under this title. History: En. Sec. 1, Ch. 247, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 3. Vehicle Operating Requirements 61-8-392. Lane filtering for motorcycles -- definition

61-8-392. Lane filtering for motorcycles -- definition. (1) An operator of a two-wheeled motorcycle may engage in lane filtering when: (a) the operator of a two-wheeled motorcycle is on a road with lanes wide enough to pass safely; (b) the overtaking motorcycle is not operated at a speed in excess of 20 miles an hour when overtaking the stopped or slow-moving vehicle; and (c) conditions permit continued reasonable and prudent operation of the motorcycle while lane filtering. (2) As used in this section, "lane filtering" means the act of overtaking and passing another vehicle that is stopped or traveling at a speed not in excess of 10 miles an hour in the same direction of travel and in the same lane. History: En. Sec. 1, Ch. 52, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-501. Pedestrians subject to traffic regulations

61-8-501. Pedestrians subject to traffic regulations. (1) A pedestrian shall obey the instructions of any traffic control device that is specifically applicable to the pedestrian unless otherwise directed by a police officer. (2) Pedestrians are subject to traffic control signals and pedestrian control signals at intersections as provided in 61-8-207 and 61-8-208. (3) At all other places, pedestrians are accorded the privileges and are subject to the restrictions provided in this part. (4) Local authorities may by ordinance prohibit pedestrians from crossing a roadway within a local government's jurisdiction, except in a marked crosswalk or in an unmarked crosswalk at an intersection. (5) Except as provided in 61-8-506(3) and except when provisions by their nature can have no application, a person operating a manually or mechanically propelled wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically disabled person is accorded the privileges and is subject to the restrictions applicable to pedestrians provided in this part. History: En. Sec. 73, Ch. 263, L. 1955; R.C.M. 1947, 32-2176; amd. Sec. 2, Ch. 374, L. 2003; amd. Sec. 4, Ch. 233, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-502. Pedestrians' right-of-way in crosswalk -- school children

61-8-502. Pedestrians' right-of-way in crosswalk -- school children. (1) (a) Except as provided in subsection (1)(b), when traffic control signals are not in place or not in operation, the operator of a vehicle shall yield the right-of-way, slowing down or stopping if necessary, to a pedestrian crossing the roadway within a marked crosswalk or within an unmarked crosswalk at an intersection, but a pedestrian may not suddenly leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impossible for the operator to yield. This provision does not apply under the conditions provided in 61-8-503(2). (b) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection, the operator of a vehicle may make a right-hand turn if the pedestrian is in the opposite half of the roadway and is not in danger. (2) When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear may not overtake and pass the stopped vehicle. (3) A person may not operate a vehicle through a column of school children crossing a roadway or past a school crossing guard while the crossing guard is directing the movement of children across a roadway and while the crossing guard is holding an official sign in the stop position. History: En. Sec. 74, Ch. 263, L. 1955; amd. Sec. 1, Ch. 54, L. 1965; R.C.M. 1947, 32-2177; amd. Sec. 1, Ch. 484, L. 1993; amd. Sec. 3, Ch. 374, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-503. Crossing at other than crosswalks

61-8-503. Crossing at other than crosswalks.(1) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway. (2) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway. (3) Between adjacent intersections at which traffic control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk. History: En. Sec. 75, Ch. 263, L. 1955; R.C.M. 1947, 32-2178.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-504. Operators to exercise due care

61-8-504. Operators to exercise due care. Notwithstanding 61-8-501 through 61-8-503, an operator of a vehicle shall exercise due care to avoid colliding with a pedestrian or with a person propelling a human-powered vehicle or using an assistive mobility device upon a roadway, shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing a child or an obviously confused, incapacitated, or intoxicated person upon a roadway. History: En. Sec. 76, Ch. 263, L. 1955; R.C.M. 1947, 32-2179; amd. Sec. 8, Ch. 450, L. 1983; amd. Sec. 4, Ch. 374, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-505. Pedestrians to use right half of crosswalk

61-8-505. Pedestrians to use right half of crosswalk. Pedestrians shall move, whenever practicable, upon the right half of crosswalks. History: En. Sec. 77, Ch. 263, L. 1955; R.C.M. 1947, 32-2180.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-506. Pedestrians on roadways and highways -- wheelchair use on highways

61-8-506. Pedestrians on roadways and highways -- wheelchair use on highways.(1) Where sidewalks are provided and their use is practicable, a pedestrian may not walk along and upon an adjacent roadway. (2) Where sidewalks are not provided, a pedestrian, other than an intoxicated pedestrian referred to in 61-8-508, who is walking along and upon a highway may walk only on the shoulder, as far as practicable from the edge of the roadway. (3) A person using a wheelchair or other vehicle designed specifically for use by a physically disabled person shall use sidewalks if use of sidewalks is practicable. If use of sidewalks is unsafe or not practicable, the person may use the wheelchair or other vehicle on a highway, as far as practicable from the center of the roadway. History: En. Sec. 78, Ch. 263, L. 1955; R.C.M. 1947, 32-2181; amd. Sec. 5, Ch. 374, L. 2003; amd. Sec. 5, Ch. 233, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-507. Pedestrian soliciting rides, business, or contributions

61-8-507. Pedestrian soliciting rides, business, or contributions.(1) A person may not stand on a roadway for the purpose of soliciting a ride. (2) A person may not stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of a vehicle unless the solicitation is authorized by the proper jurisdictional authority. History: En. Sec. 79, Ch. 263, L. 1955; R.C.M. 1947, 32-2182; amd. Sec. 6, Ch. 374, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-508. Intoxicated pedestrian

61-8-508. Intoxicated pedestrian. Except in an authorized crosswalk, a person who is under the influence of alcohol or any drug may walk or stand in the public right-of-way, as defined in 60-1-103, but not on a roadway or a shoulder as is otherwise permissible under 61-8-506(2). History: En. Sec. 80, Ch. 263, L. 1955; R.C.M. 1947, 32-2183; amd. Sec. 7, Ch. 374, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-509. Pedestrian's right-of-way on sidewalks

61-8-509. Pedestrian's right-of-way on sidewalks. The driver of a vehicle crossing a sidewalk shall yield the right-of-way to any pedestrian and all other traffic on the sidewalk. History: En. Sec. 12, Ch. 450, L. 1983.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-510 through 61-8-514 reserved

61-8-510 through 61-8-514 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-515. Pedestrian to yield to authorized emergency vehicle

61-8-515. Pedestrian to yield to authorized emergency vehicle.(1) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal that meets the requirements of 61-9-401(4) and visual signals that meet the requirements of 61-9-402 or of a police vehicle that is properly making use of an audible signal, a pedestrian shall yield the right-of-way to the authorized emergency vehicle or police vehicle. (2) This section does not relieve the operator of an authorized emergency vehicle or

a police vehicle from the duty to drive with due regard for the safety of all individuals using the highway or from the duty to exercise due care to avoid colliding with a pedestrian. History: En. Sec. 8, Ch. 374, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-516. Operator of vehicle to yield to blind pedestrian

61-8-516. Operator of vehicle to yield to blind pedestrian. On a way of the state open to the public, the operator of a vehicle shall yield the right-of-way to a blind pedestrian who is carrying a visible white cane or who is accompanied by a guide dog. History: En. Sec. 9, Ch. 374, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 5. Pedestrian Traffic 61-8-517. Pedestrians at railroad crossings

61-8-517. Pedestrians at railroad crossings. A pedestrian may not pass through, around, over, or under a crossing gate or barrier at a railroad grade crossing while the gate or barrier is closed or is being opened or closed. History: En. Sec. 10, Ch. 374, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-601. Effect of regulations

61-8-601. Effect of regulations. (1) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this part. (2) Subject to the exceptions stated in this part, the regulations applicable to bicycles apply whenever: (a) a bicycle or moped is operated on any highway; or (b) a bicycle is operated on any path set aside for the exclusive use of bicycles. History: En. Sec. 81, Ch. 263, L. 1955; R.C.M. 1947, 32-2184; amd. Sec. 5, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-602. Traffic laws applicable to persons operating bicycles or mopeds

61-8-602. Traffic laws applicable to persons operating bicycles or mopeds. A person operating a bicycle or moped is granted all of the rights and is subject to all of the duties applicable to the driver of any other vehicle by chapter 7, chapter 9, and this chapter except for special regulations in this part or the provisions of chapter 7, chapter 9, and this chapter that by their nature cannot apply. History: En. Sec. 82, Ch. 263, L. 1955; R.C.M. 1947, 32-2185; amd. Sec. 9, Ch. 450, L. 1983; amd. Sec. 6, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-603. Riding on bicycles or mopeds

61-8-603. Riding on bicycles or mopeds. A person propelling a bicycle or moped may ride only on or astride a permanent and regular seat attached to the bicycle or moped. History: En. Sec. 83, Ch. 263, L. 1955; R.C.M. 1947, 32-2186; amd. Sec. 7, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-604. Clinging to vehicles

61-8-604. Clinging to vehicles. A person riding on any bicycle, coaster, moped, roller skates, sled, or toy vehicle may not attach the conveyance or be attached to any vehicle on a roadway, but a bicycle trailer may be attached to a bicycle. History: En. Sec. 84, Ch. 263, L. 1955; R.C.M. 1947, 32-2187; amd. Sec. 10, Ch. 450, L. 1983; amd. Sec. 1964, Ch. 56, L. 2009; amd. Sec. 4, Ch. 255, L. 2015; amd. Sec. 8, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-605. Riding on roadways

61-8-605. Riding on roadways. (1) A person operating a bicycle on a roadway at less than the normal speed of traffic shall ride in the right-hand lane of the roadway, subject to the following provisions: (a) If the right-hand lane is wide enough to be safely shared with overtaking vehicles, a bicyclist shall ride far enough to the right as judged safe by the bicyclist to facilitate the movement of overtaking vehicles unless other conditions make it unsafe to do so. (b) A bicyclist may use a lane other than the right-hand lane when: (i) overtaking and passing a slower vehicle; (ii) preparing for a left turn at an intersection or into a private road or driveway; (iii) the right-hand lane is a dedicated right-turn lane and the bicyclist does not intend to turn right; or (iv) it is necessary to avoid a condition that makes it unsafe to ride in the right-hand lane of the roadway. (2) A person operating a bicycle on a one-way roadway with two or more marked traffic lanes may ride as close to the left side of the roadway as judged safe by the bicyclist. (3) Persons riding bicycles on a roadway shall ride in single file except when: (a) riding on paths or parts of roadways set aside for the exclusive use of bicycles; (b) overtaking and passing another bicycle; (c) riding on a paved shoulder or in a parking lane, in which case the persons may ride two abreast; or (d) riding within a single lane on a laned roadway with at least two lanes in each direction, in which case the persons may ride two abreast only if they do not impede the normal and reasonable movement of traffic more than they would otherwise impede traffic by riding single file and in accordance with the provisions of this chapter. (4) A bicyclist is not expected or required to ride: (a) over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow lanes; or (b) without a reasonable

margin of safety on the right side of the roadway. History: En. Sec. 85, Ch. 263, L. 1955; amd. Sec. 1, Ch. 110, L. 1975; R.C.M. 1947, 32-2188; amd. Sec. 8, Ch. 508, L. 1979; amd. Sec. 11, Ch. 450, L. 1983; amd. Sec. 2, Ch. 169, L. 1991; amd. Sec. 208, Ch. 542, L. 2005; amd. Sec. 5, Ch. 255, L. 2015; amd. Sec. 9, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-606. Carrying articles

61-8-606. Carrying articles. A person operating a bicycle or moped may not carry any package, bundle, or article that prevents the person from keeping at least one hand on the handlebars. History: En. Sec. 86, Ch. 263, L. 1955; R.C.M. 1947, 32-2189; amd. Sec. 6, Ch. 255, L. 2015; amd. Sec. 10, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-607. Lamps and other equipment on bicycles and mopeds

61-8-607. Lamps and other equipment on bicycles and mopeds. (1) A bicycle or moped when in use at dawn, dusk, or nighttime must be equipped with: (a) a lamp on the front emitting a white light visible from a distance of at least 500 feet to the front. In lieu of a lamp affixed to the bicycle or moped, a bicyclist may use a lamp with equal intensity and visibility affixed to the cyclist's helmet and facing forward. (b) facing the rear, either a lamp emitting a red light visible from a distance of at least 500 feet to the rear or a red reflector visible from a distance of at least 500 feet to the rear when illuminated by low-beam motor vehicle headlamps; and (c) reflective material large and reflective enough to be visible from the left and right sides from a distance of at least 500 feet when illuminated by low-beam motor vehicle headlamps. (2) A bicycle or moped must be equipped with a brake enabling the operator to stop the bicycle or moped within no more than 25 feet from a speed of 10 miles an hour on dry, level, clean pavement. History: En. Sec. 87, Ch. 263, L. 1955; amd. Sec. 1, Ch. 351, L. 1975; R.C.M. 1947, 32-2190; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 7, Ch. 255, L. 2015; amd. Sec. 11, Ch. 374, L. 2015; amd. Sec. 18, Ch. 275, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-608. Bicycles or mopeds on sidewalks and bike lanes

61-8-608. Bicycles or mopeds on sidewalks and bike lanes. (1) Subject to the provisions of subsection (3)(b), a person operating a bicycle or moped on and along a sidewalk or across a roadway on and along a crosswalk shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. (2) A person may not ride a bicycle or moped on and along a sidewalk or across a roadway on and along a crosswalk where the use of a bicycle or moped is prohibited by official traffic control devices. (3) (a) Except as provided in subsections (1) and (2), a person operating a vehicle by human power on and along a sidewalk or across a roadway on and along a crosswalk has all the rights and duties applicable to a pedestrian under the same circumstances. (b) A moped may be operated on and along a sidewalk or a bicycle path only under human propulsion and may not be operated on or along a sidewalk or bicycle path if the moped is under power from an independent power source. (c) A moped may be operated under human propulsion or an independent power source on a highway, in a designated bicycle lane on a highway, or on the shoulder of a highway. History: En. Sec. 13, Ch. 450, L. 1983; amd. Sec. 12, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 6. Bicycle Traffic 61-8-609. Bicycle or moped racing -- when lawful

61-8-609. Bicycle or moped racing -- when lawful. (1) Bicycle or moped racing on a highway is prohibited except as authorized in this section. (2) Bicycle or moped racing on a highway is lawful when a racing event is approved by state or local authorities on any highway under their respective jurisdictions. Approval of bicycle or moped highway racing events may be granted only under conditions that ensure reasonable safety for all race participants, spectators, and other highway users and that prevent unreasonable interference with traffic flow. (3) By agreement with the approving authority, participants in an approved bicycle or moped highway racing event may be exempted from compliance with any traffic laws otherwise applicable if traffic control is adequate to ensure the safety of all highway users. History: En. Sec. 1, Ch. 75, L. 1987; amd. Sec. 13, Ch. 374, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-701. Charging violations

61-8-701. Charging violations. In every charge of a violation of any speed regulation in this chapter the complaint, and also the summons or notice to appear shall specify the speed at which the defendant is alleged to have driven, also the speed applicable within the district or at the location. History: En. Sec. 47, Ch. 263, L. 1955; R.C.M. 1947, 32-2150.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-702. Use of radar -- evidence admissible

61-8-702. Use of radar -- evidence admissible. The speed of any motor vehicle may be measured by the use of radio microwaves or other electrical device. The results of such measurements shall be accepted as evidence of the speed of such motor vehicle in any court or legal proceedings where the speed of the motor vehicle is at issue. History: En. Sec. 1, Ch. 120, L. 1959; R.C.M. 1947, 32-2150.1.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-703. Arrest without warrant in radar cases

61-8-703. Arrest without warrant in radar cases. (1) The driver of a motor vehicle may be arrested without a warrant under this section if the arresting officer is in uniform or displays the officer's badge of authority and has either: (a) observed the recording of the speed of the vehicle by radio microwaves or other electrical device; or (b) received, from the officer who has observed the speed of the vehicle recorded by the radio microwaves or other electrical device, a radio message giving the license number or other sufficient identification of the vehicle and the recorded speed, dispatched immediately after the speed of the vehicle was recorded. (2) The arrest without a warrant of any driver must be made immediately after the observation or radio message and as the result of uninterrupted pursuit. History: En. Sec. 2, Ch. 120, L. 1959; R.C.M. 1947, 32-2150.2; amd. Sec. 1965, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-704. Erection of signs -- definition

61-8-704. Erection of signs -- definition. (1) The operator of a motor vehicle may not be arrested under 61-8-703 unless signs have been placed at or near the state line on the primary highway system, outside towns or cities having over 2,500 population, and outside county seats on the primary highways to indicate the legal rate of speed. (2) Any municipality that uses radio microwaves or another electrical device for law enforcement purposes shall erect and maintain appropriate signs giving notice of that use at a conspicuous place at or near the corporate limits of the municipality, upon each state highway and arterial street or highway entering the municipality, and at other places considered necessary by the municipal authorities for the information of the traveling public. (3) Signs giving notice that the speed of vehicles may be measured by radio microwaves or other electrical device must be placed as required for speed signs in subsection (1). However, the absence of signs may not in itself invalidate an otherwise proper arrest. (4) As used in this section, "arterial street" means any federal or state numbered route, controlled-access highway, or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system or highway. History: En. Sec. 3, Ch. 120, L. 1959; amd. Sec. 1, Ch. 205, L. 1974; R.C.M. 1947, 32-2150.3; amd. Sec. 209, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-705. Officers or highway patrol officers authorized to remove illegally stopped vehicles

61-8-705. Officers or highway patrol officers authorized to remove illegally stopped vehicles. (1) Whenever any police officer or highway patrol officer finds a vehicle standing upon a highway in violation of any of the provisions of 61-8-353 through 61-8-355, such officer or highway patrol officer is hereby authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same to a position off the paved or main-traveled part of such highway. (2) Whenever any police officer or highway patrol officer finds a vehicle unattended upon any bridge or roadway or in any tunnel where such vehicle constitutes an obstruction to traffic, such officer or highway patrol officer is hereby authorized to provide for the removal of such vehicle pursuant to Title 61, chapter 12, part 4, except that the time limits imposed in 61-12-401 do not apply to removal under this subsection. History: En. Sec. 97, Ch. 263, L. 1955; R.C.M. 1947, 32-21-100; amd. Sec. 1, Ch. 71, L. 1981; amd. Sec. 1, Ch. 217, L. 1989.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-706. Removal of unauthorized sign

61-8-706. Removal of unauthorized sign. (1) An unauthorized sign, emblem, marker, or traffic control device or portion thereof encroaching into, over, or upon a right-of-way of a state highway or controlled-access highway is a public nuisance, and the department may remove it or cause it to be removed without notice and without liability for the removal. (2) Every sign, signal, or marking prohibited by 61-8-210 is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice. History: (1) En. Sec. 31, Ch. 263, L. 1955; amd. Sec. 1, Ch. 224, L. 1959; amd. Sec. 53, Ch. 316, L. 1974; Sec. 32-2134, R.C.M. 1947; (2) En. Sec. 37, Ch. 263, L. 1955; Sec. 32-2140, R.C.M. 1947; R.C.M. 1947, 32-2134(f), 32-2140(e).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-707. through 61-8-710 reserved

61-8-707 through 61-8-710 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-711. Violation of chapter -- penalty

61-8-711. Violation of chapter -- penalty. (1) It is a misdemeanor for a person to violate any of the provisions of this chapter unless the violation is declared to be a felony. (2) Each person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction be punished by a fine of not less than \$10 or more than \$100. For a second conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500. (3) Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a

civil contempt of the court. On failure of payment of a fine, the court may: (a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the provisions of Title 25, chapter 13; or (b) if the court finds that the person is unable to pay, order the person to perform community service. (4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and if the court makes a written finding that community service is inappropriate, the person shall be imprisoned in the county jail in the county in which the offense was committed, and the imprisonment shall be the number of days that the fine is divisible by the dollar amount of the incarceration credit contained in 46-18-403. (5) Upon conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court. History: En. Sec. 154, Ch. 263, L. 1955; R.C.M. 1947, 32-21-157; amd. Sec. 70, Ch. 421, L. 1979; amd. Sec. 1, Ch. 128, L. 1987; amd. Sec. 1, Ch. 109, L. 1991; amd. Sec. 1, Ch. 134, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-712. Penalty for erection of unauthorized sign

61-8-712. Penalty for erection of unauthorized sign. The erection of a sign, emblem, marker, or traffic control device in violation of 61-8-203 is a misdemeanor, punishable by a fine of not less than \$25 or more than \$300. History: En. Sec. 31, Ch. 263, L. 1955; amd. Sec. 1, Ch. 224, L. 1959; amd. Sec. 53, Ch. 316, L. 1974; R.C.M. 1947, 32-2134(e).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-713. Injury to or removal of sign or marker as misdemeanor -- penalty -- definition

61-8-713. Injury to or removal of sign or marker as misdemeanor -- penalty -- definition. (1) A person who maliciously injures, defaces, damages, or removes any sign, signal, or marker, either temporarily or permanently erected on the right-of-way of any secondary, state, or interstate highway for warning, instruction, or information of the public, is guilty of a misdemeanor and upon conviction shall be punished by a fine of \$250, by imprisonment in the county jail for a period not exceeding 60 days, or both. This section applies to secondary, state, or interstate highways that are completed and to secondary, state, or interstate highways that are under construction or repair. (2) A person may not, without lawful authority, attempt to or in fact alter, deface, injure, knock down, or remove any official traffic control device or any railroad sign or signal or any inscription, shield, or insignia on or part of the sign or device. (3) As used in this section, "railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train or other on-track equipment. History: (1) En. Sec. 1, Ch. 184, L. 1965; Sec. 32-2134.1, R.C.M. 1947; (2) En. Sec. 38, Ch. 263, L. 1955; Sec. 32-2141, R.C.M. 1947; R.C.M. 1947, 32-2134.1, 32-2141; amd. Sec. 210, Ch. 542, L. 2005; amd. Sec. 5, Ch. 256, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-715. Reckless driving -- reckless endangerment of emergency personnel or highway workers -- failure to yield to an emergency vehicle -- penalty

61-8-715. Reckless driving -- reckless endangerment of emergency personnel or highway workers -- failure to yield to an emergency vehicle -- penalty. (1) Except as provided in subsection (2), a person convicted of reckless driving under 61-8-301(1)(a) or (1)(b), convicted of reckless endangerment of a highway worker under 61-8-389, or convicted of reckless endangerment of emergency personnel or reckless endangerment of highway workers under 61-8-389 shall be punished on a first conviction by imprisonment for a term of not more than 90 days, a fine of not less than \$100 or more than \$500, or both. On a second or subsequent conviction, the person shall be punished by imprisonment for a term of not less than 5 days or more than 6 months, a fine of not less than \$500 or more than \$1,000, or both. (2) A person who is convicted of reckless driving under 61-8-301 or convicted of reckless endangerment of emergency personnel or reckless endangerment of highway workers under 61-8-389 and whose offense results in the death or serious bodily injury of another person shall be punished by a fine in an amount not exceeding \$10,000, incarceration for a term not to exceed 1 year, or both. (3) A person who is convicted of failure to yield to an emergency vehicle under 61-8-346 shall be punished as follows: (a) for a first conviction, a fine of not less than \$500 or more than \$1,000, a sentence of community service of not less than 50 hours or more than 100 hours, or both; (b) for a second conviction, a fine of not less than \$1,000 or more than \$2,000, a sentence of community service of not less than 100 hours or more than 200 hours, or both; and (c) for a third or subsequent conviction, a fine of not less than \$3,000 or more than \$5,000, a sentence of imprisonment for a term of not less than 30 days, or both. History: En. Sec. 40, Ch. 263, L. 1955; amd. Sec. 4, Ch. 201, L. 1957; amd. Sec. 1, Ch. 287, L. 1977; R.C.M. 1947, 32-2143(2), (3); amd. Sec. 3, Ch. 221, L. 1985; amd. Sec. 4, Ch. 473, L. 1997; amd. Sec. 3, Ch. 561, L. 2001; amd. Sec. 3, Ch. 46, L. 2003; amd. Sec. 45, Ch. 352, L. 2003; amd. Sec. 4, Ch. 379, L. 2003; amd. Sec. 2, Ch. 417, L. 2005; amd. Sec. 64, Ch. 44, L. 2007; amd. Sec. 2, Ch. 385, L. 2021; amd. Sec. 2, Ch. 258, L. 2023; amd. Sec. 3, Ch. 552, L. 2023; amd. Sec. 9, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-716. Careless driving -- penalty

61-8-716. Careless driving -- penalty. (1) A person who violates the provisions of 61-8-302 is guilty of the offense of careless driving and, except as provided in subsection (2), is punishable as provided in 61-8-711. (2) A person whose violation of the provisions of 61-8-302 results in the death or serious bodily injury of another person shall be punished by a fine in an amount not exceeding \$5,000, by incarceration for a term not to exceed 6 months, or both. History: En. 32-2143.4 by Sec. 2, Ch. 294, L. 1977;

R.C.M. 1947, 32-2143.4; amd. Sec. 4, Ch. 561, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-717. Penalty for unauthorized speed contest

61-8-717. Penalty for unauthorized speed contest. Any person convicted for violation of 61-8-308 shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$50 or more than \$500 or by imprisonment in the county or city jail for not more than 6 months or by both such fine and imprisonment. History: En. Sec. 2, Ch. 100, L. 1967; R.C.M. 1947, 32-2143.2.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-719. Penalty for leaving vehicle on public property

61-8-719. Penalty for leaving vehicle on public property. Any person or persons violating the provisions of 61-8-356 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$25 or more than \$300 or by imprisonment in the county jail for not less than 5 days or more than 90 days or by both fine and imprisonment. History: En. Sec. 9, Ch. 288, L. 1967; R.C.M. 1947, 53-909(part).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-720. Controlled-access violation -- penalty

61-8-720. Controlled-access violation -- penalty. A person who violates any of the provisions of 61-8-331(2) is guilty of a misdemeanor. Upon arrest and conviction, the person shall be punished by a fine of not less than \$5 or more than \$100. History: En. Sec. 10-111, Ch. 197, L. 1965; R.C.M. 1947, 32-4311(2); amd. Sec. 2, Ch. 134, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-723. Offenses committed by persons under 18 years of age

61-8-723. Offenses committed by persons under 18 years of age. A person under 18 years of age who is convicted of an offense under this title may not be punished by incarceration, but shall be punished by: (1) a fine not to exceed the fine that could be imposed on the person if the person were an adult, provided that the person may not be imprisoned for failure to pay the fine; (2) revocation of the person's driver's license by the court or suspension of the license for a period set by the court; (3) impoundment by a law enforcement officer designated by the court of the motor vehicle operated by the person for a period of time not exceeding 60 days if the court finds that the person either owns the vehicle or is the only person who uses the vehicle; or (4) any combination of subsections (1) through (3). History: En. Sec. 1, Ch. 484, L. 1987; amd. Sec. 1966, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-724. No-passing zone violation -- penalty

61-8-724. No-passing zone violation -- penalty. A person convicted of a violation of 61-8-326 shall be punished upon conviction by imprisonment for a period of not more than 6 months or by a fine of not less than \$50 or more than \$500 or by both fine and imprisonment. History: En. Sec. 1, Ch. 334, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-725. Penalty for violation of speed limits -- no record for certain violations

61-8-725. Penalty for violation of speed limits -- no record for certain violations. (1) A person shall be fined for violating the maximum speed limit in accordance with the following schedules: (a) for a violation of 61-8-303(1)(a): (b) for a violation of 61-8-303(1)(b), 61-8-309, or 61-8-312: (2) (a) A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection (2)(b) or (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than: (i) 10 miles an hour during the daytime; or (ii) 5 miles an hour during the nighttime. (b) If a driver is guilty of exceeding 90 miles an hour in violation of 61-8-303(1)(a), the violation may be recorded or charged against a driver's record and an insurance company may hold the violation against an insured driver's premium. (3) The surcharge provided for in 3-1-317 may not be imposed for a violation of 61-8-303. (4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record do not apply to a speed limit violation or conviction that was committed by: (a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or (b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle. (5) This section does not apply to the violation of a special speed zone established under 61-8-309 or 61-8-310. History: En. Sec. 3, Ch. 43, L. 1999; amd. Sec. 1, Ch. 4, Sp. L. June 1999; amd. Sec. 26, Ch. 428, L. 2005; amd. Sec. 8, Ch. 393, L. 2013; amd. Sec. 4, Ch. 395, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-726. Violating speed limit in school zone -- penalty doubled -- disposition of fines

61-8-726. Violating speed limit in school zone -- penalty doubled -- disposition of fines.(1) A person convicted of violating a special speed limit in a school zone imposed by a local authority pursuant to 61-8-310(1)(d) is guilty of a misdemeanor. Upon arrest and conviction, the person shall be punished by a fine of not less than double the penalty provided for the violation in 61-8-711. (2) The fine proceeds must be allocated as follows: (a) 50% of the fine collected must be distributed as provided in 3-10-601, 46-17-402, or 46-18-235; and (b) 50% must be forwarded to the local authority that adopted the special speed limit as provided in 61-8-310(1)(d) for the purposes of erecting signs providing notice of the school zone, the speed limit, and the penalty or for other local law enforcement needs. History: En. Sec. 1, Ch. 232, L. 2005; amd. Sec. 3, Ch. 83, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-727. through 61-8-730 reserved

61-8-727 through 61-8-730 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 7. Enforcement -- Penalties 61-8-735. through 61-8-740 reserved

61-8-735 through 61-8-740 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-801. Purpose

61-8-801. Purpose.(1) The purpose of this part is to reduce the number of commercial motor vehicle accidents in Montana, to provide greater safety to the motoring public and others by establishing stringent criteria governing the operation of commercial motor vehicles, and to deny the privilege of operating commercial motor vehicles upon the public streets and highways to those commercial motor vehicle operators who are not qualified. (2) To fulfill this purpose, the legislature intends that this part: (a) establish criteria and procedures for the operation of commercial motor vehicles that require safety practices commensurate with the danger inherent to their operation; (b) provide for increased administrative punishment for commercial motor vehicle operators who use alcohol while operating commercial motor vehicles; (c) provide greater control of commercial motor vehicle operators using the streets and highways; and (d) conform Montana's laws on commercial driver licensing with federal regulations based on the Commercial Motor Vehicle Safety Act of 1986, Public Law 99-570, as amended. History: En. Sec. 1, Ch. 378, L. 1989; amd. Sec. 10, Ch. 207, L. 2001; amd. Sec. 211, Ch. 542, L. 2005; amd. Sec. 6, Ch. 296, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-802. Suspension of commercial driver's license -- disqualification -- major offenses

61-8-802. Suspension of commercial driver's license -- disqualification -- major offenses.(1) Upon receipt of a report of a major offense committed by a person who holds a commercial driver's license or a person required to have a commercial driver's license, the department shall suspend the person's commercial driver's license and disqualify the person from operating a commercial motor vehicle: (a) upon receipt of a report of a first major offense, for 1 year, except that if the major offense occurred while operating a commercial motor vehicle transporting placardable hazardous materials, the suspension must be for 3 years; or (b) upon receipt of a report of a second or subsequent major offense arising from an incident that is separate from the prior major offense, for life, subject to department rules adopted to implement federal rules allowing for license reinstatement, if the person is otherwise eligible, upon completion of a minimum suspension period of 10 years. (2) For purposes of this section, the term "major offense" refers to a refusal to take a test under an implied consent law in this or any other jurisdiction, a test result under an implied consent law in any other jurisdiction that shows an alcohol concentration of 0.08 or more while operating a noncommercial motor vehicle or an alcohol concentration of 0.04 or more while operating a commercial motor vehicle, or a conviction in this or any other jurisdiction of any of the following offenses: (a) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, a drug, or a combination of the two; (b) driving or being in actual physical control of: (i) a noncommercial motor vehicle and having an alcohol concentration of 0.08 or more; or (ii) a commercial motor vehicle and having an alcohol concentration of 0.04 or more; (c) leaving the scene of an accident involving death or personal injury or failing to give information and render aid; (d) using a motor vehicle in the commission of a felony, other than a felony under 61-8-804; (e) operating a commercial motor vehicle while the person's commercial driver's license is revoked, suspended, or canceled or the person is disqualified from operating a commercial motor vehicle; or (f) causing a fatality through negligent or criminal operation of a commercial motor vehicle. History: En. Sec. 2, Ch. 378, L. 1989; amd. Sec. 27, Ch. 195, L. 1993; amd. Sec. 11, Ch. 207, L. 2001; amd. Secs. 14, 22, Ch. 428, L. 2003; amd. Sec. 27, Ch. 428, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-803. Suspension of commercial driver's license -- serious traffic violations

61-8-803. Suspension of commercial driver's license -- serious traffic violations.(1) If the department receives notice from a court or another licensing jurisdiction that a person holding or required to hold a commercial driver's license has been convicted of more than one serious traffic violation in separate incidents within a 3-year period, the department shall suspend the person's commercial driver's license: (a) for 60 days upon receipt of notice of the second conviction; or (b) for 120 days upon receipt of notice of the third

or subsequent conviction. (2) For purposes of this section, "serious traffic violation" means conviction, when operating a commercial motor vehicle, of: (a) speeding 15 or more miles an hour above a posted speed limit; (b) reckless driving, reckless endangerment of a highway worker, or reckless endangerment of emergency personnel; (c) improper or erratic traffic lane changes; (d) following too closely; (e) a violation of a state law or local ordinance relating to the operation of a motor vehicle, excluding a parking, weight, or equipment violation, that arises in connection with a fatal accident; (f) operating a commercial motor vehicle without a commercial driver's license; (g) operating a commercial motor vehicle without a commercial driver's license in one's possession or refusing to display a commercial driver's license upon request; (h) operating a commercial motor vehicle without the proper class of commercial driver's license or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or (i) using a mobile device to send text messages while operating a commercial motor vehicle in violation of a state or local law or ordinance on motor vehicle traffic control. (3) A person is considered to have committed a second or subsequent serious traffic violation if less than 3 years have passed between the date of an offense that resulted in a prior conviction and the date of the offense that resulted in the most recent conviction. History: En. Sec. 3, Ch. 378, L. 1989; amd. Sec. 28, Ch. 195, L. 1993; amd. Sec. 5, Ch. 105, L. 1997; amd. Sec. 12, Ch. 207, L. 2001; amd. Sec. 15, Ch. 428, L. 2003; amd. Sec. 28, Ch. 428, L. 2005; amd. Sec. 7, Ch. 296, L. 2011; amd. Sec. 3, Ch. 385, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-804. Suspension of commercial driver's license -- felony involving a controlled substance while driving a commercial vehicle

61-8-804. Suspension of commercial driver's license -- felony involving a controlled substance while driving a commercial vehicle. If the department receives information that a person who holds or is required to hold a commercial driver's license has been convicted of using a commercial or noncommercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by federal regulations, or a felony involving possession with intent to manufacture, distribute, or dispense a controlled substance, the department shall suspend the person's commercial driver's license for life and may not reinstate the license at any time for any reason. History: En. Sec. 4, Ch. 378, L. 1989; amd. Sec. 29, Ch. 195, L. 1993; amd. Sec. 16, Ch. 428, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-805. Suspension for operating commercial vehicle with alcohol concentration of 0.04 or more -- hearing

61-8-805. Suspension for operating commercial vehicle with alcohol concentration of 0.04 or more -- hearing. (1) A person whose alcohol concentration is 0.04 or more while the person drives or is in actual physical control of a commercial motor vehicle is subject to the suspension of the person's commercial driver's license. The peace officer who determines that the person is operating a commercial motor vehicle with an alcohol concentration of 0.04 or more shall immediately seize the person's commercial driver's license and, on behalf of the department, give the person written notice of the license suspension and the right to a hearing under 61-8-808. Upon receipt of a report certified under penalty of law from the peace officer that the person was operating a commercial motor vehicle with an alcohol concentration of 0.04 or more, the department shall suspend the license, with no provision for a restricted probationary commercial license, for: (a) 1 year, upon receipt of the first report of a 0.04 or more alcohol concentration violation, except that if the violation occurred in a commercial motor vehicle transporting placardable hazardous materials, the suspension must be for 3 years; and (b) life, upon receipt of a second or subsequent 0.04 or more alcohol concentration violation report at any time as determined from the records of the department, subject to federal rules allowing for driver rehabilitation and license reinstatement, if otherwise eligible, upon service of a minimum period of 10 years' suspension. (2) A peace officer who determines that a commercial motor vehicle operator has a measured amount or detected presence of alcohol in the operator's body while operating a commercial motor vehicle shall place the commercial motor vehicle operator out of service as mandated by federal regulations for 24 hours. (3) The fact that a person charged with a violation of the provisions of subsection (1) is entitled to use alcohol under the laws of Montana is not a defense against a charge of violating the provisions of subsection (1). (4) For purposes of this section, a conviction for violation of 61-8-1002(1)(a), (1)(b), (1)(c), (1)(d), or (1)(e) while operating a commercial motor vehicle or a prior refusal to be tested under an implied consent law must be treated as a prior report of a 0.04 or more alcohol concentration violation and must be used in determining the length of the license suspension under subsection (1). History: En. Sec. 5, Ch. 378, L. 1989; amd. Sec. 3, Ch. 563, L. 1991; amd. Sec. 9, Ch. 789, L. 1991; amd. Sec. 30, Ch. 195, L. 1993; amd. Sec. 9, Ch. 88, L. 1997; amd. Sec. 6, Ch. 105, L. 1997; amd. Sec. 13, Ch. 207, L. 2001; amd. Sec. 17, Ch. 428, L. 2003; amd. Sec. 40, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-806. Blood and breath tests of commercial vehicle operators -- procedure -- suspension

61-8-806. Blood and breath tests of commercial vehicle operators -- procedure -- suspension. (1) A person who operates a commercial motor vehicle upon the ways of this state open to the public is considered to have given consent to one or more tests of the person's blood or breath for the purpose of determining a measured amount or detected presence of alcohol in the person's body if the person is requested to submit to the test or tests by a peace officer who has reasonable grounds to believe that the person was driving or in actual physical control of a commercial motor vehicle upon the ways of this state open to the public while having a measured alcohol concentration or detected presence of alcohol. The peace officer may designate the blood or breath test or tests to be administered and may request that the person submit to a preliminary alcohol screening test before a blood, breath, or urine test is

taken. (2) A person who is unconscious or who is otherwise incapable of refusal is considered not to have withdrawn the consent provided in subsection (1). (3) If a person refuses to submit to one or more tests designated by the officer, the test or tests may not be given, but the officer shall immediately seize the person's commercial driver's license and forward the license to the department, along with a report certified under penalty of law that the officer had reasonable grounds to believe that the person was driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while having a measurable alcohol concentration or detected presence of alcohol and that the person had refused to submit to one or more tests upon the request of the officer. Upon receipt of the report, the department shall suspend the license for a period provided in subsection (5). (4) Upon seizure of a person's commercial driver's license, the peace officer shall issue, on behalf of the department, a temporary 5-day noncommercial driving permit, effective 12 hours after the time of issuance, and shall provide the person with written notice of the license suspension and the right to a hearing under 61-8-808. (5) Upon receipt of the officer's certified report, the department shall suspend the person's commercial driver's license, with no provision for a restricted probationary commercial driver's license, for: (a) 1 year, upon a first refusal, except that if the violation occurred in a commercial motor vehicle transporting placardable hazardous materials, the suspension for a first refusal must be for 3 years; (b) life, upon a second or subsequent refusal at any time as determined from the records of the department, subject to department rules adopted to implement federal rules allowing for driver rehabilitation and license reinstatement, if otherwise eligible, upon service of a minimum period of 10 years' suspension. If the person has a prior conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same effect as a previous testing refusal for purposes of this subsection (5)(b). History: En. Sec. 6, Ch. 378, L. 1989; amd. Sec. 4, Ch. 563, L. 1991; amd. Sec. 10, Ch. 789, L. 1991; amd. Sec. 31, Ch. 195, L. 1993; amd. Sec. 8, Ch. 53, L. 1995; amd. Sec. 10, Ch. 88, L. 1997; amd. Sec. 7, Ch. 105, L. 1997; amd. Sec. 18, Ch. 428, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-807. Administration of tests

61-8-807. Administration of tests. Tests required under this part must be administered as provided in 61-8-1019. History: En. Sec. 8, Ch. 378, L. 1989; amd. Sec. 29, Ch. 428, L. 2005; amd. Sec. 41, Ch. 498, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-808. Right of appeal to court

61-8-808. Right of appeal to court. (1) Within 30 days after notice of the suspension and the right to a hearing has been given by the peace officer under 61-8-805 or 61-8-806, the person may file a petition to challenge the suspension in the district court in the county where the finding of 0.04 or more alcohol concentration or refusal was made. (2) The court has jurisdiction and shall set the matter for hearing. The court shall give at least 10 days' written notice to the county attorney of the county where the appeal is filed. The county attorney shall represent the state. (3) The court shall take testimony and examine the facts of the case, except that: (a) with regard to a suspension under 61-8-805, the issue is limited to whether the person was driving or had actual physical control of a commercial motor vehicle while the person's alcohol concentration was 0.04 or more; and (b) with regard to a suspension under 61-8-806, the issues are limited to whether a peace officer had reasonable grounds to believe that the person had been driving or was in actual physical control of a commercial motor vehicle upon ways of this state open to the public while the person had a measurable or detectable alcohol concentration, whether the person was ordered to submit to a test, and whether the person refused to submit to the test. (4) The court shall determine whether the petitioner is entitled to a commercial driver's license or is subject to suspension as provided in this part. History: En. Sec. 7, Ch. 378, L. 1989; amd. Sec. 32, Ch. 195, L. 1993; amd. Sec. 9, Ch. 53, L. 1995; amd. Sec. 8, Ch. 105, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-812. Operation of out-of-service vehicle -- criminal and civil penalties -- suspension of commercial driver's license

61-8-812. Operation of out-of-service vehicle -- criminal and civil penalties -- suspension of commercial driver's license. (1) A person may not operate a commercial motor vehicle during any period in which the person, the commercial motor vehicle the person is operating, or the motor carrier operation is subject to an out-of-service order issued under state or federal authority. (2) A violation of this section is a misdemeanor and a person convicted of a violation of this section shall be fined not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense. (3) (a) In addition to the misdemeanor penalties provided in subsection (2) and suspension of the person's commercial driver's license as provided in subsection (4), a person who violates an out-of-service order issued under state or federal authority is subject to a civil penalty not to exceed \$2,985 for a first offense and a civil penalty of \$5,970 for a second or subsequent offense. (b) The department or the county attorney of the county in which the violation occurred may petition the district court to impose the civil penalty. Venue for an action to collect a civil penalty pursuant to this section is in the county in which the violation occurred. (c) A civil penalty collected under this section must be deposited in the state general fund. (4) Upon receipt of notice from a court of competent jurisdiction or another licensing jurisdiction that a person holding a commercial driver's license has been convicted of violating an out-of-service order, the department shall suspend the person's commercial driver's license for: (a) 6 months for a first conviction; (b) 2 years for a second conviction if the vehicle being operated by the person at the time of the violation was not transporting placardable hazardous materials or was not designed or being used to transport more than 15 passengers, inclusive of the driver; and (c) 3 years: (i) for a second conviction if the vehicle: (A) being operated at the time of the violation was transporting placardable hazardous materials; or

(B) was designed or being used to transport more than 15 passengers, inclusive of the driver; and (ii) for a third or subsequent conviction. (5) For purposes of this section, an offender is considered to have been previously convicted if less than 10 years have elapsed between the commission of the present offense and a previous conviction. (6) A temporary or probationary commercial driver's license may not be issued while a commercial driver's license is suspended under subsection (4). History: En. Sec. 1, Ch. 195, L. 1993; amd. Sec. 9, Ch. 105, L. 1997; amd. Sec. 30, Ch. 428, L. 2005; amd. Sec. 8, Ch. 296, L. 2011; amd. Sec. 25, Ch. 323, L. 2017; amd. Sec. 24, Ch. 535, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-813. Suspension of commercial driver's license -- railroad crossing offenses

61-8-813. Suspension of commercial driver's license -- railroad crossing offenses. (1) The department shall suspend a person's commercial driver's license upon the report of a conviction of any of the following railroad crossing offenses or conduct: (a) for drivers who are not required to always stop: (i) failing to slow down and check that the tracks are clear of an approaching train or other on-track equipment; or (ii) failing to stop before reaching the crossing if the tracks are not clear; (b) for drivers who are always required to stop, failing to stop before driving onto the crossing; (c) for all drivers: (i) failing to have sufficient space to drive completely through the crossing without stopping; (ii) failing to obey a traffic control device or the directions of an enforcement official at the crossing; or (iii) failing to negotiate a crossing because of insufficient undercarriage clearance. (2) Upon receipt of a report of a conviction of any railroad crossing offense or conduct described in subsection (1), the following suspension periods must be imposed: (a) 60 days upon a first conviction; (b) 120 days upon a second conviction within a 3-year period; or (c) 1 year upon a third or subsequent conviction within a 3-year period. History: En. Sec. 2, Ch. 428, L. 2003; amd. Sec. 6, Ch. 256, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-814. Probationary driver's license ineligibility

61-8-814. Probationary driver's license ineligibility. A person whose commercial driver's license or commercial motor vehicle operating privilege is suspended under this part: (1) is not eligible for a restricted probationary driver's license that would permit operation of a commercial motor vehicle during the period of suspension; and (2) may not operate a commercial motor vehicle until the period of suspension is completed and the person is otherwise eligible, under state and federal law, to have the commercial driver's license restored or to reapply for a commercial driver's license. History: En. Sec. 3, Ch. 428, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-815. Employer not to permit operation of commercial motor vehicle in violation of state law or federal regulation -- criminal and civil penalties

61-8-815. Employer not to permit operation of commercial motor vehicle in violation of state law or federal regulation -- criminal and civil penalties. (1) An employer may not knowingly allow, require, permit, or authorize a person to operate a commercial motor vehicle in the United States: (a) during any period in which the person's commercial driver's license has been suspended, revoked, or cancelled by a state, the person has lost the privilege to operate a commercial motor vehicle in a state, or the person has been disqualified from operating a commercial motor vehicle; (b) during any period in which the person has more than one commercial driver's license; (c) during any period in which the person, the commercial motor vehicle the person is operating, or the motor carrier operation is subject to an out-of-service order; or (d) in violation of a federal, state, or local law or regulation pertaining to railroad crossings. (2) A violation of this section is a misdemeanor, and a person convicted of a violation of this section shall be fined not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense. (3) (a) Except as provided in subsection (3)(b), an employer who violates this section is subject to a civil penalty of not less than \$2,750 or more than \$11,000. (b) An employer who violates subsection (1)(d) is subject to a civil penalty of not more than \$10,000. (c) The department or the county attorney of the county in which the violation occurred may petition the district court to impose the civil penalty. Venue for an action to collect a civil penalty pursuant to this section is in the county in which the violation occurred. (d) A civil penalty collected under this section must be deposited in the state general fund. History: En. Sec. 3, Ch. 428, L. 2005; amd. Sec. 25, Ch. 535, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-816. Commencement of commercial driver's license suspension or disqualification

61-8-816. Commencement of commercial driver's license suspension or disqualification. A suspension or disqualification under this part commences either from the date of receipt by the department of a report of conviction from a court or another licensing jurisdiction or the day following the completion of a previously imposed period of suspension or disqualification, whichever occurs later. History: En. Sec. 4, Ch. 428, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-817. Notification to other states of traffic violations

61-8-817. Notification to other states of traffic violations. The department, upon receipt of a report of a conviction or a violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, by a person who holds a commercial

driver's license from another state or who is licensed in another state, shall report the conviction to the licensing entity in the state where the driver is licensed as follows: (1) beginning September 30, 2005, within 30 days of conviction; and (2) beginning September 30, 2008, within 10 days of conviction. History: En. Sec. 5, Ch. 428, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 8. Commercial Motor Vehicle Safety 61-8-818. Permanent revocation of commercial driver's license -- felony involving use of commercial motor vehicle for trafficking of persons

61-8-818. Permanent revocation of commercial driver's license -- felony involving use of commercial motor vehicle for trafficking of persons. If the department receives a conviction report that a person used a commercial motor vehicle in the commission of an offense under Title 45, chapter 5, part 7, or a similar law in another state or in the commission of a felony of trafficking of persons, the department shall revoke the person's commercial driver's license for life and may not reinstate the commercial driver's license for any reason. History: En. Sec. 1, Ch. 445, L. 2019; amd. Sec. 35, Ch. 167, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-901. Short title

61-8-901. Short title. This part may be cited as the "Montana Professional Tow Truck Act". History: En. Sec. 1, Ch. 283, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-902. Purpose

61-8-902. Purpose. The legislature recognizes that: (1) wrecked, disabled, and abandoned motor vehicles on the public roadways create hazards that imperil lives and property and require expeditious removal; (2) officers investigating accidents on the public roadways need immediately available towing and recovery vehicles staffed by competent operators and adequately equipped to clear the roadways and remove hazardous obstructions with minimum damage to property; (3) certain standards and classifications are needed for professional tow trucks and equipment used for towing and recovering wrecked, disabled, and abandoned motor vehicles or other objects creating hazards on the public roadways; (4) encouragement of a competitive and qualified professional towing industry requires establishment of a uniform and equitable qualification system based on the equipment and the standards provided in 61-8-905 through 61-8-907 and a system for the fair consideration of all qualified tow truck companies; and (5) the use of nonqualified tow truck companies or private motor vehicles to tow or recover for hire wrecked, disabled, or abandoned vehicles creates additional hazards and, except in limited situations, should be prohibited. However, when a person or tow truck company responds in good faith to life-threatening emergency situations, it should not be liable for civil damages for acts or omissions, other than damages occasioned by gross negligence or by willful or wanton acts or omissions. History: En. Sec. 2, Ch. 283, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-903. Definitions

61-8-903. Definitions. As used in this part, the following definitions apply: (1) "Boom" means an engineered structure that is either mechanically or hydraulically operated and that is capable of lifting and supporting an overhead, vertical load. (2) "Commercial tow truck operator" or "operator" means an individual, partnership, corporation, or other business entity that owns or operates a commercial tow truck as defined in 61-9-416. (3) "Department" means the department of justice provided for in 2-15-2001. (4) "Letter of appointment" means a letter granted by the department pursuant to 61-8-920 that authorizes the holder to participate in the law enforcement rotation system provided for in 61-8-908. (5) "Local government" means a county, a municipality, or other local board or body that has authority to enact laws relating to traffic. (6) (a) "Qualified tow truck operator" means a commercial tow truck operator: (i) that has equipment that: (A) meets the requirements of 61-8-906, 61-8-907, and 61-9-416; and (B) has been classified in accordance with 61-8-905; (ii) that participates in the law enforcement rotation system provided for in 61-8-908; (iii) that meets the requirements of subsection (6)(b); and (iv) that has been issued a letter of appointment pursuant to 61-8-920. (b) (i) If the operator is a firm or other entity, at least 75% of the employees who operate a tow truck must hold a certification from a nationally recognized certification program for tow truck operators or have a minimum of 1 year of experience in the towing business for hire in Montana. (ii) If the operator is an individual, the individual must hold a certification from a nationally recognized certification program for tow truck operators or have a minimum of 1 year of experience in the towing business for hire in Montana. (7) "Rotation area" means the base area where a qualified tow truck operator is dispatched and operates. History: En. Sec. 3, Ch. 283, L. 1995; amd. Sec. 1, Ch. 88, L. 2003; amd. Sec. 1, Ch. 136, L. 2011; amd. Sec. 2, Ch. 143, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-904. Prohibition -- exception

61-8-904. Prohibition -- exception. (1) A commercial tow truck operator may not operate for compensation upon the public roadways of this state unless the operator complies with the provisions of 61-8-906(1) and 61-8-907. (2) A commercial tow truck operator may not participate in the law enforcement rotation system provided for in 61-8-908 unless the operator complies with the provisions of this part. (3) Except as provided in 61-9-416, the provisions of 61-8-901 through 61-8-908, 61-8-910, and 61-8-920 do not apply to a commercial tow truck operator that does not operate for compensation. History: En. Sec. 4, Ch. 283, L. 1995; amd. Sec. 2, Ch. 88,

L. 2003; amd. Sec. 1, Ch. 80, L. 2011; amd. Sec. 3, Ch. 143, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-905. Classification standards

61-8-905. Classification standards. (1) Commercial tow trucks are divided into the following five classes based on the manufacturer's rating: (a) Class A tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 4 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 10,000 pounds gross vehicle weight. (b) Class B tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 8 tons and must be mounted on a truck chassis with a minimum manufacturer's rating of 18,000 pounds gross vehicle weight. (c) Class C tow truck equipment must have a minimum manufacturer's boom or combined boom rating of 16 tons and must be mounted on a chassis that has a minimum manufacturer's rating of 32,000 pounds gross vehicle weight. (d) Class D tow truck equipment includes manufactured rollbacks and car carriers with manufacturer's gross vehicle ratings of 10,000 pounds and over. The rollbacks and car carriers must be mounted on a truck-trailer chassis that, at a minimum, is equal to the minimum gross weight of the rollback or car carrier. Class D also includes any piece of towing equipment without a boom. (e) Class E includes two or more tow trucks working together with a combined manufacturer's rating of a minimum of 80,000 pounds with access to supportive equipment, such as forklifts, banders, and air bags, for the recovery of rollovers and wrecked, disabled, and abandoned vehicles whose cargo requires special handling. Class E refers to tow truck companies and not to tow truck equipment. (2) An operator of noncommercially manufactured or modified tow truck equipment in use on October 1, 1995, that wishes to participate in the law enforcement rotation system must have its equipment classified by the department within a time period set by the department. Once the equipment is classified, further modifications may not be made. (3) An operator of new noncommercially manufactured or modified tow truck equipment must have its equipment independently certified before participating in the law enforcement rotation system. Once the equipment is classified, further modifications to the equipment must be recertified. History: En. Sec. 5, Ch. 283, L. 1995; amd. Sec. 3, Ch. 88, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-906. Liability insurance -- storage requirements

61-8-906. Liability insurance -- storage requirements. (1) Notwithstanding the provisions of 61-6-301, a commercial tow truck operator shall continuously provide: (a) insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property caused by the maintenance or use of a commercial tow truck, as defined in 61-9-416, or occurring on the business premises of a commercial tow truck operator in an amount not less than: (i) \$300,000 for class A tow trucks; (ii) \$500,000 for class B tow trucks; and (iii) \$750,000 for class C tow trucks; (b) insurance in an amount not less than \$20,000 to cover the damage to cargo or other property entrusted to the care of the commercial tow truck operator; and (c) garage keepers legal liability insurance or on-hook liability insurance in an amount not less than \$50,000. (2) A commercial tow truck operator shall provide proof of the insurance required in subsection (1) to the department. (3) A qualified tow truck operator shall provide a storage facility, either a fenced lot or a building, that is: (a) adequate for the secure storage and safekeeping of stored vehicles; (b) located in a place that is reasonably convenient for public access; (c) available to public access between 8 a.m. and 5 p.m., Monday through Friday, excluding legal holidays; (d) large enough to store all the vehicles towed for law enforcement agencies; and (e) if a fenced lot, constructed of chain link at least 6 feet high or constructed of materials and in a manner sufficient to deter trespassing or vandalism. History: En. Sec. 6, Ch. 283, L. 1995; amd. Sec. 5, Ch. 88, L. 2003; amd. Sec. 116, Ch. 114, L. 2003; amd. Sec. 72, Ch. 130, L. 2005; amd. Sec. 1, Ch. 224, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-907. Inspection -- fees -- decal

61-8-907. Inspection -- fees -- decal. (1) The tow truck equipment of a commercial tow truck operator must have an annual safety inspection. A highway patrol officer, an employee of the department of transportation appointed as a peace officer in accordance with 61-12-201, or an inspector certified by the department shall conduct the inspection and require the commercial tow truck operator to provide proof of compliance with the provisions of 61-8-906. (2) (a) Upon satisfactory completion of the inspection and verification of the insurance requirements, a decal showing the last inspection date and the expiration date of the insurance coverage must be affixed in a prominent place on the tow truck. (b) If the commercial tow truck operator is participating in the law enforcement rotation system, the decal must also show the classification of the operator's tow truck equipment. (3) The department may establish inspection and decal fees that may not exceed the actual costs of the inspection and the decal. The fees for the inspection and decal must be deposited in the highway nonrestricted account provided for in 15-70-125. History: En. Sec. 7, Ch. 283, L. 1995; amd. Sec. 6, Ch. 88, L. 2003; amd. Sec. 19, Ch. 267, L. 2017.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-908. State law enforcement rotation system -- letter of appointment -- local government rotation system

61-8-908. State law enforcement rotation system -- letter of appointment -- local government rotation system. (1) The department shall establish and maintain an equitable rotation system among qualified tow truck operators that apply to the department in writing to be placed on the system and receive a letter of appointment under 61-8-920. The rotation system: (a) must be administered by the

highway patrol in a manner that will give priority to public safety; (b) must be based on the classification of equipment as provided in 61-8-905; and (c) may include only qualified tow truck operators. (2) Each qualified tow truck operator participating in the rotation system shall have available and show upon the request of a law enforcement officer: (a) all Montana motor vehicle identification numbers or department of transportation numbers for the operator's tow trucks operating in the rotation system; (b) the operator's federal tax identification number; (c) the operator's company phone number and street address; and (d) the operator's letter of appointment as issued under 61-8-920. (3) The operator shall display on both sides of each tow truck the operator's business name and location and the numbers required by subsection (2)(a). The information required by this subsection must be plainly seen and able to be read at all times. (4) Any charges for towing service must be calculated from the operator's business location, as it is assigned on the operator's letter of appointment. (5) The rotation system is not applicable when the owner or driver of a wrecked or disabled vehicle obstructing a public roadway requests a tow truck operator of the owner's or driver's choice and the operator meets the insurance requirements provided in 61-8-906 and the safety inspection requirements provided in 61-8-907. (6) (a) (i) The law enforcement officer at the scene of the wreck shall call the qualified tow truck operator that is next on the rotation list if: (A) a request for a tow truck is not made by the owner or driver; (B) the requested tow truck cannot respond in a timely manner; or (C) the law enforcement officer determines that the requested tow truck is unable to handle the wrecked or disabled vehicle. (ii) If the qualified tow truck operator is not classified to handle the wrecked or disabled vehicle, the officer shall call the qualified tow truck operator next on the rotation list that is classified to handle the wrecked or disabled vehicle. (b) If a qualified tow truck operator classified to handle the wrecked or disabled vehicle is not reasonably available, the law enforcement officer may request other equipment to remove the hazard. (7) The department shall administer the state law enforcement rotation system. A qualified tow truck operator may examine the rotation system schedule established by the department in order to determine if the system is being administered in an equitable manner. (8) A qualified tow truck operator gives implied consent to a reasonable inspection during normal business hours of its premises, vehicles, and equipment by the department of transportation, highway patrol, or a local government to ensure compliance with this part. (9) A local law enforcement agency may adopt and administer a local law enforcement rotation system that complies with the provisions of this part. A tow truck operator desiring to be placed on the local law enforcement rotation system must be a qualified tow truck operator as provided in this part. (10) The highway patrol or local law enforcement shall provide upon request a record of rotation system calls for all classes of tow trucks. (11) Complaints about the rotation system must be referred in writing to the complaint resolution committee established in 61-8-912. History: En. Sec. 8, Ch. 283, L. 1995; amd. Sec. 7, Ch. 88, L. 2003; amd. Sec. 4, Ch. 143, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-909. Good faith immunity

61-8-909. Good faith immunity. A person who renders assistance in an emergency that is life-threatening to the occupant of a wrecked, disabled, or abandoned vehicle or that is creating an immediate hazard on a public roadway or who renders emergency assistance as directed by a law enforcement officer or other emergency responder at the scene of a motor vehicle accident is immune from damages arising from acts or omissions related to the rendering of assistance unless the damages are occasioned by the gross negligence or by the willful or wanton acts or omissions of the person rendering the assistance. History: En. Sec. 9, Ch. 283, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-910. Violation -- penalty

61-8-910. Violation -- penalty. A commercial tow truck operator that violates a provision of this part is guilty of a misdemeanor and is subject to the penalty provided in 61-8-711. History: En. Sec. 10, Ch. 283, L. 1995; amd. Sec. 8, Ch. 88, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-911. Rulemaking authority

61-8-911. Rulemaking authority. The department shall adopt reasonable and necessary rules to administer the provisions of this part. History: En. Sec. 11, Ch. 283, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-912. Tow truck complaint resolution committee -- membership -- responsibilities

61-8-912. Tow truck complaint resolution committee -- membership -- responsibilities. (1) The department shall establish a tow truck complaint resolution committee, and the attorney general shall appoint the members. Committee members serve 3-year terms, may serve more than one term, and must include: (a) two representatives of the tow truck industry, one from the eastern half of the state and one from the western half of the state; (b) a representative of the commercial motor carrier industry; (c) a member of the public; (d) a representative of the insurance industry; and (e) a representative of the highway patrol. (2) The committee shall meet as often as necessary, either in person or by teleconference, to review and resolve complaints about tow truck issues, including towing charges, that are submitted in writing to a committee member and to review information submitted to it as provided in this part. (3) The department shall establish rules to govern the committee's procedure for reviewing and resolving complaints. History: En. Sec. 4, Ch. 88, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-913. Notice to owner -- payment of removal and storage costs -- request for reissuance of certificate of title

61-8-913. Notice to owner -- payment of removal and storage costs -- request for reissuance of certificate of title. (1) Within 15 days after the date that a wrecked or disabled vehicle is removed from a public roadway by a qualified tow truck operator at the request of a law enforcement officer under 61-8-908, the qualified tow truck operator shall send a certified letter to the vehicle owner or lienholder, as shown in the department's records, notifying the owner or lienholder that the vehicle has been towed and is being stored by the qualified tow truck operator. The certified letter must be sent return receipt requested and postage prepaid to the owner or lienholder at the latest address shown in the department's records. (2) The owner or lienholder of the vehicle may not reclaim the vehicle until the owner, the lienholder, or the owner's or lienholder's insurance provider has paid the costs incurred by the qualified tow truck operator in removing and storing the vehicle. (3) If the removal and storage costs have not been paid within 30 days after the date that the notice provided for in subsection (1) was postmarked, the qualified tow truck operator may request, on a form provided by the department, that the department cancel the vehicle's certificate of title, remove any perfected security interest, and reissue the certificate of title to the qualified tow truck operator. In the request, the qualified tow truck operator shall certify that the notice required in subsection (1) was sent and that the owner or lienholder has not made payment as required in subsection (2). A copy of the notice required in subsection (1) must be attached to the request. (4) Upon receipt of a valid request as provided in subsection (3), the department shall cancel the certificate of title to the vehicle and reissue the certificate of title to the qualified tow truck operator. The qualified tow truck operator shall pay all required fees on the vehicle. After the department has reissued the certificate of title, the former owner or lienholder has no further right, title, claim, or interest in or to the vehicle. History: En. Sec. 5, Ch. 176, L. 2003; amd. Sec. 73, Ch. 130, L. 2005; amd. Sec. 1, Ch. 185, L. 2013.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-914. through 61-8-919 reserved

61-8-914 through 61-8-919 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 8. Traffic Regulation Part 9. Professional Tow Trucks 61-8-920. Rotation system -- letter of appointment -- requirements

61-8-920. Rotation system -- letter of appointment -- requirements. (1) A commercial tow truck operator may not participate in the law enforcement rotation system provided for in 61-8-908 without a letter of appointment from the department. (2) The department may assign a letter of appointment to a commercial tow truck operator if the operator meets the following requirements: (a) Each towing business must be operated independently. One company cannot be dependent on another for any required operation. (b) If the operator owns more than one towing business, each business must have a different identifiable name, address, and telephone number that is answered at the business location during normal business hours. An after-hours central dispatch center may receive calls for multiple businesses if the dispatch center is capable of acknowledging each individual call by the applicable company name. (c) The operator shall provide adequate staffing for each business with personnel who are present at the business location to answer all incoming calls and who are able to release impounded vehicles from 8 a.m. to 5 p.m., Monday through Friday, except for state-recognized holidays. In addition, each business location must be staffed by a sufficient number of drivers for a 24-hour a day operation. (d) There must be adequate equipment for each company to operate independently. Tow trucks may be used only for the company for which they are registered and within the rotation area for which they are approved by the department unless otherwise specifically provided for by the department. (e) The operator must have a business location with its own outside entrance, or if a building has one main entrance, the location must have doors clearly marking and separating each business with a sign at the front door and a sign plainly visible from the street indicating the company's name, telephone number, and office hours. Separate businesses in the same rotation area may be housed in one building, but there must be a solid wall from floor to ceiling to separate each business. (f) Each company shall maintain its own set of required records and books, including but not limited to a vehicle transaction file and billing invoices at its business location. If there is a corporate accountant or bookkeeper for more than one company, all records and files for each company that are required to be maintained at the business location must be maintained separately. (g) The operator must have impound and storage areas at the business location and in the operator's assigned rotation area that meet the requirements of 61-8-906(3). (h) The operator shall maintain at least one truck meeting the minimum classification standards set out in 61-8-905. (3) A qualified tow truck operator may have only one letter of appointment for a business location in a single rotation area. A request for an additional letter of appointment must be for a complete and separate business location that is capable of operating independently within the same or another rotation area and that meets the requirements of subsection (2). (4) Each letter of appointment must specify the rotation area to which the qualified tow truck operator is assigned. (5) A commercial tow truck operator may petition the department in writing for a waiver of one or more of the requirements of subsection (2). Except as provided in subsection (6), the department may grant a waiver if it finds that: (a) the towing service otherwise available within the rotation area is inadequate to meet the needs of the public; (b) the request has the highway patrol district commander's approval; and (c) the petition is otherwise reasonable. (6) In the event a commercial tow truck operator meets all the requirements of this section and receives a letter of appointment in the same rotation area as a qualified tow truck operator that had earlier been granted a waiver pursuant to subsection (5), the department shall rescind the waiver. (7) A letter of appointment must be issued in the name of the applicant and is not transferable to any other person or business. (8) A letter of appointment is

valid until suspended, superseded, or revoked by the department. History: En. Sec. 1, Ch. 143, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-101. Application -- exceptions

61-9-101. Application -- exceptions. (1) The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except as provided in subsection (4) or where a different place is specifically referred to in a given section. (2) The operation of motor vehicles directly across the public roads and highways of this state, especially as required in the transportation of natural resource products, including agricultural products and livestock, may not be considered to be the operation of the vehicles on the public roads and highways of this state. The crossings must be adequately marked with warning signs or devices relating to stopping before entry and to restoration of any damage, as may reasonably be prescribed by the state or local agency in control of safety of operation of the public highway involved. (3) If a provision of this chapter conflicts with federal laws or regulations governing motor vehicle equipment standards, the applicable federal law or regulation supersedes. (4) (a) Except as provided in subsection (4)(b) and subject to subsection (4)(c), the provisions of this chapter apply to the operation and equipping of a motorcycle or quadricycle only when the motorcycle or quadricycle is being operated on a paved highway. A person operating a motorcycle or quadricycle on an unpaved highway shall operate the motorcycle or quadricycle in a reasonable and prudent manner. (b) Except as provided in subsection (4)(c), the requirements of 61-9-417 and 61-9-418(2)(c) apply to the operation of a motorcycle or quadricycle at all times specified in those sections. (c) The provisions of this chapter do not apply to the operation and equipping of a quadricycle that is being operated for agricultural purposes on an unpaved highway or on a paved highway that is not an interstate highway as defined in 60-1-103. History: (1) En. Sec. 22, Ch. 263, L. 1955; Sec. 32-2124, R.C.M. 1947; (2) En. Sec. 4, Ch. 247, L. 1959; Sec. 32-2124.1, R.C.M. 1947; R.C.M. 1947, 32-2124(part), 32-2124.1; amd. Sec. 3, Ch. 431, L. 1997; amd. Sec. 3, Ch. 434, L. 2017; amd. Sec. 33, Ch. 299, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-102. Uniformity of interpretation -- definitions

61-9-102. Uniformity of interpretation -- definitions. (1) This chapter must be interpreted and construed in order to effectuate its general purpose to make uniform the law of those states which enact it. (2) As used in this chapter, unless the context requires otherwise, the following definitions apply: (a) "Authorized emergency vehicle" has the meaning provided in 61-8-102. (b) "Emergency service vehicle" means an emergency service vehicle of a state, county, or municipal department or a public service vehicle, commercial tow truck, or commercial road service truck, which by the nature of its operation causes a vehicular traffic hazard. (c) "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases so that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. (d) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry. (e) "Police vehicle" has the meaning as provided in 61-8-102. (f) "Right-of-way" has the meaning provided in 61-8-102. History: En. Sec. 155, Ch. 263, L. 1955; R.C.M. 1947, 32-21-158; amd. Sec. 212, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-103. Provisions uniform throughout state -- power of local authorities

61-9-103. Provisions uniform throughout state -- power of local authorities. (1) The provisions of this chapter must be applicable and uniform throughout this state and in all political subdivisions and municipalities in this state, and a local authority may not enact or enforce any ordinance, rule, or regulation in conflict with the provisions of this chapter unless expressly authorized in this chapter. Local authorities may adopt additional traffic regulations that are not in conflict with the provisions of this chapter. (2) As used in this section "local authorities" has the meaning provided in 61-8-102. History: En. Sec. 27, Ch. 263, L. 1955; amd. Sec. 1, Ch. 201, L. 1957; R.C.M. 1947, 32-2130; amd. Sec. 213, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-104. Required obedience to traffic laws

61-9-104. Required obedience to traffic laws. It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor punishable as provided in 61-9-511 for any person to do any act forbidden or fail to perform any act required in this chapter. History: En. Sec. 23, Ch. 263, L. 1955; R.C.M. 1947, 32-2125; amd. Sec. 2, Ch. 40, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-105. Obedience to peace officers, highway patrol officers, and public safety workers

61-9-105. Obedience to peace officers, highway patrol officers, and public safety workers. A person may not willfully fail or refuse to comply with a lawful order or direction of a peace officer, highway patrol officer, or public safety worker pertaining to the use of the highways by traffic. For purposes of this section, "public safety worker" means a person who is authorized to provide assistance

at the scene of an incident that requires traffic control and who is either a member of a paid or volunteer fire department, an emergency medical service provider, a member of a search and rescue team, or a civilian accident investigator appointed by a law enforcement agency. History: En. Sec. 24, Ch. 263, L. 1955; R.C.M. 1947, 32-2126; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 4, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-106. Responsibility of public officers and employees

61-9-106. Responsibility of public officers and employees. (1) The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, or town, district, or any other political subdivision of the state, except as provided in this section and subject to such specific exceptions as are set forth in this chapter with reference to authorized emergency vehicles. (2) Unless specifically made applicable, the provisions of this chapter except those contained in part 5 of chapter 8 shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway but shall apply to such persons and vehicles when traveling to or from such work. History: En. Sec. 25, Ch. 263, L. 1955; R.C.M. 1947, 32-2127.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-107. Traffic laws applicable to persons driving animal-drawn vehicles

61-9-107. Traffic laws applicable to persons driving animal-drawn vehicles. Every person driving an animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application. History: En. Sec. 26, Ch. 263, L. 1955; R.C.M. 1947, 32-2129.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-108. Rights of owners of real property not affected -- when

61-9-108. Rights of owners of real property not affected -- when. Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner from prohibiting such use or from requiring other or different or additional conditions than those specified in this chapter, or otherwise regulating such use as may seem best to such owner. History: En. Sec. 29, Ch. 263, L. 1955; R.C.M. 1947, 32-2132.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 1. General Provisions 61-9-109. Driving vehicle in unsafe condition prohibited -- applicability of chapter

61-9-109. Driving vehicle in unsafe condition prohibited -- applicability of chapter. (1) It is a misdemeanor for a person to drive or permit to be driven on a highway a vehicle or combination of vehicles that: (a) is in such unsafe condition as to endanger a person; (b) is not equipped with lamps and other equipment as required in this chapter; or (c) is equipped in a manner in violation of this chapter. (2) It is a misdemeanor for a person to perform an act forbidden or fail to perform an act required under this chapter. (3) The use of additional parts and accessories on a vehicle not inconsistent with the provisions of this chapter is not prohibited. (4) The provisions of this chapter do not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as made applicable in this chapter. (5) All lamps and equipment required by this chapter must be maintained in proper working order and adjustment at all times. (6) (a) Except as provided in subsection (6)(b) and subject to subsection (6)(c), the provisions of this chapter apply to the operation of a motorcycle or quadricycle only when the motorcycle or quadricycle is being operated on a paved highway. A person operating a motorcycle or quadricycle on an unpaved highway shall operate the motorcycle or quadricycle in a reasonable and prudent manner. (b) Except as provided in subsection (6)(c), the requirements of 61-9-417 and 61-9-418(2)(c) apply to the operation of a motorcycle or quadricycle at all times specified in those sections. (c) The provisions of this chapter do not apply to the operation and equipping of a quadricycle that is being operated for agricultural purposes on an unpaved highway or on a paved highway that is not an interstate highway as defined in 60-1-103. History: En. Sec. 111, Ch. 263, L. 1955; R.C.M. 1947, 32-21-114; amd. Sec. 5, Ch. 431, L. 1997; amd. Sec. 4, Ch. 434, L. 2017; amd. Sec. 34, Ch. 299, L. 2019.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-201. When lighted lamps are required

61-9-201. When lighted lamps are required. Every vehicle upon a highway within this state at any time from one-half hour after sunset to one-half hour before sunrise and at any other time when due to insufficient light or unfavorable atmospheric conditions persons and vehicles on the highway are not clearly discernible at a distance of 500 feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles. History: En. Sec. 112, Ch. 263, L. 1955; R.C.M. 1947, 32-21-115.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-202. Visibility distance and mounted height of lamps

61-9-202. Visibility distance and mounted height of lamps. (1) Whenever requirement is hereinafter declared as to the distance from

which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, said provisions shall apply during the times stated in 61-9-201 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated. (2) Whenever requirement is hereinafter declared as to the mounted height of lamps or devices it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load. History: En. Sec. 113, Ch. 263, L. 1955; R.C.M. 1947, 32-21-116.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-203. Headlamps on motor vehicles

61-9-203. Headlamps on motor vehicles. (1) A motor vehicle other than a motorcycle, quadricycle, or motor-driven cycle must be equipped with at least two headlamps, with at least one on each side of the front of the motor vehicle, that comply with the requirements and limitations set forth in this chapter. (2) A motorcycle, quadricycle, or motor-driven cycle must be equipped with at least one and not more than two headlamps that comply with the requirements and limitations of this chapter. If a motorcycle is registered under 61-3-411 as a collector's item, it need not be equipped with headlamps; however, if it is not equipped with headlamps, it may not be operated upon a highway or street from one-half hour after sunset to one-half hour before sunrise or if persons and vehicles are not clearly discernible at a distance of 500 feet. A motorcycle may be equipped with a means of modulating the high beam of its headlamps between high and low beam at a rate of 200 to 280 flashes a minute; however, an operator may not modulate the headlamps at that rate during periods when headlamps are required to be lighted by 61-9-201. (3) A headlamp upon a motor vehicle, including a motorcycle, quadricycle, and motor-driven cycle, must be located at a height, measured from the center of the headlamp, of not more than 54 inches or less than 22 inches, to be measured as provided in 61-9-202(2). (4) When headlamps are required to be lighted by 61-9-201, a person may not operate a motor vehicle on a highway with headlamps that are composed of, covered by, or treated with a tinted or colored material, substance, system, or component that obscures the headlamps or diminishes the distance of visibility required by this section. (5) This section does not prohibit the operation or sale of a motor vehicle the headlamps of which are composed of, covered by, or treated with a tinted or colored material, substance, system, or component with which the vehicle was sold or could have been equipped for sale when new as standard or optional equipment in compliance with federal statute or regulation governing the sale at the time of manufacture. History: En. Sec. 114, Ch. 263, L. 1955; amd. Sec. 1, Ch. 103, L. 1957; R.C.M. 1947, 32-21-117; amd. Sec. 2, Ch. 345, L. 1983; amd. Sec. 36, Ch. 516, L. 1985; amd. Sec. 6, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-204. Taillamps

61-9-204. Taillamps. (1) A motor vehicle, trailer, semitrailer, and pole trailer and any other vehicle that is being drawn at the end of a combination of vehicles must be equipped with at least one properly functioning taillamp mounted on the rear that emits a red light plainly visible from a distance of 500 feet to the rear, except that in the case of a combination of vehicles, only the taillamp on the rearmost vehicle need actually be seen from the distance specified. The vehicles mentioned in this subsection, other than a motorcycle, quadricycle, motor-driven cycle, or truck tractor, registered in this state and manufactured or assembled after January 1, 1956, must be equipped with at least two properly functioning taillamps, with at least one mounted on each side of the rear of the vehicle, that emit a red light plainly visible from a distance of 1,000 feet to the rear of the vehicle. (2) A taillamp upon a vehicle must be located at a height of not more than 72 inches or less than 15 inches. (3) Either a taillamp or a separate lamp must illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. A taillamp or taillamps, together with a separate lamp for illuminating the rear registration plate, must be lighted whenever the headlamps are lighted. (4) Taillamps are not required on a motorcycle that is registered under 61-3-411 as a collector's item, but the motorcycle may not be operated on a highway or street from one-half hour after sunset to one-half hour before sunrise or when persons and vehicles are not clearly discernible at a distance of 500 feet unless it is equipped with the required taillamps. (5) A person may not operate a motor vehicle on a highway with taillamps that are covered by a lens or a plastic cover or with a tinted or colored material, substance, system, or component placed on or in front of rear lamps, taillamps, license plate lamps, or rear lamp combinations that obscures the taillamps or diminishes the distance of visibility required by this section. (6) (a) A custom vehicle or street rod may use a blue dot taillight, as defined in subsection (6)(b), as a stop lamp, a rear signal lamp, or a rear reflector. (b) "Blue dot taillight" means a red lamp installed in the rear of a motor vehicle containing a blue or purple insert that is not more than 1 inch in diameter. History: En. Sec. 115, Ch. 263, L. 1955; R.C.M. 1947, 32-21-118; amd. Sec. 1, Ch. 42, L. 1979; amd. Sec. 3, Ch. 345, L. 1983; amd. Sec. 1, Ch. 58, L. 1987; amd. Sec. 7, Ch. 431, L. 1997; amd. Sec. 6, Ch. 458, L. 2005; amd. Sec. 25, Ch. 413, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-205. New motor vehicles to be equipped with reflectors

61-9-205. New motor vehicles to be equipped with reflectors. (1) Every new motor vehicle hereafter sold and operated upon a highway, other than a truck tractor, shall carry on the rear, either as a part of the taillamps or separately, two red reflectors, except that every motorcycle, quadricycle, and motor-driven cycle shall carry at least one reflector meeting the requirements of this section, and except that vehicles of the type mentioned in 61-9-208 shall be equipped with reflectors as required in those sections applicable thereto. (2) Every such reflector shall be mounted on the vehicle at a height not less than 15 inches or more than 60 inches measured

as set forth in 61-9-202(2) and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 300 feet to 50 feet from such vehicle when directly in front of lawful upper beams of headlamps, except that visibility from a greater distance may be required of reflectors on certain types of vehicles. History: En. Sec. 116, Ch. 263, L. 1955; R.C.M. 1947, 32-21-119; amd. Sec. 2, Ch. 42, L. 1979; amd. Sec. 37, Ch. 516, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-206. Stop lamps -- when required

61-9-206. Stop lamps -- when required. (1) A person may not sell a new motor vehicle in this state or drive a vehicle on the highways unless it is equipped with at least two properly functioning stop lamps. A vehicle manufactured before January 1, 1956, and all motorcycles, quadricycles, and motor-driven cycles must be equipped with at least one properly functioning stop lamp. (2) The stop lamp or lamps on the rear of a vehicle must display a red light that is actuated upon application of the service (foot) brake and, in a vehicle manufactured or assembled on or after January 1, 1964, must be visible from a distance of not less than 300 feet to the rear in normal sunlight. In a vehicle manufactured or assembled before January 1, 1964, the stop lamp or lamps must be visible from a distance of not less than 100 feet. The stop lamp may be incorporated with one or more other rear lamps. (3) A stop lamp may not project a glaring light. History: En. Sec. 117, Ch. 263, L. 1955; R.C.M. 1947, 32-21-120; amd. Sec. 38, Ch. 516, L. 1985; amd. Sec. 8, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-207. Application of succeeding sections

61-9-207. Application of succeeding sections. Sections 61-9-208 through 61-9-229 apply as stated in those sections to vehicles of the type enumerated in those sections when operated upon a highway. The vehicles must be equipped as required and all lamp equipment required must be lighted at all times mentioned in 61-9-201 except that clearance and side marker lamps need not be lighted on a vehicle when operated within a municipality when there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 1,000 feet. History: En. Sec. 118, Ch. 263, L. 1955; R.C.M. 1947, 32-21-121; amd. Sec. 9, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-208. Additional equipment required on certain vehicles

61-9-208. Additional equipment required on certain vehicles. In addition to other equipment required in this chapter, the following vehicles must be equipped as stated in this section under the conditions stated in 61-9-207: (1) On a bus or truck there must be on the rear, two reflectors, one at each side. (2) On a bus or truck 80 inches or more in overall width, in addition to the requirements in subsection (1): (a) on the front, two clearance lamps, one at each side; (b) on the rear, two clearance lamps, one at each side; (c) on each side, two side marker lamps, one at or near the front and one at or near the rear; (d) on each side, two reflectors, one at or near the front and one at or near the rear. (3) On a truck tractor, on the front, two clearance lamps, one at each side. (4) On a trailer or semitrailer having a gross weight in excess of 3,000 pounds: (a) on the front, two clearance lamps, one at each side; (b) on each side, two side marker lamps, one at or near the front and one at or near the rear; (c) on each side, two reflectors, one at or near the front and one at or near the rear; (d) on the rear, two clearance lamps, one at each side, also two reflectors, one at each side. (5) On a pole trailer in excess of 3,000 pounds gross weight: (a) on each side, one side marker lamp and one clearance lamp that may be in combination, to show to the front, side, and rear; and (b) on the rear of the pole trailer or load, two reflectors, one at each side. (6) On a trailer, semitrailer, or pole trailer weighing 3,000 pounds or less: (a) on the front, a steel safety chain or cable that must be securely fastened to the towing unit with the minimum diameter of any portion of the chains or cables being one-fourth of an inch. A safety chain or cable may not be connected to the ball but must be connected to the hitch or other frame member of the towing vehicle to prevent the drawbar from dropping to the ground if the ball, socket, or coupler fails; (b) on the rear, two reflectors and two stoplights, one on each side. History: En. Sec. 119, Ch. 263, L. 1955; amd. Sec. 1, Ch. 233, L. 1959; amd. Sec. 1, Ch. 182, L. 1974; R.C.M. 1947, 32-21-122(part); amd. Sec. 10, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-209. Color of clearance lamps, side marker lamps, reflectors, and backup lamps

61-9-209. Color of clearance lamps, side marker lamps, reflectors, and backup lamps. (1) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle must display or reflect an amber color. (2) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle must display or reflect a red color. (3) All lighting devices, reflectors, and stoplights mounted on the rear of a vehicle must display or reflect a red color, except: (a) the signal devices, as defined in 61-9-218; (b) the light illuminating the license plate that must be a white lamp; and (c) the light emitted by a backup lamp that must be white. History: En. Sec. 120, Ch. 263, L. 1955; R.C.M. 1947, 32-21-123; amd. Sec. 11, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-210. Mounting of reflectors, clearance lamps, and side marker lamps

61-9-210. Mounting of reflectors, clearance lamps, and side marker lamps.(1) Reflectors when required by 61-9-208 shall be mounted at a height not less than 24 inches and not higher than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 24 inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit. (2) The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. (3) Any required red reflector on the rear of a vehicle may be incorporated with the taillamp, but such reflector shall meet all the other reflector requirements of this chapter. (4) Clearance lamps shall be mounted on the permanent structure of the vehicle in such a manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side marker lamps may be mounted in combination provided illumination is given as required herein with reference to both. History: En. Sec. 121, Ch. 263, L. 1955; R.C.M. 1947, 32-21-124.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-211. Visibility of reflectors, clearance lamps, and marker lamps

61-9-211. Visibility of reflectors, clearance lamps, and marker lamps.(1) Every reflector upon any vehicle referred to in 61-9-208 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful upper beams of headlamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear. (2) Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions, at the times lights are required, at a distance of 500 feet from the front and rear respectively of the vehicle. (3) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions, at the times lights are required, at a distance of 500 feet from the side of the vehicle on which mounted. History: En. Sec. 122, Ch. 263, L. 1955; R.C.M. 1947, 32-21-125.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-212. Obstructed lights not required

61-9-212. Obstructed lights not required. Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp (except taillamps) need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirements that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. History: En. Sec. 123, Ch. 263, L. 1955; R.C.M. 1947, 32-21-126.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-213. Lamp or flag on projecting load

61-9-213. Lamp or flag on projecting load.(1) Whenever the load upon a vehicle extends to the rear 4 feet or more beyond the rear of the vehicle, the following lamps and reflectors must be displayed at the extreme rear end of the load, at the times specified in 61-9-201: (a) a red lamp plainly visible from a distance of at least 500 feet to the sides and 1,000 feet to the rear and located to indicate maximum overhang; and (b) a red reflector visible at night at all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps. (2) The red lights and reflectors required under this section must be in addition to the red lights required upon a vehicle. At any other time there must be displayed at the extreme rear end of the load a red flag or cloth not less than 12 inches square, marking the extremities of the load, at each point where a lamp or reflector would otherwise be required by this section. History: En. Sec. 124, Ch. 263, L. 1955; R.C.M. 1947, 32-21-127; amd. Sec. 12, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-214. Lamps on parked vehicles

61-9-214. Lamps on parked vehicles.(1) Whenever a vehicle is lawfully parked upon a street or highway during the hours between one-half hour after sunset and one-half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of 500 feet upon such street or highway no lights need be displayed upon such parked vehicle. (2) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between one-half hour after sunset and one-half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of 500 feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: at least one lamp shall display a white or amber light visible from a distance of 500 feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of 500 feet to the rear of the vehicle, and the location of said lamp or lamps, shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle. (3) Any lighted headlamp upon a parked vehicle shall be depressed or dimmed. History: En. Sec. 125, Ch. 263, L. 1955; R.C.M. 1947, 32-21-128.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-215. Lamps on farm tractors, farm equipment, and implements of husbandry

61-9-215. Lamps on farm tractors, farm equipment, and implements of husbandry.(1) A farm tractor and a self-propelled farm

equipment unit or implement of husbandry not equipped with an electric lighting system must at all times mentioned in 61-9-201 be equipped with at least one lamp displaying a white light visible from a distance of not less than 500 feet to the front of the vehicle, at least one lamp displaying a red light visible from a distance of not less than 500 feet to the rear of the vehicle, and two red reflectors visible from a distance of 100 to 600 feet to the rear when illuminated by the upper beams of headlamps. The lights required in this section must be positioned so that one lamp showing to the front and one lamp or reflector showing to the rear indicates the farthest projection of the tractor, unit, or implement on the side of the road used in passing the vehicle. (2) A combination of farm tractor and towed unit of farm equipment or implement of husbandry not equipped with an electric lighting system or an implement of husbandry being towed by a motor vehicle must at all times mentioned in 61-9-201 be equipped with the following lamps: (a) at least one lamp mounted to indicate the extreme left projection of the combination and displaying a white light visible from a distance of not less than 500 feet to the front of the combination; and (b) two lamps each displaying a red light visible from a distance of not less than 500 feet to the rear of the combination, or at least one lamp displaying a red light visible from a distance of not less than 500 feet to the rear of the combination and two red reflectors visible from a distance of 100 to 600 feet to the rear of the combination when illuminated by the upper beams of headlamps. The lamps or reflectors must be mounted to indicate the extreme left and right rear projections of the towed unit or implement on the highway. (3) A farm tractor and a self-propelled unit of farm equipment or implement of husbandry equipped with an electric lighting system must at all times mentioned in 61-9-201 be equipped with two multiple-beam or single-beam headlamps meeting the requirements of 61-9-220 or 61-9-222 and two red lamps visible from a distance of not less than 500 feet to the rear, or one red lamp visible from a distance of not less than 500 feet to the rear and two red reflectors visible from a distance of 100 to 600 feet to the rear when illuminated by the upper beams of headlamps. The red lamps or reflectors must be mounted in the rear of the farm tractor or self-propelled implement of husbandry to indicate the extreme left and right projections of the vehicle on the highway. (4) A combination of farm tractor and towed farm equipment or towed implement of husbandry equipped with an electric lighting system must at all times mentioned in 61-9-201 be equipped with the following lamps: (a) The farm tractor element of the combination must be equipped with two single-beam or multiple-beam headlamps meeting the requirements of 61-9-220 or 61-9-222. (b) The towed unit of farm equipment or implement of husbandry element of the combination must be equipped with two red lamps visible from a distance of not less than 500 feet to the rear or one red lamp visible from a distance of not less than 500 feet to the rear and two red reflectors visible from a distance of 100 to 600 feet to the rear when illuminated by the upper beams of headlamps. The red lamps or reflectors must be located to indicate the extreme left and right projections of the towed unit or implement on the highway. (c) The combination must also be equipped with a lamp displaying a white or amber light, or a shade of color between white and amber, visible from a distance of not less than 500 feet to the front and a lamp displaying a red light visible from a distance of not less than 500 feet to the rear. The lamp or lamps must indicate to the front and rear the farthest projection of the combination on the side of the road used by other vehicles in passing the combination. History: En. Sec. 126, Ch. 263, L. 1955; R.C.M. 1947, 32-21-129; amd. Sec. 13, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-216. Lamps on other vehicles and equipment

61-9-216. Lamps on other vehicles and equipment. A vehicle, including animal-drawn vehicles and vehicles referred to in 61-9-109(4), not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices, must at all times specified in 61-9-201 be equipped with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and with two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle. The vehicle may have one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible for distances of 100 to 600 feet to the rear when illuminated by the upper beams of headlamps. History: En. Sec. 127, Ch. 263, L. 1955; amd. Sec. 1, Ch. 247, L. 1969; R.C.M. 1947, 32-21-130(a); amd. Sec. 14, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-217. Spot lamps, fog lamps, and auxiliary lamps

61-9-217. Spot lamps, fog lamps, and auxiliary lamps. (1) A motor vehicle may not be equipped with more than two spot lamps and a lighted spot lamp must be turned off upon approaching another moving vehicle from either direction. (2) A motor vehicle may not be equipped with more than two fog lamps that provide a low, wide-angle light pattern to increase short-range visibility. Fog lamps must be mounted on the front at a height not more than 30 inches above the level surface upon which the vehicle stands and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle at a distance of 25 feet ahead projects higher than a level of 4 inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the requirements of this subsection may be used with lower headlamp beams as specified in 61-9-220(2). A fog lamp may not be used as a substitute for headlamps. (3) A motor vehicle may not be equipped with more than two auxiliary driving lamps that produce a long-range, pencil-shaped light pattern and that are used to supplement the upper beams of headlamps. Auxiliary driving lamps must be mounted on the front at a height not less than 16 inches or more than 42 inches above the level surface upon which the vehicle stands. The provisions of 61-9-220 apply to a combination of headlamps and auxiliary driving lamps. An auxiliary driving lamp may not be used as a substitute for headlamps or lighted at any time the headlamps are required to be on in the low-beam position. (4) An auxiliary off-road lamp mounted more than 42 inches above the level surface upon which the vehicle stands may not be lighted while the vehicle is operated or parked on a highway. History: En. Sec. 128, Ch. 263, L. 1955; amd. Sec. 1, Ch. 147, L. 1957; R.C.M. 1947, 32-21-131; amd. Sec. 15, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-218. Signal lamps and signal devices -- when required

61-9-218. Signal lamps and signal devices -- when required. (1) A motor vehicle or combination of vehicles may be equipped and when required under this chapter must be equipped with signal lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or left. The lamps showing to the front must be located on the same level and as widely spaced laterally as practicable. Except as provided in subsection (3), when in use, the lamps must display a white or amber light, or a shade of color between white and amber, visible from a distance of not less than 300 feet to the front in normal sunlight. The lamps showing to the rear must be located at the same level and as widely spaced laterally as practicable. Except as provided in subsection (3), when in use, the lamps must display a red or amber light, or a shade of color between red and amber, visible from a distance of not less than 300 feet to the rear in normal sunlight. When actuated the lamps must indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made. (2) Except as provided in subsection (3), a motor vehicle, trailer, semitrailer, or pole trailer must be equipped with signal lamps meeting the requirements of this section. (3) On a motor vehicle manufactured or assembled before January 1, 1964, the signal lamps required by this section must be visible from a distance of not less than 100 feet. Signal lamps are not required on any vehicle manufactured or assembled before January 1, 1953. (4) A stop lamp or signal lamp or device may not project a glaring light. History: En. Sec. 130, Ch. 263, L. 1955; amd. Sec. 2, Ch. 105, L. 1957; R.C.M. 1947, 32-21-133; amd. Sec. 16, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-219. Additional lighting equipment

61-9-219. Additional lighting equipment. (1) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare. (2) Any motor vehicle may be equipped with not more than one running board courtesy lamp on each side thereof which shall emit a white or amber light without glare. (3) Any motor vehicle may be equipped with not more than two backup lamps either separately or in combination with other lamps, but any such backup lamps shall not be lighted when the motor vehicle is in forward motion. (4) Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing, and when so equipped may display such warning in addition to any other warning signals required by this chapter. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night. History: En. Sec. 131, Ch. 263, L. 1955; R.C.M. 1947, 32-21-134.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-220. Multiple-beam road-lighting equipment

61-9-220. Multiple-beam road-lighting equipment. Except as provided in this part, the headlamps or the auxiliary driving lamps or combination of both on a motor vehicle other than a motorcycle, quadricycle, motor-driven cycle, or low-speed electric vehicle, must be arranged so that the driver may select between distributions of light projected to different elevations. The selection can be made automatically, subject to the following limitations: (1) There must be an uppermost distribution of light, or composite beam, capable of revealing persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading. (2) There must be a lowermost distribution of light, or composite beam, capable of revealing persons and vehicles at a distance of at least 100 feet ahead. On a straight level road under any condition of loading the high-intensity portion of the beam may not be directed to strike the eyes of an approaching driver. (3) A motor vehicle, other than a motorcycle, quadricycle, motor-driven cycle, or low-speed electric vehicle, manufactured after January 1, 1956, that has multiple-beam road-lighting equipment must be equipped with a beam indicator that must be lighted whenever the uppermost distribution of light from the headlamps is in use, and may not otherwise be lighted. The indicator must be readily visible without glare to the driver of the vehicle. History: En. Sec. 132, Ch. 263, L. 1955; R.C.M. 1947, 32-21-135; amd. Sec. 39, Ch. 516, L. 1985; amd. Sec. 17, Ch. 431, L. 1997; amd. Sec. 13, Ch. 209, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-221. Use of multiple-beam road-lighting equipment

61-9-221. Use of multiple-beam road-lighting equipment. Whenever a motor vehicle is being operated on a roadway or shoulder adjacent to a roadway during the times specified in 61-9-201, the driver shall use a distribution of light, or composite beam, capable of revealing persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations: (1) Whenever the driver of a vehicle approaches an oncoming vehicle within 1,000 feet, the driver shall use a distribution of light or composite beam that does not project into the eyes of the oncoming driver. The lowermost distribution of light specified in 61-9-220(2) must avoid glare at all times, regardless of road contour and loading. (2) Whenever the driver of a vehicle follows another vehicle within 500 feet to the rear, the driver shall use a distribution of light permissible under this chapter other than the uppermost distribution of light specified in 61-9-220(1). History: En. Sec. 133, Ch. 263, L. 1955; R.C.M. 1947, 32-21-136; amd.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-222. Single-beam road-lighting equipment

61-9-222. Single-beam road-lighting equipment. Headlamps arranged to provide a single distribution of light shall be permitted on motor vehicles manufactured and sold prior to July 1, 1956, in lieu of multiple-beam road-lighting equipment herein specified if the single distribution of light complies with the following requirements and limitations: (1) The headlamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of 25 feet ahead project higher than a level of 5 inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead. (2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet. History: En. Sec. 134, Ch. 263, L. 1955; R.C.M. 1947, 32-21-137.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-223. Lighting equipment on motor-driven cycles

61-9-223. Lighting equipment on motor-driven cycles. The headlamp or headlamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows: (1) Every said headlamp or headlamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than 100 feet when the motor-driven cycle is operated at any speed less than 25 miles per hour and at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour, and at a distance of not less than 300 feet when the motor-driven cycle is operated at a speed of 35 or more miles per hour. (2) In the event the motor-driven cycle is equipped with a multiple-beam headlamp or headlamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in 61-9-220(1) and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in 61-9-220(2). (3) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, said lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light at a distance of 25 feet ahead shall project higher than the level of the center of the lamp from which it comes. History: En. Sec. 135, Ch. 263, L. 1955; R.C.M. 1947, 32-21-138.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-225. Number of driving lamps required or permitted

61-9-225. Number of driving lamps required or permitted. (1) At all times specified in 61-9-201, at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motorcycle, quadricycle, or motor-driven cycle, except when such vehicle is parked, subject to the regulations governing lights on parked vehicles. (2) Whenever a motor vehicle equipped with headlamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway. History: En. Sec. 137, Ch. 263, L. 1955; R.C.M. 1947, 32-21-140; amd. Sec. 40, Ch. 516, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-226. Special restrictions on lamps -- definition

61-9-226. Special restrictions on lamps -- definition. (1) A lighted lamp or illuminating device upon a motor vehicle other than headlamps, spot lamps, auxiliary lamps, or flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps that projects a beam of light of an intensity greater than 300 candlepower must be so directed that the high intensity portion of the beam may not strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle. (2) A person may not drive or move a vehicle or equipment upon a highway with a lamp or device displaying a red light visible from in front of the center of the vehicle. This section does not apply to a vehicle upon which a red light visible from the front is expressly authorized or required by this code. (3) Flashing, blinking, sequential, rotating, or pulsating lights are prohibited except on vehicles that are authorized by this chapter to contain the lights or on a vehicle as a means for indicating a right or left turn or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing. (4) License plate decorative lighting that is not original manufacturer's equipment or undercarriage decorative lighting that rotates, flashes, or oscillates or that displays a color authorized by this chapter for use by police vehicles and authorized emergency vehicles may not be illuminated on a vehicle that is operated upon a highway or street. (5) As used in this section "school bus" has the meaning provided in 20-10-101. History: En. Sec. 138, Ch. 263, L. 1955; R.C.M. 1947, 32-21-141; amd. Sec. 19, Ch. 431, L. 1997; amd. Sec. 214, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-227. Blinker-type or revolving red light on certain private vehicles -- use -- identification card

61-9-227. Blinker-type or revolving red light on certain private vehicles -- use -- identification card. (1) Firefighters, when authorized by the chiefs of their respective departments, and search and rescue and volunteer emergency medical personnel, when authorized by the county sheriff, may use a blinker-type or revolving red light or both on the front or the top of their privately owned

motor vehicles. This light must be used on emergency duty only while responding to but not upon returning from a fire or other emergency. (2) A firefighter or search and rescue or volunteer emergency medical personnel displaying the emergency red light on a privately owned motor vehicle shall also carry on the vehicle an identification card showing the name of the owner of the vehicle and the organization to which the firefighter or search and rescue or volunteer emergency medical personnel belongs, and bearing the signature of the person authorizing the emergency use of the light. History: En. Sec. 1, Ch. 154, L. 1957; amd. Sec. 3, Ch. 489, L. 1977; R.C.M. 1947, 32-21-141.1; amd. Sec. 1, Ch. 369, L. 1981; amd. Sec. 20, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-228. Standards for lights on snow-removal equipment

61-9-228. Standards for lights on snow-removal equipment. (1) The commission shall adopt standards and specifications applicable to headlamps, clearance lamps, and identification and other lamps on snow-removal equipment when operated on the highways of this state in lieu of the lamps otherwise required on motor vehicles by this chapter. The standards and specifications may permit the use of flashing lights and all colored lights, except blue lights, for purposes of identification on snow-removal equipment when in service on the highways. (2) It is unlawful to operate any snow-removal equipment on any highway unless the lamps on the equipment comply with and are lighted when and as required by the standards and specifications adopted as provided in this section. History: En. Sec. 139, Ch. 263, L. 1955; R.C.M. 1947, 32-21-142; amd. Sec. 1, Ch. 201, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 2. Lighting Equipment 61-9-229. Flashing amber light on mail delivery vehicle

61-9-229. Flashing amber light on mail delivery vehicle. (1) A vehicle engaged in delivery of United States mail may be equipped with a blinker-type or revolving amber light mounted on the top of the vehicle, and the light may be illuminated while the vehicle is engaged in delivery of mail. (2) A person delivering the United States mail and illuminating an amber light on a privately owned motor vehicle shall carry attached to the motor vehicle an identification card showing the name of the owner of the vehicle and signed by the postmaster authorizing the use of the amber light. History: En. Sec. 1, Ch. 285, L. 1987.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-301. Brake equipment required

61-9-301. Brake equipment required. Every motor vehicle, trailer, semitrailer, and pole trailer, and any combination of such vehicles operating upon a highway within this state shall be equipped with brakes in compliance with the requirements of this part. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(part).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-302. Service brakes -- adequacy

61-9-302. Service brakes -- adequacy. Every motor vehicle, trailer, semitrailer, and pole trailer and combination of these vehicles, except special mobile equipment, must be equipped with service brakes complying with the performance requirements of 61-9-312 and adequate to control the movement of and to stop and hold the vehicle under all conditions of loading and on any grade incident to its operation. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(a); amd. Sec. 215, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-303. Parking brakes -- adequacy

61-9-303. Parking brakes -- adequacy. Every such vehicle and combination of vehicles, except motorcycles, quadricycles, and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power, provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(b); amd. Sec. 41, Ch. 516, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-304. Brakes required on all wheels -- exceptions

61-9-304. Brakes required on all wheels -- exceptions. Every vehicle must be equipped with brakes acting on all wheels except: (1) trailers, semitrailers, pole trailers of a gross weight not exceeding 3,000 pounds, provided that: (a) the total weight on and including the wheels of the trailer or trailers may not exceed 40% of the gross weight of the towing vehicle when connected to the trailer or

trailers; and (b) the combination of vehicles consisting of the towing vehicle and its total towed load is capable of complying with the performance requirements of 61-9-312; (2) any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of 61-9-312; (3) trucks and truck tractors having three or more axles need not have brakes on the front wheels, if the vehicle was manufactured before July 25, 1980. However, the trucks and truck tractors must be capable of complying with the performance requirements of 61-9-312. (4) special mobile equipment; (5) the wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, or the front wheel of a motor-driven cycle need not be equipped with brakes. However, a quadricycle, motorcycle, or motor-driven cycle must be capable of complying with the performance requirements of 61-9-312. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(c); amd. Sec. 42, Ch. 516, L. 1985; amd. Sec. 1, Ch. 276, L. 1993; amd. Sec. 216, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-305. Automatic trailer brake application upon breakaway

61-9-305. Automatic trailer brake application upon breakaway. Every trailer, semitrailer, and pole trailer equipped with air or vacuum actuated brakes and every trailer, semitrailer, and pole trailer with a gross weight in excess of 3,000 pounds, manufactured or assembled after January 1, 1966, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least 15 minutes upon breakaway from the towing vehicle. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(d).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-306. Tractor brakes protected

61-9-306. Tractor brakes protected. Every motor vehicle manufactured or assembled after January 1, 1966, and used to tow a trailer, semitrailer, or pole trailer equipped with brakes shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(e).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-307. Trailer air reservoirs safeguarded

61-9-307. Trailer air reservoirs safeguarded. Air brake systems installed on trailers manufactured or assembled after January 1, 1966, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(f).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-308. Two means of emergency brake operation

61-9-308. Two means of emergency brake operation. (1) A towing vehicle, when used to tow another vehicle equipped with air controlled brakes, in other than driveaway or towaway operations, must be equipped with two means for emergency application of the trailer brakes. One of these means must apply the brakes automatically in the event of a reduction of the towing vehicle air supply to a fixed pressure that may not be lower than 20 pounds per square inch or higher than 45 pounds per square inch. The other means must be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation must be clearly indicated. The manual means may not be arranged to prevent operation of the automatic means. The automatic and the manual means required by this section may be separate. (2) A towing vehicle used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or towaway operations, must have, in addition to the single control device required by 61-9-309, a second control device that can be used to operate the brakes on towed vehicles in emergencies. The second control must be independent of brake air, hydraulic, and other pressure, and independent of other controls, unless the braking system is so arranged that failure of the pressure upon which the second control depends causes the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(g); amd. Sec. 21, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-309. Single control to operate all brakes

61-9-309. Single control to operate all brakes. A motor vehicle, trailer, semitrailer, or pole trailer, and a combination of these vehicles, except motorcycles, quadricycles, and motor-driven cycles, equipped with brakes must have one control device that can be used to operate all service brakes. This requirement does not prohibit vehicles from being equipped with an additional control device to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles can be operated by a single control on the towing vehicle. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(h); amd. Sec. 43, Ch. 516, L. 1985; amd. Sec. 22, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-310. Reservoir capacity and check valve

61-9-310. Reservoir capacity and check valve.(1) A bus, truck, or truck tractor with air operated brakes must be equipped with at least one reservoir sufficient to ensure that, when fully charged to the maximum pressure as regulated by the air compressor governor cutout setting, a full service brake application is made without lowering the reservoir pressure by more than 20%. Each reservoir must be provided with means for readily draining accumulated oil or water. (2) A truck with three or more axles equipped with vacuum assist type brakes or a truck tractor and truck used for towing a vehicle equipped with vacuum brakes must be equipped with a reserve capacity or a vacuum reservoir sufficient to ensure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application is made without depleting the vacuum supply by more than 40%. (3) A motor vehicle, trailer, semitrailer, or pole trailer, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, must have reservoirs or reserve capacity safeguarded by a check valve or equivalent device that, in the event of failure or leakage in its connection to the source of compressed air or vacuum, prevents the stored air or vacuum from being depleted by the leak or failure. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(i); amd. Sec. 23, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-311. Warning devices

61-9-311. Warning devices.(1) A bus, truck, or truck tractor using compressed air for the operation of its own brakes or the brakes on a towed vehicle must have a warning signal, other than a pressure gauge, readily audible or visible to the driver that will operate at any time the air reservoir pressure of the vehicle is below 60 pounds per square inch. In addition, each vehicle must be equipped with a pressure gauge visible to the driver that indicates in pounds per square inch the pressure available for braking. (2) A truck tractor, truck used for towing a vehicle equipped with vacuum operated brakes, or a truck with three or more axles using vacuum in the operation of its brakes, except those in driveaway or towaway operations, must be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver that will operate at any time the vacuum in the vehicle's supply reservoir or reserve capacity is less than 8 inches of mercury. (3) When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be combined into a single device that will serve both purposes. A gauge or gauges indicating pressure or vacuum is not an adequate means of satisfying this requirement. History: En. Sec. 1, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.1(j); amd. Sec. 24, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-312. Performance ability of brakes

61-9-312. Performance ability of brakes.On a dry, hard, approximately level stretch of highway free from loose material, a motor vehicle or combination of vehicles, upon application of the service brake, must be capable of stopping at a speed of 20 miles an hour within the following distances: (1) 25 feet for passenger motor vehicles, except buses and pioneer vehicles; (2) 40 feet for buses, trucks, and tractor trucks; (3) 45 feet for motor vehicles registered or qualified to be registered as pioneer vehicles under 61-3-411(2)(a) when equipped with two-wheel brakes or 25 feet when equipped with four-wheel brakes; (4) 40 feet for all combinations of vehicles; and (5) 30 feet for motorcycles, quadricycles, and motor-driven cycles. History: En. Sec. 2, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.2; amd. Sec. 44, Ch. 516, L. 1985; amd. Sec. 25, Ch. 431, L. 1997; amd. Sec. 178, Ch. 574, L. 2001.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-313. Maintenance of brakes

61-9-313. Maintenance of brakes.All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. History: En. Sec. 3, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.3.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-314. Hydraulic brake fluid

61-9-314. Hydraulic brake fluid.(1) The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle. (2) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public. (3) The department shall, after public hearing following due notice, adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with, and so far as practicable conform to, the then current standards and specifications of the society of automotive engineers applicable to such fluid. (4) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section. No person shall service any vehicle with brake fluid unless it complies with the requirements of this section. History: En. Sec. 4, Ch. 139, L. 1965; R.C.M. 1947, 32-21-143.4; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-315. Brakes on motor-driven cycles

61-9-315. Brakes on motor-driven cycles.(1) The department is authorized to require an inspection of the brake on any motor-driven

cycle and to disapprove any brake which it finds will not comply with the performance ability standard set forth in this part or which in its opinion is not designed or constructed to insure reasonable and reliable performance in actual use. (2) The department may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when it has been determined that the brake thereon does not comply with the provisions of this section. (3) No person may operate on any highway any vehicle referred to in this section if the department has disapproved the brake equipment upon such vehicle or type of vehicle. History: En. Sec. 141, Ch. 263, L. 1955; R.C.M. 1947, 32-21-144; amd. Sec. 72, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-316. through 61-9-320 reserved

61-9-316 through 61-9-320 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 3. Brakes 61-9-321. Engine compression brake device -- use

61-9-321. Engine compression brake device -- use. (1) A commercial motor vehicle equipped with an engine compression brake device must be equipped with a muffler in good working condition to prevent excessive noise. (2) An operator of a commercial motor vehicle that has an engine compression brake device with a factory-installed muffler or an equivalent after-market muffler may not be prohibited from using the engine compression brake device. (3) The department of transportation employees who are designated as peace officers pursuant to 61-10-154 shall work with law enforcement in the enforcement of standards adopted pursuant to this section. (4) Notice of a deficiency must be given pursuant to 61-9-501. (5) A violation of the rules adopted to implement to this section is punishable as provided in 61-9-521. History: En. Sec. 1, Ch. 357, L. 2003; amd. Sec. 217, Ch. 542, L. 2005; amd. Sec. 1, Ch. 146, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-401. Horns, security alarms, and warning devices

61-9-401. Horns, security alarms, and warning devices. (1) A motor vehicle when operated upon a highway must be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet. A horn or other warning device may not emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to ensure safe operation give audible warning with the horn but may not otherwise use the horn when upon a highway. (2) A vehicle may not be equipped with and a person may not use upon a vehicle a siren, whistle, or bell, except as otherwise permitted in this section. (3) A vehicle may be equipped with a security alarm signal device that cannot be used by the driver as an ordinary warning signal while the vehicle is in motion. (4) An authorized emergency vehicle may be equipped with a siren, whistle, or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the department. The siren may not be used except when the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which event the driver of the vehicle shall sound the siren when reasonably necessary to warn pedestrians and other drivers of the vehicle's approach. History: En. Sec. 142, Ch. 263, L. 1955; R.C.M. 1947, 32-21-145; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 26, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command vehicles -- immunity

61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command vehicles -- immunity. (1) A police vehicle must be equipped with a siren capable of giving an audible signal and may be equipped with alternately flashing or rotating red or blue lights as specified in this section. (2) An authorized emergency vehicle must be equipped: (a) with a siren and an alternately flashing or rotating red light as specified in this section; and (b) with signal lamps mounted as high and as widely spaced laterally as practicable that are capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. (3) (a) A bus used for the transportation of school children must be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, displaying to the front at least two red and two amber alternating flashing lights and to the rear at least two red and two amber alternating flashing lights. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. (b) Additional red flashing lights may be mounted to the front and to the rear at a height of at least 36 inches and not more than 72 inches from the ground. If additional red lights are mounted, they must be installed so that they can be actuated only if the school bus is stopped. (c) The specifications for the warning lights must be prescribed by the board of public education and approved by the department. (4) A police vehicle and an authorized emergency vehicle may, and an emergency service vehicle must, be equipped with alternately flashing or rotating amber lights as specified in this section. (5) The use of signal equipment as described in this section imposes upon the operators of other vehicles the obligation to yield right-of-way or to stop and to proceed past the signal or light as provided in 61-8-387 and 61-8-388 and subject to the provisions of 61-8-209 and 61-8-303. (6) An employee, agent, or representative of the state or a political subdivision of the state or of a governmental fire agency organized under Title 7, chapter 33, who is operating a police vehicle, an authorized emergency vehicle, or an emergency service vehicle and using signal equipment in rendering assistance at a highway crash scene or in response to any other hazard on the

roadway that presents an immediate hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs, damages, expenses, or other liabilities resulting from a motorist operating a vehicle in violation of subsection (5). (7) Blue, red, and amber lights required in this section must be mounted as high as and as widely spaced laterally as practicable and be capable of displaying to the front two alternately flashing lights of the specified color located at the same level and to the rear two alternately flashing lights of the specified color located at the same level or one rotating light of the specified color, mounted as high as is practicable and visible from both the front and the rear. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. Except as provided in 61-9-204(6), only police vehicles, as defined in 61-8-102, may display blue lights, lenses, or globes. (8) A police vehicle and authorized emergency vehicle may be equipped with a flashing signal lamp that is green in color, visible from 360 degrees, and attached to the exterior roof of the vehicle for purposes of designation as the on-scene command and control vehicle in an emergency or disaster. The green light must have sufficient intensity to be visible at 500 feet in normal sunlight. Only the on-scene command and control vehicle may display green lights, lenses, or globes. (9) Only a police vehicle or an authorized emergency vehicle may be equipped with the means to flash or alternate its headlamps or its backup lights. (10) A violation of subsection (5) is considered reckless endangerment of a highway worker, as provided in 61-8-389(2), and is punishable as provided in 61-8-715. History: En. Sec. 129, Ch. 263, L. 1955; amd. Sec. 1, Ch. 40, L. 1959; amd. Sec. 1, Ch. 250, L. 1965; amd. Sec. 4, Ch. 153, L. 1975; R.C.M. 1947, 32-21-132; amd. Sec. 1, Ch. 361, L. 1985; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 116, Ch. 370, L. 1987; amd. Sec. 27, Ch. 431, L. 1997; amd. Sec. 5, Ch. 520, L. 1999; amd. Sec. 46, Ch. 352, L. 2003; amd. Sec. 5, Ch. 379, L. 2003; amd. Sec. 218, Ch. 542, L. 2005; amd. Sec. 43, Ch. 449, L. 2007; amd. Sec. 2, Ch. 520, L. 2007; amd. Sec. 2, Ch. 246, L. 2021; amd. Sec. 10, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-403. Mufflers -- prevention of noise

61-9-403. Mufflers -- prevention of noise. (1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway. (2) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. History: En. Sec. 143, Ch. 263, L. 1955; R.C.M. 1947, 32-21-146.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-404. Mirrors

61-9-404. Mirrors. A motor vehicle must be equipped with a mirror that reflects to the driver a view of the highway for a distance of at least 200 feet to the rear of the motor vehicle. History: En. Sec. 144, Ch. 263, L. 1955; amd. Sec. 1, Ch. 113, L. 1959; R.C.M. 1947, 32-21-147; amd. Sec. 28, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-405. Windshields required, exception -- unobstructed and equipped with wipers -- window tinting and sunscreening -- restrictions -- exemptions -- definitions

61-9-405. Windshields required, exception -- unobstructed and equipped with wipers -- window tinting and sunscreening -- restrictions -- exemptions -- definitions. (1) A motor vehicle, except a motorcycle, quadricycle, motor-driven cycle, or farm tractor, must be equipped with a front windshield meeting the requirements of 61-9-408, unless the driver wears safety glasses, goggles, or face shields at all times during the operation of the motor vehicle. (2) A person may not drive a motor vehicle with: (a) a sign, poster, substance, or other nontransparent material upon the front windshield, side wings, or side or rear windows of the vehicle that materially obstructs, obscures, or impairs the driver's clear view of the highway or an intersecting highway; or (b) a windshield that is shattered or in such a defective condition that it materially impairs or obstructs the driver's clear view. (3) The windshield on a motor vehicle must be equipped with a device for clearing rain, snow, or other moisture from the windshield. The device must be maintained in good working order. (4) A person may not operate a motor vehicle that is required to be registered in this state upon a highway if: (a) the windshield has sunscreening material that is not clear and transparent below the AS-1 line or if it has a sunscreening material that is red, yellow, or amber in color above the AS-1 line; (b) the front side windows have sunscreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 24%; (c) the rear window or side windows behind the front seat have sunscreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 14%, except for the rear window or side windows behind the front seat on a multipurpose vehicle, van, or bus; or (d) the windows of a camper, motor home, pickup cover, slide-in camper, or other motor vehicle do not meet the standards for safety glazing material specified by federal law in 49 CFR 571.205. (5) As used in 61-9-428, 61-9-429, and this section, the following definitions apply: (a) "Glass-plastic glazing material" means a laminate of one or more layers of glass and one or more layers of plastic in which a plastic surface of the glazing faces inward when the glazing is installed in a vehicle. (b) "Light transmission" means the ratio of the amount of total light, expressed in percentages, that is allowed to pass through the sunscreening or transparent material to the amount of total light falling on the motor vehicle window. (c) "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, that is reflected outward by the sunscreening or transparent material to the amount of total light falling on the motor vehicle window. (d) "Multipurpose vehicle" means a motor vehicle designed to carry 10 or fewer passengers that is constructed on a truck chassis or with special features for occasional

off-road use. (e) "Pickup cover" means a camper having a roof and sides but without a floor designed to be mounted on and removable from the cargo area of a pickup truck by the user. (f) "Slide-in camper" means a camper having a roof, floor, and sides designed to be mounted on and removable from the cargo area of a truck by the user. (g) "Sunscreening material" means a film, material, tint, or device applied to motor vehicle windows for the purpose of reducing the effects of the sun. (6) Except as provided in subsection (7), subsection (4) applies to all vehicles that are equipped with tinted windows, including windows with less than 100% light transmission to which additional sunscreening material has been applied. (7) Subsection (4) does not apply to a multipurpose vehicle that is equipped with tinted windows that were installed by the manufacturer of the vehicle or to a hearse, ambulance, government vehicle, or any other vehicle to which a currently valid certificate of waiver is affixed as specified under 61-9-428. A certificate of waiver must be issued by the department for a vehicle that was registered in this state on October 1, 1991, and was equipped with a sunscreening device or other material prohibited under subsection (4) on October 1, 1991. History: En. Sec. 145, Ch. 263, L. 1955; R.C.M. 1947, 32-21-148; amd. Sec. 1, Ch. 777, L. 1991; amd. Sec. 1, Ch. 133, L. 1995; amd. Sec. 29, Ch. 431, L. 1997; amd. Sec. 219, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-406. Restrictions as to tire equipment -- particular tires, chains, or traction devices -- definitions

61-9-406. Restrictions as to tire equipment -- particular tires, chains, or traction devices -- definitions. (1) A solid rubber tire on a vehicle must have rubber on its entire traction surface at least 1 inch thick above the edge of the flange of the entire periphery. (2) A person may not operate or move on a highway a motor vehicle, trailer, or semitrailer having a metal tire in contact with the roadway. (3) A tire on a vehicle moved on a highway may not have on its periphery a block, stud, flange, cleat, spike, or other protuberance of a material other than rubber that projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway. It is also permissible to use tire chains of reasonable proportions or pneumatic tires, the traction surfaces of which have been embedded with material, such as wood, wire, plastic or metal, that may not protrude more than one-sixteenth of an inch beyond the tire tread or that are clearly marked by the manufacturer on the sidewall "all season m&s" (or "all season mud and snow"), upon a vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. Except as provided in subsection (4), the use of pneumatic tires embedded as provided in this section is permitted only between October 1 and May 31 of each year, except that one of those tires may be used for a spare in case of tire failure. School buses equipped with such embedded pneumatic tires may operate from August 15 through the following June 15. (4) Pneumatic tires that feature an embedded block, stud, flange, cleat, spike, or other protuberance that is retractable may be used at any time of the year. However, the protuberance may not be engaged or extended other than between October 1 and May 31 of each year on roads that do not contain ice or snow. (5) The department of transportation and local authorities, as defined in 61-8-102, in their respective jurisdictions may in their discretion issue special permits authorizing the operation upon a highway of farm tractors or other farm machinery or of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks, the operation of which upon the highway would otherwise be prohibited under this section. (6) The department of transportation may determine at any time that dangerous or unsafe conditions on a highway require particular tires, tire chains, or traction devices for vehicles in addition to or beyond the ordinary pneumatic rubber tires. (7) The department of transportation shall place and maintain signs and other traffic control devices on a highway designated under subsection (6) that indicate the tire, tire chain, or traction device requirement determined for vehicles. The signs or traffic control devices may not prohibit the use of pneumatic tires embedded as provided in subsection (3) between October 1 and May 31 of each year, but when the department of transportation determines that chains are required and that no other traction devices will suffice, the requirement is applicable to tires on driver wheels of one axle, as defined in 61-10-104, of a vehicle, including embedded tires. The signs or traffic control devices may differentiate in requirements for four-wheel-drive vehicles in gear. (8) As used in this section: (a) "metal tire" means a tire the surface of which in contact with the highway is wholly or partly metal or other hard, nonresilient material; and (b) "pneumatic tire" means a tire in which compressed air or nitrogen is designed to support the load. History: En. Sec. 146, Ch. 263, L. 1955; amd. Sec. 1, Ch. 92, L. 1967; amd. Sec. 1, Ch. 194, L. 1971; amd. Sec. 1, Ch. 192, L. 1973; amd. Sec. 67, Ch. 316, L. 1974; R.C.M. 1947, 32-21-149(a) thru (d); amd. Sec. 1, Ch. 448, L. 1991; amd. Sec. 3, Ch. 512, L. 1991; amd. Sec. 220, Ch. 542, L. 2005; amd. Sec. 1, Ch. 114, L. 2007; amd. Sec. 1, Ch. 93, L. 2015.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-407. Fenders, splash aprons, or flaps required on certain vehicles -- dimension and location

61-9-407. Fenders, splash aprons, or flaps required on certain vehicles -- dimension and location. (1) A person may not move, or permit to be moved, a vehicle, except a motorcycle, quadricycle, motor-driven cycle, or farm tractor, as defined in this title, upon the public highways without having first equipped the rearmost wheels or set of wheels of the vehicle with fenders, splash aprons, or flaps. The fenders, splash aprons, or flaps must be designed, constructed, and attached to the vehicle in a manner that arrests and deflects dirt, mud, water, rocks, and other substances that may be picked up by the rear wheels of the vehicle and thrown into the air, as follows: (a) If the vehicle is equipped with fenders, the fenders must extend in full width from a point above and forward of the center of the tire or tires over and to the rear of the tires. (b) If the vehicle is equipped with splash aprons or flaps, the splash aprons or flaps must extend downward in full width from a point not lower than halfway between the center of the tire or tires and the top of the tire or tires and to the rear of the tires. (c) If the vehicle is in excess of 8,000 pounds gross vehicle weight or rating, the fenders, splash aprons, or flaps must extend downward to a point that is not more than 10 inches above the surface of the highway

when the vehicle is empty. (d) If the vehicle is 8,000 pounds or less gross vehicle weight or rating, the fenders, splash aprons, or flaps must extend downward to a point that is not more than 20 inches above the surface of the highway when the vehicle is empty. (2) Fenders, splash aprons, or flaps, as used in subsection (1), must be constructed as follows: (a) when measured on the cross-sections of the tread of the wheel or on the combined cross-sections of the treads of multiple wheels, the fender, splash apron, or flap extends at least to each side of the width of the tire or of the combined width of the multiple tires; and (b) the fender, splash apron, or flap is capable at all times of arresting and deflecting dirt, mud, water, or other substance that may be picked up and carried by the wheel or wheels. (3) This section does not apply to a street rod as defined in 61-1-101, motor vehicles not originally equipped with fenders, splash aprons, or flaps, or motor vehicles for which fenders, splash aprons, or flaps were not required by federal law or regulation at the time of manufacture. History: En. Sec. 1, Ch. 286, L. 1969; R.C.M. 1947, 32-21-149.1(a), (b); amd. Sec. 1, Ch. 65, L. 1987; amd. Sec. 1, Ch. 791, L. 1991; amd. Sec. 30, Ch. 431, L. 1997; amd. Sec. 7, Ch. 458, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-408. Safety glazing material in motor vehicles -- definition

61-9-408. Safety glazing material in motor vehicles -- definition. (1) A person may not sell a new motor vehicle and a new motor vehicle may not be registered unless the vehicle is equipped with safety glazing material wherever glazing material is used in doors, windows, and windshields. These provisions apply to all passenger-type motor vehicles, including passenger buses and school buses. With respect to trucks, including truck tractors, the requirements as to safety glazing material apply to all glazing material used in doors, windows, and windshields in the driver's compartments of the vehicles. (2) The term "safety glazing materials" means glazing materials constructed, treated, or combined with other materials to reduce substantially in comparison with ordinary sheet glass or plate glass the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken. History: En. Sec. 147, Ch. 263, L. 1955; R.C.M. 1947, 32-21-150; amd. Sec. 31, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-409. Seatbelts required in vehicles manufactured after 1964

61-9-409. Seatbelts required in vehicles manufactured after 1964. (1) An automobile that was manufactured or assembled after January 1, 1965, and on or before January 1, 1968, must be equipped with safety belts installed for use in the left front and right front seats. (2) A motor vehicle manufactured after January 1, 1968, must be equipped at each designated seating position with a safety belt system required for that seating position by the standards of the United States department of transportation at the time that the vehicle was manufactured. (3) The safety belts required by this section must remain installed and in good working condition. History: En. Sec. 1, Ch. 115, L. 1965; R.C.M. 1947, 32-21-150.1; amd. Sec. 32, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-411. Certain vehicles to carry flares or other warning devices

61-9-411. Certain vehicles to carry flares or other warning devices. (1) No person shall operate any motor truck of 1-ton capacity or greater, passenger bus, or truck tractor upon any highway outside the corporate limits of municipalities at any time unless there shall be carried in such vehicle, except as provided in subsection (2), the following equipment: (a) at least three flares or three red electric lanterns or three portable red emergency reflectors each of which shall be capable of being seen and distinguished at a distance of not less than 600 feet under normal atmospheric conditions at nighttime. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it is so designed and constructed as to display a minimum of 24 square inches of reflective surface, or two reflecting elements; one above the other, either of which shall be capable of reflecting red light clearly visible from all distances within 600 feet to 100 feet under normal atmospheric conditions at night when directly in front of lawful upper beams of headlamps; (b) at least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried; (c) at least two red cloth flags, no less than 12 inches square, with standards to support such flags. (2) No person shall operate at the time and under the conditions stated in subsection (1) any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases, or any motor vehicle using compressed gas as a fuel unless there shall be carried in such vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection (1), and there shall not be carried in any said vehicle any flares, fusees, or signal produced by flame. (3) As an alternative to the equipment required in subsections (1) and (2), three emergency reflective triangles conforming with U.S. department of transportation motor vehicle safety standard 125 may be carried. History: En. Sec. 148, Ch. 263, L. 1955; amd. Sec. 1, Ch. 108, L. 1957; amd. Sec. 1, Ch. 70, L. 1975; R.C.M. 1947, 32-21-151.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-412. Display of warning devices when vehicle disabled -- definition

61-9-412. Display of warning devices when vehicle disabled -- definition. (1) Whenever a motor truck, passenger bus, truck, tractor, trailer, semitrailer, or pole trailer is disabled upon the traveled portion of any highway or the shoulder of a highway outside of any municipality at any time when lighted lamps are required on vehicles, the driver of that vehicle shall display the following warning devices upon the highway during the time the vehicle is disabled on the highway except as provided in subsection (2): (a) A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector must be immediately placed at the traffic side of the

vehicle in the direction of the nearest approaching traffic. (b) As soon as possible after complying with subsection (1)(a), but within the burning period of the fusee (15 minutes), the driver shall place three liquid burning flares (pot torches), three lighted red electric lanterns, or three portable red emergency reflectors on the traveled portion of the highway in the following order: (i) one approximately 100 feet from the disabled vehicle in the center of the lane occupied by the vehicle and toward traffic approaching in that lane; (ii) one approximately 100 feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by the vehicle; (iii) one at the traffic side of the disabled vehicle not less than 10 feet rearward or forward of the vehicle in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with subsection (1)(b)(i), it may be used for this purpose. (2) Whenever any vehicle referred to in this section is disabled within 500 feet of a curve, hillcrest, or other obstruction to view, the warning signal in that direction must be placed in order to afford ample warning to other users of the highway but in no case less than 500 feet from the disabled vehicle. (3) Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections (1) and (5) must be placed as follows: (a) one at a distance of approximately 200 feet from the vehicle, in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; (b) one at a distance of approximately 100 feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; (c) one at the traffic side of the vehicle and approximately 10 feet from the vehicle in the direction of the nearest approaching traffic. (4) Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder of a highway outside of any municipality at any time when the display of fusees, flares, red electric lanterns, or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, or at a distance of approximately 100 feet in advance of the vehicle, and one at a distance of approximately 100 feet to the rear of the vehicle. (5) (a) Whenever a motor vehicle used in the transportation of explosives, a cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or a motor vehicle using compressed gas as a fuel is disabled upon any highway of this state at any time or place mentioned in subsection (1), the driver of the vehicle shall immediately display one red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle and two red electric lanterns or portable red reflectors, one placed approximately 100 feet to the front and one placed approximately 100 feet to the rear of the disabled vehicle in the center of the traffic lane occupied by the vehicle. (b) Flares, fusees, or signals produced by flame may not be used as warning devices for disabled vehicles of the type mentioned in this subsection (5). (6) The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section must conform with the applicable requirements of 61-9-411. (7) As used in this section, "flammable liquid" means any liquid that has a flash point of 70 degrees Fahrenheit or less as determined by a Tagliabue or equivalent closed cup test device. History: En. Sec. 149, Ch. 263, L. 1955; R.C.M. 1947, 32-21-152; amd. Sec. 221, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-413. Vehicles transporting explosives

61-9-413. Vehicles transporting explosives. (1) Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section. (2) Said vehicle shall be marked or placarded on each side and the rear with the word "EXPLOSIVES" in letters not less than 8 inches high, or there shall be displayed on the rear of such vehicle a red flag not less than 24 inches square marked with the word "DANGER" in white letters 6 inches high. (3) Every said vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle so used. (4) The department is hereby authorized and directed to promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highway as it shall deem advisable for the protection of the public. History: En. Sec. 150, Ch. 263, L. 1955; R.C.M. 1947, 32-21-153; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-414. Logging trucks

61-9-414. Logging trucks. (1) A truck or truck trailer combination, except pole trailers, actively engaged in transporting logs must be equipped with chains, cables, steel straps, or fiber webbing with working load limits that meet or exceed the manufacturer's marked value. The number of tie-down assemblies must be determined by the working load limits and the total weight of the load. The working load limits must equal or exceed 1 1/2 times the total weight of the load. (2) A pole trailer actively engaged in transporting logs upon the highways of the state must be equipped as follows: (a) At least three wrappers are required as standard equipment. The wrappers must: (i) have a minimum working load limit of at least 3,000 pounds; and (ii) be long enough to encompass any load when secured by a binder. (b) (i) Wrappers used to secure loads of logs together must be fastened by means of a binder. (ii) The complete wrapper and binder assembly must have a working load limit of at least 3,000 pounds. (iii) The handle, or leverage portion of the binder, when in use in tightening and holding the wrapper, must be securely fastened to the wrapper or to the binder so that it cannot be accidentally loosened. (c) At least two wrappers must be in use on all loads. The wrappers must be placed as close as reasonably possible to the front and rear bunks. (d) If short logs are loaded on top of longer logs, sufficient wrappers must be used to secure both ends of the short logs to the main body of the load. A log may not extend laterally beyond the stakes that form the outer boundary of the load at the top of the stakes. Logs or poles loaded above the tops of the stakes must be loaded in a pyramidal

fashion. (3) For the purposes of this section: (a) "binder" means a device attached to a wrapper that provides tension on and secures a wrapper; and (b) "wrapper" means an indirect tie-down device, the tension of which is intended to secure a stack of logs. History: En. Sec. 119, Ch. 263, L. 1955; amd. Sec. 1, Ch. 233, L. 1959; amd. Sec. 1, Ch. 182, L. 1974; R.C.M. 1947, 32-21-122(part); amd. Sec. 33, Ch. 431, L. 1997; amd. Sec. 1, Ch. 373, L. 2001; amd. Sec. 1, Ch. 298, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-415. Slow-moving vehicles

61-9-415. Slow-moving vehicles. (1) It is unlawful for a person to operate on a state highway, a farm, rural, or county road, or a city street of this state a slow-moving vehicle or equipment, an animal-drawn vehicle, or any other machinery, including all road construction or maintenance machinery, except when engaged in actual construction or maintenance work either guarded by a flag person, as defined in 61-8-102, or clearly visible warning signs, that normally travels or is normally used at a speed of less than 25 miles an hour, unless there is displayed on the rear of the vehicle an emblem as provided in subsection (2). The requirement of the emblem is in addition to any lighting devices required by law. (2) The emblem required by subsection (1) must be of substantial construction and must be a based-down equilateral triangle of fluorescent yellow-orange film or equivalent quality paint with a base of 14 inches and a height of 12 inches. The triangle must be bordered with reflective red strips having a minimum width of 1 3/4 inches, with the vertices of the overall triangle truncated so that the remaining height is a minimum of 14 inches. The emblem must be mounted on the rear of the vehicle near the horizontal geometric center of the vehicle at a height of 3 to 5 feet above the roadway and must be maintained in a clean, reflective condition. (3) In addition to the requirements in subsection (2), on a highway that has only two lanes for traffic moving in opposite directions, when an overtaking vehicle being operated in conformity with 61-8-303 does not have a clear lane for passing as required by 61-8-325, the driver of a slower-moving, overtaken vehicle shall, at the first opportunity and when a safe turnout exists, move the overtaken vehicle off the main-traveled portion of the highway until the overtaking vehicle is safely clear of the overtaken vehicle. (4) On an interstate highway or on any other four-lane highway, a slow-moving vehicle, subject to the requirements of this section, must be driven in the right lane as far to the right as possible, including the shoulder of the highway. History: En. Sec. 127, Ch. 263, L. 1955; amd. Sec. 1, Ch. 247, L. 1969; R.C.M. 1947, 32-21-130(b), (c), (e); amd. Sec. 34, Ch. 431, L. 1997; amd. Sec. 1, Ch. 449, L. 1999; amd. Sec. 222, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-416. Commercial tow truck definition -- requirements

61-9-416. Commercial tow truck definition -- requirements. (1) "Commercial tow truck" means a motor vehicle operating for compensation that is equipped with specialized equipment designed and intended for towing or the recovery of wrecked, disabled, or abandoned vehicles or other objects creating a hazard on the public roadways. If a tow truck owner or operator's business profits or benefits in any way from towing a vehicle, the tow truck must be considered a commercial tow truck for the purposes of Title 61, chapter 8, and this chapter. (2) A commercial tow truck must be equipped with: (a) not less than two red flares, two red lanterns, or two warning lights or reflectors. The reflectors must be of a type approved by the department. (b) at least two highway warning signs as provided in 61-9-431. (c) a dry chemical fire extinguisher of at least 5 pound capacity or an equivalent alternative type of fire extinguisher, approved by the department; (d) a lamp emitting a flashing red or amber light meeting the requirements of 61-9-402(7), or both a red and amber light, mounted on top of the cab of the tow truck or on the top of the crane or hoist if the light can be seen from the front of the tow truck. The light from the lamp must be visible for a distance of 1,000 feet under normal atmospheric conditions and must be mounted so that it can be securely fastened with the lens of the lamp facing the rear of the tow truck upon which it is mounted. When standing at the location from which the disabled vehicle is to be towed, the operator of the tow truck may unfasten the red light and place it in a position considered advisable to warn approaching drivers. When the disabled vehicle is ready for towing, the red light must be turned to the rear of the tow truck upon which it is mounted and securely locked in this position. Additional red or amber lights of an approved type may be displayed at either side or both sides of the tow truck during the period of preparation at the location from which the disabled vehicle is to be towed. (e) one or more brooms, and the operator of the tow truck engaged to remove a disabled vehicle from the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle that is to be towed; (f) a shovel, and whenever practical, the tow truck operator engaged to remove a disabled vehicle shall spread dirt upon that portion of the roadway where oil or grease has been deposited by the disabled vehicle; and (g) a portable electrical extension cord or other device for use in displaying stop, turn, and taillamps on the rear of the disabled vehicle. The length of the extension cord may not be less than the length of the combined vehicles. When a disabled vehicle is towed, the tow truck operator shall provide for the rear light that is capable of displaying a stop signal, turn signal, and taillamps by means of the extension cord or other device referred to in this subsection. (3) The operator of a commercial tow truck used for the purpose of rendering assistance to other vehicles shall, when the rendering of assistance necessitates the obstruction of a portion of the roadway, place a highway warning sign as required in 61-9-431. (4) The owner or operator of a commercial tow truck who complies with the requirements of 61-8-906 and 61-8-907 and this section may stop or park the tow truck upon a highway for the purpose of rendering assistance to a disabled vehicle, notwithstanding other provisions of this code. (5) A commercial tow truck company that is in compliance with 61-9-431 and that is operating an emergency service vehicle and using signal equipment in rendering assistance at a highway crash scene or in response to any other hazard on the roadway that presents an immediate hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad faith, or gross negligence, for injuries, costs, damages, expenses, or other liabilities resulting from a motorist operating a vehicle in violation of 61-9-402(5). History: En.

Sec. 1, Ch. 201, L. 1959; R.C.M. 1947, 32-21-161; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 1, Ch. 27, L. 1991; amd. Sec. 14, Ch. 283, L. 1995; amd. Sec. 35, Ch. 431, L. 1997; amd. Sec. 6, Ch. 520, L. 1999; amd. Sec. 47, Ch. 352, L. 2003; amd. Sec. 2, Ch. 80, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-417. Headgear required for minor motorcycle riders

61-9-417. Headgear required for minor motorcycle riders. (1) (a) Except as provided in subsection (1)(b), an operator and passenger under 18 years of age of a motorcycle or quadricycle operated on the streets or highways of this state shall wear protective headgear on the head. The headgear must meet standards established by the department of justice. (b) This section does not apply to an operator and passenger of an autocycle as defined in 61-1-101 that is completely enclosed with a windshield, nonremovable doors, and a roof. (2) A person may not operate a motorcycle upon a highway in the state unless all passengers under 18 years of age are in compliance with subsection (1). History: En. Sec. 1, Ch. 398, L. 1973; amd. Sec. 1, Ch. 179, L. 1974; amd. Sec. 1, Ch. 273, L. 1974; amd. Sec. 1, Ch. 54, L. 1977; R.C.M. 1947, 32-21-105.1(1); amd. Sec. 45, Ch. 516, L. 1985; amd. Sec. 36, Ch. 431, L. 1997; amd. Sec. 1, Ch. 654, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-418. Motorcycle and quadricycle noise suppression devices -- motorcycle and quadricycle spark arrester

61-9-418. Motorcycle and quadricycle noise suppression devices -- motorcycle and quadricycle spark arrester. (1) All motorcycles or quadricycles operated on the streets and highways of this state must be equipped at all times with noise suppression devices, including an exhaust muffler, in good working order and in constant operation. In addition, all motorcycles and quadricycles operating on streets and highways must meet the following noise decibel limitations, on the standard A scale, to be measured at 50 feet from the closest point to the motorcycle or quadricycle: (a) any cycle manufactured prior to 1970 92 db(A) (b) any cycle manufactured after 1969 but prior to 1973 88 db(A) (c) any cycle manufactured after 1972 but prior to 1975 86 db(A) (d) any cycle manufactured after 1974 but prior to 1978 80 db(A) (e) any cycle manufactured after 1977 but prior to 1988 75 db(A) (f) any cycle manufactured after 1987 70 db(A) (2) (a) Except as provided in subsection (2)(b), a motorcycle or quadricycle may be operated off of a highway on public lands only if the motorcycle's or quadricycle's noise emissions do not exceed 96 db(A), using test procedures established by the society of automotive engineers under standard J-1287. (b) The noise limitations in subsection (2)(a) do not apply to motorcycles or quadricycles that are operated for special events permitted on closed courses by a state entity or local government. (c) A motorcycle or quadricycle may not be operated off of a highway unless it is equipped with an adequate spark arrester to prevent the escape of sparks or other burning material from the motorcycle's or quadricycle's engine. History: En. Sec. 1, Ch. 398, L. 1973; amd. Sec. 1, Ch. 179, L. 1974; amd. Sec. 1, Ch. 273, L. 1974; amd. Sec. 1, Ch. 54, L. 1977; R.C.M. 1947, 32-21-105.1(2); amd. Sec. 46, Ch. 516, L. 1985; amd. Sec. 1, Ch. 105, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-419. "Properly restrained" defined

61-9-419. "Properly restrained" defined. As used in 61-9-420 through 61-9-423, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system that permits the system to act as a body restraint, but does not mean a system in which the only body restraint is a safety belt of the type required by 61-9-409. History: En. Sec. 1, Ch. 177, L. 1983; amd. Sec. 37, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-420. Child safety restraint systems -- standards -- exemptions

61-9-420. Child safety restraint systems -- standards -- exemptions. (1) Each motor vehicle passenger who is under 6 years of age and weighs less than 60 pounds must be transported and properly restrained in a child safety restraint. The child safety restraint must be appropriate for the height and weight of the child as indicated by manufacturer standards. (2) The department shall by rule establish standards in compliance with 61-9-419 through 61-9-423 and applicable federal standards for approved types of child safety restraint systems. (3) The department may by rule exempt from the requirements of subsection (1) a child who because of a physical or medical condition or body size cannot be placed in a child safety restraint. History: En. Sec. 2, Ch. 177, L. 1983; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 38, Ch. 431, L. 1997; amd. Sec. 1, Ch. 407, L. 2003; amd. Sec. 1, Ch. 280, L. 2011; amd. Sec. 1, Ch. 100, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-421. Certain vehicles exempt

61-9-421. Certain vehicles exempt. Section 61-9-420 is not applicable to a vehicle that: (1) is a motorbus, schoolbus, taxicab, moped, quadricycle, or motorcycle or is not required to be equipped with safety belts under 49 CFR 571 as it reads on January 1, 1984; or (2) has a seating capacity as designated by the manufacturer of two persons and there are two persons 4 years of age or older in the vehicle. History: En. Sec. 3, Ch. 177, L. 1983; amd. Sec. 47, Ch. 516, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous

Regulations 61-9-422. Evidence admissible without presumption of negligence

61-9-422. Evidence admissible without presumption of negligence. Evidence of compliance or failure to comply with 61-9-420 is admissible in any civil action for personal injury or property damage resulting from the use or operation of a motor vehicle, but failure to comply with 61-9-420 does not alone constitute negligence. History: En. Sec. 4, Ch. 177, L. 1983.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-423. Penalty

61-9-423. Penalty. (1) Except as provided in subsection (2), violation of 61-9-420 is punishable by a fine of not more than \$100. (2) The fine provided for in subsection (1) must be waived if proof of acquisition of an appropriate child safety restraint is presented within 7 days of the violation to the office of the charging officer and there has been no previous dismissal of a violation of 61-9-420 under this subsection. History: En. Sec. 5, Ch. 177, L. 1983; amd. Sec. 1, Ch. 161, L. 1985; amd. Sec. 39, Ch. 431, L. 1997; amd. Sec. 2, Ch. 280, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-424. and 61-9-425 reserved

61-9-424 and 61-9-425 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-426. Air-conditioning equipment -- use of flammable refrigerant prohibited -- definition

61-9-426. Air-conditioning equipment -- use of flammable refrigerant prohibited -- definition. (1) Air-conditioning equipment must be maintained with due regard for the safety of the occupants of the vehicle, service technicians, and the public. (2) Air-conditioning equipment may contain only refrigerant that has been included in the list published by the United States environmental protection agency as a safe alternative motor vehicle air-conditioning substitute for chlorofluorocarbon-12 pursuant to 42 U.S.C. 7671k(c). (3) A person may not equip or maintain a motor vehicle or special mobile equipment with air-conditioning equipment or refrigerants that do not comply with the requirements of this section. (4) As used in 61-9-427 and this section, "air-conditioning equipment" means mechanical, belt-driven, vapor compression refrigerant equipment that is used to cool the driver's compartment or passenger compartment of a motor vehicle or special mobile equipment. History: En. Sec. 1, Ch. 418, L. 2003; amd. Sec. 223, Ch. 542, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-427. Air-conditioning equipment -- sale prohibited

61-9-427. Air-conditioning equipment -- sale prohibited. (1) Refrigerant not allowed to be used pursuant to 61-9-426 may not be sold for use in motor vehicles in Montana. (2) Motor vehicles and special mobile equipment with air-conditioning equipment that has refrigerants not allowed in 61-9-426, if installed prior to April 18, 2003, are not subject to any penalties provided for under Title 61, chapter 9. History: En. Sec. 2, Ch. 418, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-428. Window tinting and suncreening -- waiver -- conditions

61-9-428. Window tinting and suncreening -- waiver -- conditions. The highway patrol or a local law enforcement agency may grant a waiver of the standards of 61-9-405(4) for reasons of safety or security or for medical reasons based on an affidavit signed by a licensed physician, licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102. The waiver must be in writing and must include the vehicle identification number, registration number, or other description to clearly identify the motor vehicle to which the waiver applies and the date issued, the name of the owner of the vehicle, the reason for granting the waiver, the dates the waiver is effective, and the signature of the law enforcement officer granting the waiver. The highway patrol or the local law enforcement agency shall keep a copy of the waiver until the waiver expires. History: En. Sec. 2, Ch. 777, L. 1991; amd. Sec. 5, Ch. 242, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-429. Window tinting and suncreening -- penalty

61-9-429. Window tinting and suncreening -- penalty. (1) A person who owns or operates a motor vehicle in violation of 61-9-405(4) is guilty of a misdemeanor and is punishable as provided in 46-18-212. (2) A person who applies a suncreening material or a glass-plastic glazing material in a manner that results in a motor vehicle having a window that violates the requirements of 61-9-405(4) is guilty of a misdemeanor and is punishable as provided in 46-18-212. History: En. Sec. 3, Ch. 777, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-430. Bumpers

61-9-430. Bumpers. (1) A motor vehicle of less than 10,000 pounds gross vehicle weight or rating registered in Montana, except a

motorcycle, a quadricycle, a motor-driven cycle, or a farm tractor, must be equipped with a front bumper and, unless the vehicle is equipped with work-performing features that make installation impractical or unnecessary, with a rear bumper. (2) This section does not apply to a street rod, as defined in 61-1-101, vehicles not originally equipped with front or rear bumpers, or vehicles for which bumpers were not required by federal law or regulation at the time of manufacture. History: En. Sec. 40, Ch. 431, L. 1997; amd. Sec. 8, Ch. 458, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-431. Use of warning signs, flares, reflectors, lanterns, and flag persons

61-9-431. Use of warning signs, flares, reflectors, lanterns, and flag persons. (1) The operator of a commercial tow truck, in compliance with the requirements of 61-8-906 and 61-8-907, shall, when rendering assistance at a hazard on the highway that necessitates the obstruction of a portion or all of the roadway exclusive of the berm or shoulder, place at least two warning signs as required in this section as soon as is practicable under the circumstances. Flag persons and cones may be used to augment the warning signs. (2) Highway warning signs must be of a uniform type, with dimensions of 3 x 3 feet, lettering 5 inches high, and reflectorized orange or reflectorized fluorescent pink background and black border, as prescribed by the department. The signs must be designed to be visible both during the day and at night. The warning signs must bear the words "accident ahead", "emergency vehicle ahead", "lane closed ahead", "road closed ahead", "wreck ahead", "tow truck ahead", or "wrecker ahead", as prescribed by the department. (3) The operator of a commercial tow truck used for the purpose of rendering assistance at a hazard on the highway that necessitates the obstruction of a portion of the roadway shall place a highway warning sign as required in subsection (2): (a) in an area in which the posted speed limit is 45 miles an hour or less, not less than 600 feet in advance of the hazard and an equal distance to the rear of the hazard; and (b) in an area in which the posted speed limit is more than 45 miles an hour or no speed limit is posted, 1,000 feet in advance of the hazard, except on a divided highway where the hazard does not cause disruption of traffic traveling on the opposite side of the divided highway, and an equal distance to the rear of the hazard. (4) A local government unit may adopt an ordinance exempting an operator of a commercial tow truck from the requirements of subsection (2) within the limits of an incorporated city or town. (5) When a hazard exists on the highway during the hours of darkness, the operator of a commercial tow truck called to render assistance shall place warning signs upon the highway as prescribed in this section and shall also place at least one red flare, red lantern, or warning light or reflector in close proximity to each warning sign. (6) A violation of warning signs placed as provided in subsection (3) is considered reckless endangerment of a highway worker, as provided in 61-8-389(2), and is punishable as provided in 61-8-715. History: En. Sec. 7, Ch. 520, L. 1999; amd. Sec. 48, Ch. 352, L. 2003; amd. Sec. 6, Ch. 379, L. 2003; amd. Sec. 1, Ch. 113, L. 2013; amd. Sec. 11, Ch. 567, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-432. Low-speed and medium-speed electric vehicles -- required equipment

61-9-432. Low-speed and medium-speed electric vehicles -- required equipment. (1) Low-speed electric vehicles and medium-speed electric vehicles, as defined in 61-1-101, must be equipped with: (a) headlamps, front and rear turn signal lamps, taillamps, and stop lamps; (b) three red reflectors, two of which must be placed on each side as far to the rear of the vehicle as practicable, and one of which must be placed on the rear of the vehicle; (c) an exterior mirror mounted on the driver's side of the vehicle and either an exterior mirror mounted on the passenger's side of the vehicle or an interior mirror; (d) a parking brake; (e) a windshield that conforms to the federal motor vehicle safety standard provided in 49 CFR 571.205; and (f) a seatbelt assembly that conforms to the federal motor vehicle safety standard provided in 49 CFR 571.209. (2) A medium-speed electric vehicle must be equipped with a roll bar, roll cage, or crush-proof body design. History: En. Sec. 3, Ch. 233, L. 2007; amd. Sec. 14, Ch. 209, L. 2011.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-433. and 61-9-434 reserved

61-9-433 and 61-9-434 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-435. Exhaust noise limitation

61-9-435. Exhaust noise limitation. (1) Except as provided in subsection (3), a person may not operate a motor vehicle with an exhaust system that emits a noise in excess of 95 decibels, as measured by the society of automotive engineers' standard j1169 (May 1998). (2) A person charged with violating this section may not be convicted if the person had reasonable grounds to believe that the vehicle was not operated in violation of the standard in subsection (1). (3) This section does not apply to a motorcycle or quadricycle that is subject to 61-9-418. History: En. Sec. 5, Ch. 329, L. 2007.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-436. Certain vehicles to carry tire traction devices during winter months

61-9-436. Certain vehicles to carry tire traction devices during winter months. (1) (a) Except as provided in subsection (1)(b), from October 1 through April 30, a person operating a motor truck of 26,001 GVW or greater towing a trailer on a mountain pass or on a similar stretch of highway designated by the department of transportation as a place where traction control devices are potentially

required shall carry in the vehicle approved traction control devices prescribed by the department. (b) The requirement of subsection (1)(a) does not apply to a vehicle with four-wheel drive. (2) A person who violates the provisions of this section shall be punished by a fine of \$225 for a first offense and not less than \$225 or more than \$500 for subsequent offenses. (3) The department may adopt administrative rules to implement this section. History: En. Sec. 1, Ch. 528, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 4. Miscellaneous Regulations 61-9-437. Airbag fraud prohibition -- definitions

61-9-437. Airbag fraud prohibition -- definitions. (1) A person may not knowingly: (a) import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that does not comply with Federal Motor Vehicle Safety Standard No. 208, 49 CFR 571.208, as of February 12, 2023, for the make, model, and year of the motor vehicle; (b) sell, offer for sale, install, or reinstall in a motor vehicle a device that causes a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag; or (c) sell, lease, trade, or transfer a motor vehicle if the person knows that a counterfeit supplemental restraint system component, a nonfunctional airbag, or an object that does not comply with Federal Motor Vehicle Safety Standard No. 208, 49 CFR 571.208, as of February 12, 2023, for the make, model, and year of the motor vehicle has been installed as part of the motor vehicle's restraint system. (2) A person who violates this section is subject to the penalties provided in 61-9-522. (3) As used in this section: (a) "Airbag" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system. (b) "Counterfeit supplemental restraint system component" means a replacement supplemental restraint system component, including but not limited to an airbag, that displays a mark identical to, or substantially similar to, the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier, respectively. (c) "Nonfunctional airbag" means a replacement airbag that meets any of the following criteria: (i) the airbag was previously deployed or damaged; (ii) the airbag has an electric fault that is detected by the vehicle's airbag diagnostic system when the installation procedure is completed and the vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred; (iii) the airbag includes a part or object, including a supplemental restraint system component, that is installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or (iv) the airbag is subject to the prohibitions of 49 U.S.C. 30120(j), as of February 12, 2023. (d) "Supplemental restraint system" means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with a seat belt assembly as defined in 49 CFR 571.209. A supplemental restraint system includes one or more airbags and all components required to ensure that an airbag works as designed by the vehicle manufacturer including both of the following: (i) the airbag operates as designed in the event of a crash; and (ii) the airbag is designed to meet federal motor vehicle safety standards for the specific make, model, and year of the vehicle in which it is or will be installed. History: En. Sec. 1, Ch. 539, L. 2023.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-501. Inspections by officers of department

61-9-501. Inspections by officers of department. (1) The department or its agents may at any time upon reasonable cause to believe that a vehicle is unsafe or not equipped as required by law or that its equipment is not in proper adjustment or repair require the driver of the vehicle to stop and submit the vehicle to an inspection and test as may be appropriate. (2) In the event the vehicle and its equipment are found to be in safe condition and in full compliance with the law, the officer making the inspection may issue to the driver an official certificate of inspection and approval of the vehicle specifying those parts or equipment that have been inspected and approved. (3) In the event the vehicle is found to be in unsafe condition or any required part or equipment is not present or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy to the department. The notice must specify the deficiencies and require that the vehicle be placed in safe condition and its equipment in proper repair and adjustment within 5 days, except as provided in subsection (4). (4) For the purpose of 61-9-321 only, the notice must require the engine compression brake device muffler be in proper repair and adjustment within 14 days. History: En. Sec. 152, Ch. 263, L. 1955; R.C.M. 1947, 32-21-155; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 146, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-502. Semiannual inspection of school buses

61-9-502. Semiannual inspection of school buses. (1) The department shall perform the semiannual inspection of school buses, one of which shall be at least 30 days prior to the beginning of the school term, and reinspect the buses, if necessary, before the beginning of the school term. (2) The department's inspection shall determine if the school buses meet the minimum standards for school buses as adopted by the board of public education. History: En. 32-21-155.1 by Sec. 2, Ch. 179, L. 1969; amd. Sec. 1, Ch. 141, L. 1973; R.C.M. 1947, 32-21-155.1; amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-503. Owners and drivers to comply with inspection laws

61-9-503. Owners and drivers to comply with inspection laws. (1) No person driving a vehicle may refuse to submit the vehicle to an

inspection and test when required to do so by the department or an authorized officer or employee of the department. (2) Every owner or driver, upon receiving a notice as provided in 61-9-501, shall comply and have the deficiencies corrected and forward notification of the correction to the department. In lieu of compliance with this subsection, the vehicle may not be operated, except as provided in subsection (3). (3) No person may operate any vehicle after receiving notice except as may be necessary to return the vehicle to the residence or place of business of the owner or driver, if within a distance of 20 miles, or to a garage until the vehicle and its equipment have been placed in proper repair and adjustment and otherwise made to conform to the requirements of this chapter. History: En. Sec. 153, Ch. 263, L. 1955; R.C.M. 1947, 32-21-156; amd. Sec. 73, Ch. 421, L. 1979; amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 3, Ch. 146, L. 2009.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-504. Rules

61-9-504. Rules. The department is hereby empowered to make additional rules governing the use of safety equipment on motor vehicles, vehicles, and/or combination of vehicles, that is, trailer hitches, safety chains, mounts, tow bars, and other similar equipment as it shall deem advisable for the protection of the public. History: En. Sec. 119, Ch. 263, L. 1955; amd. Sec. 1, Ch. 233, L. 1959; amd. Sec. 1, Ch. 182, L. 1974; R.C.M. 1947, 32-21-122(part); amd. Sec. 1, Ch. 503, L. 1985.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-505. through 61-9-510 reserved

61-9-505 through 61-9-510 reserved.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-511. Violation of chapter -- penalty

61-9-511. Violation of chapter -- penalty. (1) It is a misdemeanor for any person to violate any of the provisions of this chapter unless the violation is declared to be a felony. (2) A person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction be punished by a fine of not less than \$10 or more than \$100. For a second conviction within 1 year, the person shall be punished by a fine of not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500. (3) Except as provided in subsection (4), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure of payment of a fine, the court may: (a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the provisions of Title 25, chapter 13; or (b) if the court finds that the person is unable to pay, order the person to perform community service. (4) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and if the court makes a written finding that community service is inappropriate, the person shall be imprisoned in the county jail in the county in which the offense has been committed. The imprisonment shall be the number of days that the fine is divisible by the dollar amount of the incarceration credit contained in 46-18-403. (5) Upon conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court. History: En. Sec. 154, Ch. 263, L. 1955; R.C.M. 1947, 32-21-157; amd. Sec. 3, Ch. 40, L. 1991; amd. Sec. 2, Ch. 109, L. 1991; amd. Sec. 3, Ch. 134, L. 1995.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-512. Violation of rules -- penalty

61-9-512. Violation of rules -- penalty. (1) Any violation of any rules adopted by the department is a misdemeanor. (2) A person convicted of a violation of any standard adopted pursuant to 61-10-154 shall be fined not less than \$25 or more than \$500 for the first offense and not less than \$25 or more than \$1,000 for each subsequent offense. (3) The penalties provided in subsection (2) apply to any motor carrier that is a corporation subject to the standards adopted pursuant to 61-10-154. The penalties may be imposed against: (a) a director or officer of the corporation; (b) any receiver, trustee, lessee, agent, or person acting for or employed by the corporation; or (c) any broker of property or officer, agent, or employee of the broker. History: En. Sec. 119, Ch. 263, L. 1955; amd. Sec. 1, Ch. 233, L. 1959; amd. Sec. 1, Ch. 182, L. 1974; R.C.M. 1947, 32-21-122(part); amd. Sec. 1, Ch. 503, L. 1985; amd. Sec. 2, Ch. 386, L. 1987; amd. Sec. 71, Ch. 83, L. 1989; amd. Sec. 7, Ch. 366, L. 2005.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-513. Violation of general lighting requirement and slow-moving vehicle provisions -- penalty

61-9-513. Violation of general lighting requirement and slow-moving vehicle provisions -- penalty. Any person violating the provisions of 61-9-216 or 61-9-415 shall be subject to penalty as provided in 61-9-511. History: En. Sec. 127, Ch. 263, L. 1955; amd. Sec. 1, Ch. 247, L. 1969; R.C.M. 1947, 32-21-130(d).

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-514. Unauthorized use of firefighter's private vehicle -- penalty

61-9-514. Unauthorized use of firefighter's private vehicle -- penalty. Any person violating the provisions of 61-9-227 is guilty of a misdemeanor. History: En. Sec. 2, Ch. 154, L. 1957; R.C.M. 1947, 32-21-141.2.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-515. Violations of provisions relating to fenders, splash aprons, or flaps -- penalty

61-9-515. Violations of provisions relating to fenders, splash aprons, or flaps -- penalty. Any person violating any of the provisions of 61-9-407 is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 or more than \$25. History: En. Sec. 1, Ch. 286, L. 1969; R.C.M. 1947, 32-21-149.1(c); amd. Sec. 4, Ch. 40, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-516. Penalty for seatbelt violations

61-9-516. Penalty for seatbelt violations. Any person who violates the provisions of 61-9-409 is guilty of a misdemeanor and upon conviction shall be fined not to exceed \$100. History: En. Sec. 3, Ch. 115, L. 1965; R.C.M. 1947, 32-21-150.3; amd. Sec. 41, Ch. 431, L. 1997.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-517. Violation of towing requirements -- penalty

61-9-517. Violation of towing requirements -- penalty. Any person violating any of the provisions of 61-9-416 shall be deemed guilty of a misdemeanor and subject to a penalty not to exceed \$100. History: En. Sec. 2, Ch. 201, L. 1959; R.C.M. 1947, 32-21-162.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-518. Violation of motorcycle or quadricycle requirements -- penalty

61-9-518. Violation of motorcycle or quadricycle requirements -- penalty. (1) A person convicted of the violation of 61-9-417 shall be fined \$5. (2) A person convicted of the violation of 61-9-418 shall be punished by a fine of not less than \$10 or more than \$100 for the first conviction. For a second conviction within 1 year, the person shall be punished by a fine of not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500. History: En. Sec. 1, Ch. 398, L. 1973; amd. Sec. 1, Ch. 179, L. 1974; amd. Sec. 1, Ch. 273, L. 1974; amd. Sec. 1, Ch. 54, L. 1977; R.C.M. 1947, 32-21-105.1(3), (4); amd. Sec. 5, Ch. 40, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-519. Violation of tire restrictions -- penalty

61-9-519. Violation of tire restrictions -- penalty. A person violating 61-9-406 is guilty of a misdemeanor and is subject to penalty as provided in 61-9-511. History: En. Sec. 146, Ch. 263, L. 1955; amd. Sec. 1, Ch. 92, L. 1967; amd. Sec. 1, Ch. 194, L. 1971; amd. Sec. 1, Ch. 192, L. 1973; amd. Sec. 67, Ch. 316, L. 1974; R.C.M. 1947, 32-21-149(e); amd. Sec. 6, Ch. 40, L. 1991.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-520. Violation of tire chain or traction device use -- penalty

61-9-520. Violation of tire chain or traction device use -- penalty. (1) A person violating the provisions of 61-9-406(6) and (7) is guilty of the nonmoving offense of failure to use chains or approved traction devices when required and upon conviction shall be punished by a fine of: (a) \$250; or (b) \$750 when the result of the violation of this section is an incident that causes the closure of all lanes in one or both directions of a highway. (2) A violation of 61-9-406(6) and (7) is not a misdemeanor subject to 45-2-101, 61-9-511, 61-9-512, or 61-9-519. History: En. Sec. 2, Ch. 448, L. 1991; amd. Sec. 2, Ch. 93, L. 2015; amd. Sec. 1, Ch. 126, L. 2021.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-521. Violation of engine compression brake device provisions -- penalty

61-9-521. Violation of engine compression brake device provisions -- penalty. A person who violates the provisions of 61-9-321 is guilty of a misdemeanor and upon conviction shall be fined not to exceed \$500. History: En. Sec. 2, Ch. 357, L. 2003.

2024 Montana Code Annotated Title 61. Motor Vehicles Chapter 9. Vehicle Equipment Part 5. Enforcement -- Penalties 61-9-522. Airbag fraud penalty

61-9-522. Airbag fraud penalty. A person who violates 61-9-437 is guilty of airbag fraud and upon conviction shall be fined not more than \$1,000, imprisoned for not more than 6 months, or both. History: En. Sec. 2, Ch. 539, L. 2023.

Title: title-16

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 1. General Provisions 16-1-101. Citation -- declaration of policy -- subject matters of regulation

16-1-101. Citation -- declaration of policy -- subject matters of regulation. (1) Chapters 1 through 4 and 6 of this title may be cited as the "Montana Alcoholic Beverage Code". (2) It is the policy of the state of Montana to effectuate and ensure the entire control of the manufacture, sale, importation, and distribution of alcoholic beverages within the state subject to the authority of the state acting

through the department. (3) This code is an exercise of the police power of the state for the protection of the welfare, health, peace, morals, and safety of the people of the state and of the state's power under the 21st amendment to the United States constitution to control the transportation and importation of alcoholic beverages into the state. The overall purposes of this code under the 21st amendment to the United States constitution are to promote temperance, create orderly markets, and aid in the collection of taxes. The provisions of this code must be broadly construed to accomplish these purposes. History: En. Sec. 1, Ch. 105, L. 1933; re-en. Sec. 2815.60, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1951; Sec. 4-101, R.C.M. 1947; amd. and redes. 4-1-101 by Sec. 1, Ch. 387, L. 1975; R.C.M. 1947, 4-1-101; amd. Sec. 1, Ch. 68, L. 1987; amd. Sec. 1, Ch. 543, L. 2001; amd. Sec. 22, Ch. 130, L. 2005; amd. Sec. 1, Ch. 181, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 1. General Provisions 16-1-102. Policy as to sale of beer

16-1-102. Policy as to sale of beer. It is the policy of the state of Montana that the manufacture, transportation, distribution, sale, and possession of "beer", as that term is defined in this code, must be controlled and regulated as provided under this code. Unless defined as beer in 16-1-106(5)(a)(ii), beer, porter, ale, stout, and malt liquors containing more than 8.75% alcohol by volume and that are defined as "liquor" are subject to the regulations and controls provided for liquor. History: En. Sec. 1, Ch. 106, L. 1933; re-en. Sec. 2815.10, R.C.M. 1935; amd. Sec. 1, Ch. 166, L. 1951; Sec. 4-301, R.C.M. 1947; amd. and redes. 4-1-102 by Sec. 45, Ch. 387, L. 1975; R.C.M. 1947, 4-1-102; amd. Sec. 1, Ch. 197, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 1. General Provisions 16-1-103. Policy as to retail sale of liquor

16-1-103. Policy as to retail sale of liquor. It is the policy of the state that it is necessary to further regulate and control the sale and distribution of alcoholic beverages within the state and to ensure that the department has complete regulatory control of the sale of liquor in this state. It is advisable and necessary, in addition to the operation of the agency liquor stores now provided by law, that the department be empowered and authorized to grant licenses to persons qualified under this code to sell liquor purchased by them at agency liquor stores at retail posted price in accordance with this code and under rules promulgated by the department and under its strict supervision and control and to provide severe penalty for the sale of liquor except by and in agency liquor stores and by persons licensed under this code. The restrictions, regulations, and provisions contained in this code are enacted by the legislature for the protection, health, welfare, and safety of the people of the state. History: En. Preamble, Ch. 84, L. 1937; Sec. 4-401, R.C.M. 1947; amd. and redes. 4-1-103 by Sec. 78, Ch. 387, L. 1975; R.C.M. 1947, 4-1-103; amd. Sec. 1, Ch. 5, L. 1979; amd. Sec. 12, Ch. 530, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 1. General Provisions 16-1-104. Intent and construction of code

16-1-104. Intent and construction of code. (1) The purpose and intent of this code are to: (a) establish a state licensing system to control the transportation and importation of alcoholic beverages into Montana and the manufacture, sale, transportation, and distribution of alcoholic beverages within the state of Montana; and (b) prohibit transactions in alcoholic beverages within the state of Montana except under state control as specifically provided by this code. (2) Every section and provision of this code must be construed according to subsection (1). History: En. Sec. 99, Ch. 105, L. 1933; re-en. Sec. 2815.159, R.C.M. 1935; Sec. 4-233, R.C.M. 1947; amd. and redes. 4-1-104 by Sec. 42, Ch. 387, L. 1975; R.C.M. 1947, 4-1-104; amd. Sec. 2, Ch. 68, L. 1987; amd. Sec. 2, Ch. 543, L. 2001.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 1. General Provisions 16-1-105. Divisions of code

16-1-105. Divisions of code. This code is divided into six chapters. Chapter 1 relates to the authority of the department of revenue to administer this code and the powers and functions of the department. Chapter 2 relates to the establishment of agency liquor stores and the keeping and selling of liquors. Chapter 3 relates to the control of liquor, wine, and beer. Chapter 4 relates to license administration. Chapter 5, now repealed, related to identification cards. Chapter 6 relates to enforcement. History: En. Sec. 3, Ch. 105, L. 1933; re-en. Sec. 2815.62, R.C.M. 1935; Sec. 4-103, R.C.M. 1947; amd. and redes. 4-1-105 by Sec. 2, Ch. 387, L. 1975; R.C.M. 1947, 4-1-105; amd. Sec. 3, Ch. 68, L. 1987; amd. Sec. 53, Ch. 370, L. 1987; amd. Sec. 13, Ch. 530, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 1. General Provisions 16-1-106. Definitions

16-1-106. Definitions. As used in this code, the following definitions apply: (1) "Agency franchise agreement" means an agreement between the department and a person appointed to sell liquor as a commission merchant rather than as an employee. (2) "Agency liquor store" means a store operated under an agency franchise agreement in accordance with this code for the purpose of selling liquor at either the posted or the retail price for off-premises consumption. (3) "Alcohol" means ethyl alcohol, also called ethanol, or the hydrated oxide of ethyl. (4) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume. (5) (a) "Beer" means: (i) a malt beverage containing not more than 8.75% of alcohol

by volume; or (ii) an alcoholic beverage containing not more than 14% alcohol by volume: (A) that is made by the alcoholic fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted cereal grain; and (B) in which the sugars used for fermentation of the alcoholic beverage are at least 75% derived from malted cereal grain measured as a percentage of the total dry weight of the fermentable ingredients. (b) The term does not include a caffeinated or stimulant-enhanced malt beverage. (6) "Beer importer" means a person other than a brewer who imports malt beverages. (7) "Beer wholesaler" means a person importing into or purchasing in Montana beer for sale or resale to retailers licensed in Montana. (8) "Brewer" means a person who produces malt beverages. (9) "Caffeinated or stimulant-enhanced malt beverage" means: (a) a beverage: (i) that is fermented in a manner similar to beer and from which some or all of the fermented alcohol has been removed and replaced with distilled ethyl alcohol; (ii) that contains at least 0.5% of alcohol by volume; (iii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; and (iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; or (b) a beverage: (i) that contains at least 0.5% of alcohol by volume; (ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of beer as described in 27 CFR 25.55; (iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; (iv) to which is added caffeine or other stimulants, including but not limited to guarana, ginseng, and taurine; (v) for which the producer is required to file a formula for approval with the United States alcohol and tobacco tax and trade bureau pursuant to 27 CFR 25.55; and (vi) that is not exempt pursuant to 27 CFR 25.55(f). (10) "Community" means: (a) in an incorporated city or town, the area within the incorporated city or town boundaries; (b) in an unincorporated city or area, the area identified by the federal bureau of the census as a community for census purposes; and (c) in a consolidated local government, the area of the consolidated local government not otherwise incorporated. (11) "Concessionaire" means an entity that has a concession agreement with a licensed entity. (12) "Curbside pickup" means the sale of alcoholic beverages that meets the requirements of 16-3-312. (13) "Department" means the department of revenue, unless otherwise specified, and includes the department of justice with respect to receiving and processing, but not granting or denying, an application under a contract entered into under 16-1-302. (14) "Growler" means any fillable, sealable container complying with federal law. (15) (a) "Guest ranch" means a business or organization that provides guests with overnight lodging, dining, and onsite outdoor recreational activities typical of western ranching for the purposes of vacation or recreation. Recreational activities offered by a guest ranch may include but are not limited to horseback riding, wagon or sleigh rides, shooting, and working with livestock. The property of a guest ranch must be composed of at least 50 contiguous acres. The property must be located entirely outside the license quota area of an incorporated city or an incorporated town as determined under 16-4-105(1) or 16-4-201. The premises of a guest ranch may include restaurants, sporting and recreational equipment shops, event venues, arenas, and other facilities that may be used by other persons in addition to the overnight guests. (b) The term does not include premises used as rehabilitation centers, group homes, clinics, nursing homes, church or other religious campgrounds, or other similar uses. (16) "Hard cider" means an alcoholic beverage that is made from the alcoholic fermentation of the juices of apples or pears and that contains not less than 0.5% of alcohol by volume and not more than 8.5% of alcohol by volume, including but not limited to flavored, sparkling, or carbonated cider. (17) "Immediate family" means a spouse, dependent children, or dependent parents. (18) "Import" means to transfer beer or table wine from outside the state of Montana into the state of Montana. (19) "Liquor" means an alcoholic beverage except beer and table wine. The term includes a caffeinated or stimulant-enhanced malt beverage. (20) "Location manager" means a person who provides general oversight of the alcoholic beverage operations and ensures compliance with alcoholic beverage laws and regulations. A location manager may be an owner of a license, an employee of the licensee, or an entity that contracts to provide services for the licensee. (21) "Malt beverage" means: (a) an alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption; or (b) an alcoholic beverage made by the fermentation of malt substitutes, including rice, grain of any kind, glucose, sugar, or molasses that has not undergone distillation. (22) (a) "Original package" means the sealed container in which a manufacturer packages its product for retail sale. (b) The term includes but is not limited to: (i) bottles; (ii) cans; and (iii) kegs. (23) "Package" means a container or receptacle used for holding an alcoholic beverage. (24) "Posted price" means the wholesale price of liquor for sale to persons who hold liquor licenses as fixed and determined by the department and in addition an excise and license tax as provided in this code. In the case of sacramental wine sold in agency liquor stores, the wholesale price may not exceed the sum of the department's cost to acquire the sacramental wine, the department's current freight rate to agency liquor stores, and a 20% markup. (25) "Prepared serving" means a container of alcoholic beverages, filled at the time of sale and sealed with a lid, for consumption at a place other than the licensee's premises. (26) "Proof gallon" means a U.S. gallon of liquor at 60 degrees on the Fahrenheit scale that contains 50% of alcohol by volume. (27) "Public place" means a place, building, or conveyance to which the public has or may be permitted to have access and any place of public resort. (28) "Retail price" means the price established by an agent for the sale of liquor to persons who do not hold liquor licenses. The retail price may not be less than the department's posted price. (29) "Rules" means rules adopted by the department or the department of justice pursuant to this code. (30) "Sacramental wine" means wine that contains more than 0.5% but not more than 24% of alcohol by volume that is manufactured and sold exclusively for use as sacramental wine or for other religious purposes. (31) "Special event", as it relates to an application for a beer and wine special permit, means a short, infrequent, out-of-the-ordinary occurrence, such as a picnic, fair, reception, or sporting contest. (32) "State liquor warehouse" means a building owned or under control of the department for the purpose of receiving, storing, transporting, or selling alcoholic beverages to agency

liquor stores. (33) "Storage depot" means a building or structure owned or operated by a brewer at any point in the state of Montana off and away from the premises of a brewery, which building or structure is equipped with refrigeration or cooling apparatus for the storage of beer and from which a brewer may sell or distribute beer as permitted by this code. (34) "Subwarehouse" means a building or structure owned or operated by a licensed combined beer wholesaler and table wine distributor, located at a site in Montana other than the site of the combined beer wholesaler's and table wine distributor's warehouse, and used for the receiving, storage, and distribution of beer, table wine, or sacramental wine as permitted by this code. (35) "Table wine" means wine that contains not more than 16% of alcohol by volume and includes hard cider. (36) "Table wine distributor" means a person importing into or purchasing in Montana table wine or sacramental wine for sale or resale to retailers licensed in Montana and a person importing into or purchasing in Montana table wine for sale or resale to agency liquor stores. (37) "Warehouse" means a building or structure located in Montana that is owned or operated by a licensed combined beer wholesaler and table wine distributor for the receiving, storage, and distribution of beer or table wine as permitted by this code. (38) "Wine" means an alcoholic beverage made from or containing the normal alcoholic fermentation of the juice of sound, ripe fruit or other agricultural products without addition or abstraction, except as may occur in the usual cellar treatment of clarifying and aging, and that contains more than 0.5% but not more than 24% of alcohol by volume. Wine may be ameliorated to correct natural deficiencies, sweetened, and fortified in accordance with applicable federal regulations and the customs and practices of the industry. Other alcoholic beverages not defined in this subsection but made in the manner of wine and labeled and sold as wine in accordance with federal regulations are also wine. History: Ap.p. Sec. 110, Ch. 387, L. 1975; Sec. 4-1-107, R.C.M. 1947; Ap.p. Sec. 14, Ch. 84, L. 1937; Sec. 4-416, R.C.M. 1947; amd. and redes. 4-2-204 by Sec. 93, Ch. 387, L. 1975; amd. Sec. 3, Ch. 496, L. 1977; Sec. 4-2-204, R.C.M. 1947; R.C.M. 1947, 4-1-107, 4-2-204(part); amd. Sec. 2, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 2, Ch. 5, L. 1979; amd. Sec. 2, Ch. 699, L. 1979; amd. Sec. 1, Ch. 519, L. 1981; amd. Sec. 1, Ch. 595, L. 1983; amd. Sec. 1, Ch. 16, L. 1985; amd. Sec. 1, Ch. 19, L. 1985; amd. Sec. 1, Ch. 141, L. 1985; amd. Sec. 4, Ch. 68, L. 1987; amd. Sec. 8, Ch. 314, L. 1991; amd. Sec. 1, Ch. 228, L. 1993; amd. Sec. 1, Ch. 414, L. 1993; amd. Sec. 14, Ch. 530, L. 1995; amd. Sec. 86, Ch. 42, L. 1997; amd. Sec. 1, Ch. 399, L. 1997; amd. Sec. 2, Ch. 110, L. 2003; amd. Sec. 1, Ch. 369, L. 2003; amd. Sec. 1, Ch. 101, L. 2009; amd. Sec. 2, Ch. 197, L. 2009; amd. Sec. 2, Ch. 414, L. 2009; amd. Sec. 1, Ch. 77, L. 2011; amd. Sec. 1, Ch. 115, L. 2013; amd. Sec. 3, Ch. 479, L. 2019; amd. Sec. 1, Ch. 25, L. 2021; amd. Sec. 2, Ch. 194, L. 2021; amd. Sec. 1, Ch. 33, L. 2023; amd. Sec. 1, Ch. 61, L. 2023; amd. Sec. 2, Ch. 138, L. 2023; amd. Sec. 2, Ch. 140, L. 2023; amd. Sec. 1, Ch. 585, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 2. Scope of Code and Exemptions 16-1-201. Acts not covered by code

16-1-201. Acts not covered by code. (1) Nothing in this code prevents any brewer, distiller, or other person, licensed under the provisions of any statute of the United States of America for the manufacture of alcoholic beverages, from having or keeping alcoholic beverages in a place and in the manner authorized by or under any such statute. (2) It is the policy of the state of Montana that the manufacture of alcoholic beverages, including the distillation, rectification, bottling, and processing as these terms are defined under the provisions of the laws of the United States, is authorized and permitted by any brewer, distiller, rectifier, or other person licensed under any provision of any statute of the United States of America in a place and in the manner authorized by or under any statute of the United States. The department may adopt rules that the department considers necessary with respect to the manufacture of alcoholic beverages. The rules may not be inconsistent with this code or with the statutes of the United States of America or regulations issued under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, inclusive, or regulations issued under the provisions of chapter 51 of the Internal Revenue Code. (3) Nothing in this code prevents: (a) the sale of liquor by any person to the department; (b) the purchase, importation, and sale of liquor by the department for the purposes of and in accordance with this code. History: En. Sec. 35, Ch. 105, L. 1933; re-en. Sec. 2815.94, R.C.M. 1935; amd. Sec. 1, Ch. 67, L. 1965; Sec. 4-140, R.C.M. 1947; amd. and redes. 4-1-202 by Sec. 14, Ch. 387, L. 1975; R.C.M. 1947, 4-1-202; amd. Sec. 5, Ch. 68, L. 1987; amd. Sec. 87, Ch. 42, L. 1997; amd. Sec. 2, Ch. 33, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 2. Scope of Code and Exemptions 16-1-202. Preparations not subject to code

16-1-202. Preparations not subject to code. (1) Subject to the provisions of this section, nothing in this code, by reason only that a preparation contains alcohol, prevents the manufacture, sale, purchase, or consumption of any: (a) extract, essence, or tincture or other preparation containing alcohol that is prepared according to a formula of the United States Pharmacopoeia; or (b) proprietary or patent medicine. (2) The department, if of the opinion that any proprietary or patent medicine, extract, essence, tincture, or preparation that contains alcohol or any other preparation of a solid, semisolid, or liquid nature that contains alcohol can be used or that an extract from the substance can be used as a beverage or as the ingredient of a beverage, may prohibit the retail sale or the possession of the substance for retail sale within the state, except by an agency liquor store or by persons licensed by the department to keep and sell the substance by retail in accordance with this code and the regulations made under this code. (3) The department shall notify the manufacturer or vendor of the proprietary or patent medicine, extract, essence, tincture, or preparation of the prohibition. History: En. Sec. 36, Ch. 105, L. 1933; re-en. Sec. 2815.95, R.C.M. 1935; Sec. 4-141, R.C.M. 1947; amd. and redes. 4-1-203 by Sec. 15, Ch. 387, L. 1975; R.C.M. 1947, 4-1-203(part); amd. Sec. 88, Ch. 42, L. 1997; amd. Sec. 3, Ch. 33, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of

AlcoholPart 2. Scope of Code and Exemptions16-1-203. Health professions exemption

16-1-203. Health professions exemption.A physician, dentist, veterinarian, or pharmacist, acting within the scope of the individual's professional responsibility and license to practice, who prescribes, prepares, or administers alcohol or substances containing alcohol and sells or charges a fee does not violate the prohibitions of this code. History: En. 4-1-204 by Sec. 111, Ch. 387, L. 1975; R.C.M. 1947, 4-1-204; amd. Sec. 186, Ch. 56, L. 2009.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 1. Administration and Taxation of AlcoholPart 2. Scope of Code and Exemptions16-1-204. Licensed hospital or health care facility

16-1-204. Licensed hospital or health care facility.Any person in charge of an institution regularly conducted as a licensed hospital or health care facility may administer alcoholic beverages purchased by the person to any patient or inmate of the institution and may charge for the alcoholic beverages. History: En. Sec. 34, Ch. 105, L. 1933; re-en. Sec. 2815.93, R.C.M. 1935; amd. Sec. 9, Ch. 154, L. 1965; Sec. 4-139, R.C.M. 1947; amd. and redes. 4-1-205 by Sec. 13, Ch. 387, L. 1975; R.C.M. 1947, 4-1-205(part); amd. Sec. 6, Ch. 68, L. 1987; amd. Sec. 187, Ch. 56, L. 2009.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 1. Administration and Taxation of AlcoholPart 2. Scope of Code and Exemptions16-1-205. Local option

16-1-205. Local option.The electors of a county may, by approving an initiative as provided under 7-5-131 through 7-5-135 and 7-5-137, prohibit the sale and consumption of liquor or of all alcoholic beverages within the county. If the initiative is presented to the board of county commissioners, the board may not approve it but shall submit the proposal to the people as provided in 7-5-132. History: En. 4-1-206 by Sec. 112, Ch. 387, L. 1975; R.C.M. 1947, 4-1-206; amd. Sec. 392, Ch. 571, L. 1979; amd. Sec. 13, Ch. 20, L. 1985; amd. Sec. 196, Ch. 49, L. 2015.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 1. Administration and Taxation of AlcoholPart 3. Department of Revenue Powers, Duties, and Limitations16-1-301. Administration of code

16-1-301. Administration of code.The department shall have the powers and duties to administer the Montana Alcoholic Beverage Code, including the general control, management, and supervision of all agency liquor stores. History: En. Sec. 4, Ch. 105, L. 1933; re-en. Sec. 2815.63, R.C.M. 1935; amd. Sec. 1, Ch. 30, L. 1937; amd. Sec. 1, Ch. 243, L. 1947; amd. Sec. 1, Ch. 140, L. 1949; amd. Sec. 1, Ch. 183, L. 1951; Sec. 4-107, R.C.M. 1947; amd. and redes. 4-1-301 by Sec. 3, Ch. 387, L. 1975; R.C.M. 1947, 4-1-301; amd. Sec. 15, Ch. 530, L. 1995.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 1. Administration and Taxation of AlcoholPart 3. Department of Revenue Powers, Duties, and Limitations16-1-302. Functions, powers, and duties of department

16-1-302. Functions, powers, and duties of department.The department has the following functions, duties, and powers: (1) to buy, import, have in its possession for sale, and sell liquors; (2) to control the possession, sale, and delivery of liquors in accordance with the provisions of this code; (3) to determine the municipalities where agency liquor stores are to be established throughout the state and the situation of the stores within these municipalities; (4) to lease, furnish, and equip any building or land required to administer its duties under this code; (5) to buy or lease plants and equipment necessary to administer its duties under this code; (6) to employ the necessary employees required to administer this code and to dismiss them, assign them their title, and define their respective duties and powers and to contract with the department of justice for investigative services and to receive and process, but not grant or deny, applications or to contract for the services of experts and persons engaged in the practice of a profession, if appropriate. If the department contracts for the receipt and processing of an application by the department of justice, the application must state that it is to be filed with the department of justice. (7) to determine the nature, form, and capacity of all packages to be used for containing alcoholic beverages kept or sold under this code; (8) to grant and issue licenses and permits under this code; (9) to place special restrictions and allowances on the use of a particular license, which must be endorsed on the face of the license, if the special restrictions and allowances are made pursuant to a hearing held in connection with the issuance of the license or if the special restrictions and allowances are agreed to by the licensee; (10) without limiting or being limited by the foregoing, to do all things necessary to administer this code or rules. History: En. Sec. 8, Ch. 105, L. 1933; re-en. Sec. 2815.67, R.C.M. 1935; amd. Sec. 3, Ch. 154, L. 1965; Sec. 4-112, R.C.M. 1947; amd. and redes. 4-1-302 by Sec. 5, Ch. 387, L. 1975; R.C.M. 1947, 4-1-302; amd. Sec. 6, Ch. 699, L. 1979; amd. Sec. 3, Ch. 156, L. 1991; amd. Sec. 2, Ch. 414, L. 1993; amd. Sec. 16, Ch. 530, L. 1995; amd. Sec. 3, Ch. 110, L. 2003; amd. Sec. 4, Ch. 33, L. 2023.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 1. Administration and Taxation of AlcoholPart 3. Department of Revenue Powers, Duties, and Limitations16-1-303. Department rules

16-1-303. Department rules.(1) The department and the department of justice may make rules not inconsistent with this code necessary to efficiently administer this code. (2) Rules made by the department may include but are not limited to the following: (a) regulating the contractual operation of agency liquor stores and warehouses in which liquor is kept or sold and prescribing the books and records to be kept; (b) prescribing the duties of department employees and regulating their conduct while in the discharge of

their duties; (c) governing the purchase of liquor and the furnishing of liquor to agency liquor stores; (d) determining the classes, varieties, and brands of liquor to be available for distribution from the state liquor warehouse. However, the department may not prohibit liquor that is sold in gelatin cups that are shelf stable and liquid at room temperature and may not prohibit the distribution of beer and table wine by a beer wholesaler or table wine distributor that are sold in gelatin cups that are shelf stable and liquid at room temperature. (e) prescribing the minimum hours during which agency liquor stores must be open for the sale of alcoholic beverages; (f) providing for the issuing and distributing of price lists showing the price to be paid by purchasers for each class, variety, or brand of liquor kept for sale; (g) prescribing forms to be used for the purpose of this code or the rules and the terms and conditions for permits and licenses issued and granted under this code; (h) prescribing the form of records of purchase of liquor and the reports to be made to the department and providing for inspection of the records; (i) prescribing the manner of giving and serving notices required by this code or the rules; (j) prescribing the fees payable for permits and licenses issued under this code for which fees are not prescribed in this code and prescribing the fees for anything done or permitted to be done under the rules; (k) prescribing, subject to the provisions of this code, the conditions and qualifications necessary for the obtaining of alcoholic beverage licenses and the books and records to be kept and the returns to be made by the licensees; (l) specifying and describing the place and the manner in which alcoholic beverages may be lawfully kept or stored; (m) specifying and regulating the time when and the manner by which vendors and brewers may deliver alcoholic beverages under this code and the time when and the manner by which alcoholic beverages, under this code, may be lawfully conveyed or carried; (n) governing the conduct, management, and equipment of any premises licensed to sell alcoholic beverages under this code; (o) providing for the imposition and collection of taxes and making rules respecting returns, accounting, and payment of the taxes to the department. (3) The department of justice may adopt rules to administer and implement its responsibilities under this title, including but not limited to rules providing for the inspection of licensed premises or premises where the sale of liquor has been proposed. (4) Whenever this code provides that an act may be done if authorized by rules, the department, subject to the restrictions in subsection (1), may make rules respecting the act. (5) The department shall use the negotiated rulemaking procedures contained in Title 2, chapter 5, for the purpose of adoption of rules related to the operation of agency liquor stores. However, the department may not be required to pay any expenses of the participants or of any persons engaged in the rulemaking process as provided for in 2-5-110. History: En. Sec. 9, Ch. 105, L. 1933; re-en. Sec. 2815.68, R.C.M. 1935; amd. Sec. 1, Ch. 43, L. 1965; amd. Sec. 1, Ch. 154, L. 1965; Sec. 4-113, R.C.M. 1947; amd. and redes. 4-1-303 by Sec. 6, Ch. 387, L. 1975; R.C.M. 1947, 4-1-303; amd. Sec. 7, Ch. 699, L. 1979; amd. Sec. 1, Ch. 47, L. 1983; amd. Sec. 7, Ch. 68, L. 1987; amd. Sec. 3, Ch. 414, L. 1993; amd. Sec. 17, Ch. 530, L. 1995; amd. Sec. 1, Ch. 565, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 3. Department of Revenue Powers, Duties, and Limitations 16-1-304. Prohibited acts

16-1-304. Prohibited acts. (1) An employee of the department involved in the operation of the state liquor warehouse, the issuance of licenses, or the collection of alcoholic beverages taxes or an employee of the department of justice directly involved with license applications or the investigation of matters concerning the manufacture, sale, and distribution of alcoholic beverages may not be directly or indirectly interested or engaged in any other business or undertaking dealing in alcoholic beverages, whether as owner, part owner, partner, member of a syndicate, shareholder, agent, or employee for the employee's own benefit or in a fiduciary capacity for some other person. (2) An employee of the state, a state agent, or any person having any ownership interest in an agency liquor store may not solicit or receive, directly or indirectly, any commission, remuneration, gift, or other thing tangible or intangible of value from any person or corporation selling or offering liquor for sale to the state pursuant to this code. (3) A person selling or offering for sale to or purchasing liquor from the state may not directly or indirectly offer to pay any commission, profit, or remuneration or make any gift to any employee of the state, any state agent, or any person having any ownership interest in an agency liquor store or to anyone on behalf of an employee. (4) The prohibition contained in subsection (3) does not prohibit the state from receiving samples of liquor for the purpose of chemical testing, subject to the following limitations: (a) Each manufacturer, distiller, compounder, rectifier, importer, or wholesale distributor or any other person, firm, or corporation proposing to sell any liquor to the state of Montana shall submit at the request of the department, without cost to the state prior to the original purchase, an analysis of each brand and may submit a representative sample not exceeding 25 fluid ounces of the merchandise to the state. (b) When a brand of liquor has been accepted for testing by the state, the state shall forward the sample, unopened and in its entirety, to a qualified chemical laboratory for analysis. (c) The state shall maintain written records of all samples received. The records must show the brand name, amount and from whom received, date received, the laboratory or chemist to whom forwarded, the state's action on the brand, and the person to whom delivered or other final disposition of the sample. (5) Liquor may not be withdrawn from the regular warehouse inventory for any purpose other than sale to an agent of an agency liquor store, returning to the supplier, or for destroying damaged or defective merchandise. The state shall maintain a written record including the type, brand, container size, number of bottles or other units, signatures of witnesses, and method of destruction or other disposition of damaged or defective warehouse merchandise. (6) The state may not require a company that manufactured, distilled, rectified, bottled, or processed and sold less than 200,000 proof gallons of liquor nationwide in the previous calendar year to maintain minimum amounts of liquor in the state warehouse while the distiller retains ownership of the product. History: En. Sec. 48, Ch. 105, L. 1933; re-en. Sec. 2815.107, R.C.M. 1935; amd. Sec. 1, Ch. 144, L. 1965; amd. Sec. 1, Ch. 72, L. 1971; Sec. 4-153, R.C.M. 1947; amd. and redes. 4-1-304 by Sec. 18, Ch. 387, L. 1975; amd. Sec. 1, Ch. 496, L. 1977; R.C.M. 1947, 4-1-304; amd. Sec. 8, Ch. 699, L. 1979; amd. Sec. 1, Ch. 766, L. 1991; amd. Sec. 4, Ch. 414, L. 1993; amd. Sec. 18, Ch. 530, L. 1995; amd. Sec. 4, Ch. 110, L. 2003; amd. Sec. 5, Ch. 33, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 3. Department of Revenue Powers, Duties, and Limitations 16-1-305. Title to property and moneys -- administrative expenses

16-1-305. Title to property and moneys -- administrative expenses. All property, whether real or personal, all moneys acquired, administered, possessed, or received by the department, and all profits earned in the administration of this code shall be the property of the state. All expenses, debts, and liabilities incurred by the department in connection with the administration of this code shall be paid by the department from the moneys received by the department under such administration. History: En. Sec. 91, Ch. 105, L. 1933; re-en. Sec. 2815.151, R.C.M. 1935; Sec. 4-226, R.C.M. 1947; amd. and redes. 4-1-306 by Sec. 40, Ch. 387, L. 1975; R.C.M. 1947, 4-1-306.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 3. Department of Revenue Powers, Duties, and Limitations 16-1-306. Revenue to be paid to state treasurer

16-1-306. Revenue to be paid to state treasurer. Except as provided in 16-1-404, 16-1-406, and 16-1-411, all fees, charges, taxes, and revenue collected by or under authority of the department must, in accordance with the provisions of 17-2-124, be deposited to the credit of the state general fund. History: En. Sec. 49, Ch. 106, L. 1933; amd. Sec. 17, Ch. 46, Ex. L. 1933; amd. Sec. 20B, Ch. 109, L. 1935; re-en. Sec. 2815.50, R.C.M. 1935; amd. Sec. 9, Ch. 14, L. 1941; amd. Sec. 1, Ch. 121, L. 1949; amd. Sec. 20, Ch. 249, L. 1967; amd. Sec. 3, Ch. 296, L. 1969; amd. Sec. 3, Ch. 421, L. 1971; Sec. 4-347, R.C.M. 1947; amd. and redes. 4-1-407 by Sec. 72, Ch. 387, L. 1975; amd. Sec. 1, Ch. 286, L. 1977; R.C.M. 1947, 4-1-407; amd. Sec. 54, Ch. 370, L. 1987; amd. Sec. 20, Ch. 455, L. 1993; amd. Sec. 23, Ch. 18, L. 1995; amd. Sec. 13, Ch. 422, L. 1997; amd. Sec. 18, Ch. 475, L. 2007; amd. Sec. 36, Ch. 2, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 3. Department of Revenue Powers, Duties, and Limitations 16-1-307. State-allowed industry trade shows -- rulemaking

16-1-307. State-allowed industry trade shows -- rulemaking. (1) The department may allow industry trade shows to allow alcoholic beverage manufacturers the ability to showcase alcoholic beverage products to industry trade show attendees. The department may partner with other state agencies to allow an industry trade show. (2) An alcoholic beverage manufacturer may: (a) using its own equipment, trucks, and employees or using a common carrier, deliver alcoholic beverages it produces from its premises to the industry trade show; and (b) provide samples of its products to attendees of the industry trade show in quantities established by the department. (3) The department may adopt rules to implement this section. (4) The department may only recoup administrative costs and may not endorse vendors for a trade show as provided in this section. History: En. Sec. 1, Ch. 41, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-401. Liquor excise tax

16-1-401. Liquor excise tax. (1) Except as provided in subsection (3), the department shall collect at the time of the sale and delivery of any liquor as authorized under any provision of the laws of the state of Montana an excise tax at a rate that is the percent of the retail selling price determined in accordance with the following schedule based on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed the liquor and sold the specified number of proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section: (2) The department shall retain the amount of the excise tax received in a separate account and shall, in accordance with the provisions of 17-2-124, deposit, to the credit of the general fund, the amount collected and received not later than the 10th day of each month. (3) The following are exempt from the tax imposed by this section: (a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a brewery under conditions set by the department as provided in 16-3-214; and (b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions set by the department as provided in 16-4-311 and 16-4-312. History: En. Sec. 15, Ch. 84, L. 1937; amd. Sec. 1, Ch. 41, L. 1939; amd. Sec. 1, Ch. 180, L. 1957; Approved at referendum, Nov. 4, 1958; Sec. 4-417, R.C.M. 1947; amd. and redes. 4-1-403 by Sec. 94, Ch. 387, L. 1975; R.C.M. 1947, 4-1-403; amd. Sec. 1, Ch. 690, L. 1985; amd. Sec. 21, Ch. 455, L. 1993; amd. Sec. 24, Ch. 18, L. 1995; amd. Sec. 19, Ch. 475, L. 2007; amd. Sec. 1, Ch. 259, L. 2009; amd. Sec. 1, Ch. 277, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-402. Payment of excise tax by carriers

16-1-402. Payment of excise tax by carriers. (1) Every airline or railroad operating in the state of Montana and selling liquor purchased outside this state for consumption within this state shall pay to the department the excise taxes and state markup that would be applicable to the liquor if purchased from an agency liquor store. (2) The amount of excise taxes and state markup payable must be determined by multiplying the following factors: (a) the average liquor used per departure; (b) the number of departures from Montana on which liquor is served; (c) the ratio of Montana revenue passenger miles to system revenue passenger miles; and (d) the applicable excise tax and state markup rates. (3) From the product, the carrier shall subtract the amount of excise taxes and state markup on purchases of liquor made within this state. History: En. 4-4-110 by Sec. 115, Ch. 387, L. 1975; R.C.M. 1947, 4-4-110; amd. Sec. 19, Ch. 530, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-403. Excise tax accounting methods -- report forms -- penalty and interest

16-1-403. Excise tax accounting methods -- report forms -- penalty and interest. (1) Any carrier aggrieved by the application of the method provided in 16-1-402 may petition the department for use of an alternate method. If the department finds that the application of the method will be unjust to the carrier, it may allow the use of the method petitioned for by the carrier or may use another method that fairly reflects the liquor purchased outside this state and served for consumption within this state. (2) (a) The department shall prescribe report forms that must be used by the carriers in reporting their sales and computing their liability for excise taxes and markup. Report forms must be filed and payment of excise taxes and state markup must be made on a quarterly basis. The filing of report forms and payment of excise taxes and state markup must be made not later than the last day of the month immediately following the close of each quarterly period. (b) A person who fails to file a required report form or to pay the excise taxes or state markup due under this part is subject to the penalty and interest provisions of 15-1-216. History: En. 4-4-111 by Sec. 116, Ch. 387, L. 1975; R.C.M. 1947, 4-4-111; amd. Sec. 3, Ch. 5, L. 1979; amd. Sec. 47, Ch. 427, L. 1999.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-404. License tax on liquor -- amount -- distribution of proceeds

16-1-404. License tax on liquor -- amount -- distribution of proceeds. (1) Except as provided in subsection (4), the department shall collect at the time of sale and delivery of any liquor under any provisions of the laws of the state of Montana a license tax of: (a) 10% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section; (b) 8.6% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold more than 50,000 proof gallons but not more than 200,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section; (c) 2% of the retail selling price on all liquor sold and delivered in the state by a company that manufactured, distilled, rectified, bottled, or processed and that sold not more than 50,000 proof gallons of liquor nationwide in the calendar year preceding imposition of the tax pursuant to this section. (2) The license tax must be charged and collected on all liquor produced in or brought into the state and taxed by the department. The retail selling price must be computed by adding to the cost of the liquor the state markup of 40.5% for all liquor other than sacramental wine, for which the markup must be 20%, and fortified wine containing more than 16% but not more than 24% alcohol by volume, for which the markup must be 51%. The license tax must be figured in the same manner as the state excise tax and is in addition to the state excise tax. The department shall retain in a separate account the amount of the license tax received. The department, in accordance with the provisions of 17-2-124, shall allocate the revenue as follows: (a) Thirty-four and one-half percent is allocated to the state general fund. (b) Sixty-five and one-half percent must be deposited in the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency. (3) The license tax proceeds that are allocated to the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency must be credited quarterly to the department of public health and human services. The legislature may appropriate a portion of the license tax proceeds to support alcohol and chemical dependency programs. The remainder must be distributed as provided in 53-24-206. (4) The following are exempt from the tax and markup imposed by this section: (a) flavors and other nonbeverage ingredients containing alcohol that are imported or purchased by a brewery under conditions set by the department as provided in 16-3-214; and (b) necessary distilled spirits imported in bulk for use by a distillery or microdistillery under conditions set by the department as provided in 16-4-311 and 16-4-312. History: En. Sec. 1, Ch. 217, L. 1957; amd. Sec. 1, Ch. 153, L. 1969; amd. Sec. 17, Ch. 302, L. 1974; Sec. 4-240, R.C.M. 1947; amd. and redes. 4-1-401 by Sec. 44, Ch. 387, L. 1975; amd. Sec. 8, Ch. 414, L. 1977; R.C.M. 1947, 4-1-401; amd. Sec. 6, Ch. 711, L. 1979; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 2, Ch. 690, L. 1985; amd. Sec. 13, Ch. 703, L. 1985; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 22, Ch. 455, L. 1993; amd. Sec. 25, Ch. 18, L. 1995; amd. Sec. 51, Ch. 546, L. 1995; amd. Sec. 14, Ch. 422, L. 1997; amd. Sec. 9, Ch. 389, L. 1999; amd. Sec. 1, Ch. 470, L. 2001; amd. Sec. 104, Ch. 574, L. 2001; amd. Sec. 4, Ch. 591, L. 2005; amd. Sec. 20, Ch. 475, L. 2007; amd. Sec. 2, Ch. 277, L. 2011; amd. Sec. 1, Ch. 362, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-406. Taxes on beer

16-1-406. Taxes on beer. (1) (a) A tax is imposed on each barrel of 31 gallons of beer sold in Montana by a wholesaler or by a licensed brewer directly to retailers, special permittees, or the public. The tax is based on the total number of barrels of beer produced by a brewer in a year. A brewer who produces fewer than 10,000 barrels of beer a year is taxed on the following increments of production: (i) up to 5,000 barrels, \$1.30; (ii) 5,001 barrels to 10,000 barrels, \$2.30. (b) The tax on beer sold for a brewer who produces over 10,000 barrels is \$4.30. (2) The tax imposed pursuant to subsection (1) on a wholesaler and an electronic beer tax return is due at the end of each quarter from the wholesaler on beer sold by the wholesaler during that quarter. The tax imposed pursuant to subsection (1) on a licensed brewer and an electronic beer tax return is due at the end of each quarter from the brewer for beer sold during the previous quarter. The department shall compute the tax due on beer sold in containers other than barrels or in barrels of more or less capacity than 31 gallons. (3) Each quarter, in accordance with the provisions of 17-2-124, of the

tax collected pursuant to subsection (1), an amount equal to: (a) 23.26% must be deposited in the state treasury to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency; and (b) the balance must be deposited in the state general fund. History: En. Sec. 20, Ch. 106, L. 1933; amd. Sec. 8, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.29, R.C.M. 1935; amd. Sec. 2, Ch. 135, L. 1959; amd. Sec. 2, Ch. 296, L. 1969; amd. Sec. 2, Ch. 421, L. 1971; amd. Sec. 18, Ch. 302, L. 1974; Sec. 4-324, R.C.M. 1947; redes. 4-1-404 by Sec. 120, Ch. 387, L. 1975; amd. Sec. 9, Ch. 414, L. 1977; R.C.M. 1947, 4-1-404(part); amd. Sec. 1, Ch. 172, L. 1987; amd. Sec. 15, Ch. 422, L. 1997; amd. Sec. 1, Ch. 405, L. 2001; amd. Sec. 2, Ch. 470, L. 2001; amd. Secs. 105, 255(7), Ch. 574, L. 2001; amd. Sec. 21, Ch. 475, L. 2007; amd. Sec. 1, Ch. 271, L. 2017; amd. Sec. 1, Ch. 68, L. 2023; amd. Sec. 6, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-411. Tax on wine and hard cider -- penalty and interest

16-1-411. Tax on wine and hard cider -- penalty and interest. (1) (a) A tax of 27 cents a liter is imposed on sacramental wine and table wine, except hard cider, sold by: (i) a table wine distributor to licensed retailers, agency liquor stores, and special permit holders; (ii) a licensed winery directly to licensed retailers, special permit holders, or the public; and (iii) a registered winery directly to the public. (b) A tax of 3.7 cents a liter is imposed on hard cider sold by: (i) a table wine distributor to licensed retailers, agency liquor stores, and special permit holders; (ii) a licensed winery directly to retailers, special permit holders, or the public; and (iii) a registered winery directly to the public. (2) The tax imposed in subsection (1) must be paid as follows: (a) A winery registered pursuant to 16-4-107 that sells more than 1,000 liters of sacramental wine, table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1 and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th day of each quarter during the following period that begins October 1 and ends September 30. (b) A winery registered pursuant to 16-4-107 that sells 1,000 liters or less of sacramental wine, table wine, or hard cider, in any combination, to consumers in the state during a period beginning October 1 and ending September 30 shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on or before October 15 of the following period that begins October 1 and ends September 30. (c) A winery licensed pursuant to 16-4-107 that sells sacramental wine, table wine, or hard cider to consumers or licensed retailers in the state or that sells table wine to agency liquor stores for sale to consumers in the state shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th of each quarter for sales in the previous quarter. (d) A table wine distributor that sells sacramental wine, table wine, or hard cider in the state shall electronically file a wine tax return or a hard cider tax return, or both, and pay the tax on a quarterly basis on or before the 15th day of each quarter for sales in the previous quarter. (3) The tax paid by a winery or by a table wine distributor in accordance with subsection (2) must, in accordance with the provisions of 17-2-124, be distributed as follows: (a) 69% to the state general fund; and (b) 31% to the state special revenue fund to the credit of the department of public health and human services for the treatment, rehabilitation, and prevention of alcoholism and chemical dependency. (4) The tax computed and paid in accordance with this section is the only tax imposed by the state or any of its subdivisions, including cities and towns. (5) For the purposes of this section, "table wine" has the meaning assigned in 16-1-106 but does not include hard cider. History: En. Sec. 9, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 5, Ch. 699, L. 1979; amd. Sec. 1, Ch. 219, L. 1981; amd. Sec. 1, Ch. 241, L. 1981; amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 15, Ch. 703, L. 1985; amd. Sec. 2, Ch. 721, L. 1985; amd. Sec. 1, Ch. 262, L. 1991; amd. Sec. 24, Ch. 15, Sp. L. July 1992; amd. Sec. 2, Ch. 60, L. 1993; amd. Sec. 25, Ch. 455, L. 1993; amd. Sec. 28, Ch. 18, L. 1995; amd. Sec. 53, Ch. 546, L. 1995; amd. Sec. 2, Ch. 399, L. 1997; amd. Sec. 49, Ch. 427, L. 1999; amd. Sec. 3, Ch. 470, L. 2001; amd. Sec. 106, Ch. 574, L. 2001; amd. Sec. 22, Ch. 475, L. 2007; amd. Sec. 2, Ch. 115, L. 2013; amd. Sec. 4, Ch. 184, L. 2013; amd. Sec. 1, Ch. 29, L. 2019; amd. Sec. 2, Ch. 68, L. 2023; amd. Sec. 7, Ch. 76, L. 2023; amd. Sec. 1, Ch. 622, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-412. Deficiency assessment -- penalty and interest -- statute of limitations

16-1-412. Deficiency assessment -- penalty and interest -- statute of limitations. (1) If the department determines that the amount of the tax due is greater than the amount disclosed by a return, it shall mail to the licensee a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The notice must contain a statement that if payment is not made, a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to 15-1-211. (2) Penalty and interest must be added to a deficiency assessment as provided in 15-1-216. The department may waive any penalty pursuant to 15-1-206. (3) The amount of tax due under any return may be determined by the department within 3 years after the return was filed, regardless of whether the return was filed on or after the last day prescribed for filing. For the purposes of this section, a return due under this part and filed before the last day prescribed by law or rule is considered to be filed on the last day prescribed for filing. History: En. Sec. 1, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-413. Procedure to compute tax in absence of statement -- estimation of tax -- failure to pay -- penalty and interest

16-1-413. Procedure to compute tax in absence of statement -- estimation of tax -- failure to pay -- penalty and interest. (1) If the licensee fails to file any return required by this part within the time required, the department may, at any time, audit the licensee or

estimate the taxes due from any information in its possession and, based on the audit or estimate, assess the licensee for the taxes, penalties, and interest due the state. (2) The department shall impose a penalty and interest as provided in 15-1-216. The department shall mail to the licensee a notice, pursuant to 15-1-211, of the tax, penalty, and interest proposed to be assessed. The notice must contain a statement that if payment is not made a warrant for distraint may be filed. The licensee may seek review of the determination pursuant to 15-1-211. The department may waive any penalty pursuant to 15-1-206. History: En. Sec. 2, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-414. Authority to collect delinquent taxes

16-1-414. Authority to collect delinquent taxes. (1) (a) The department shall collect taxes that are delinquent as determined under this part. (b) If a tax imposed by this part or any portion of the tax is not paid when due, the department shall impose a penalty and interest as provided in 15-1-216 and the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. (2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the licensee from the state, except wages subject to the provisions of 25-13-614 and retirement benefits. (3) As provided in 15-1-705, the licensee has the right to a review of the tax liability prior to any offset by the department. (4) The department may file a claim for state funds on behalf of the licensee if a claim is required before funds are available for offset. (5) An action may not be maintained to enjoin the collection of the tax or any part of the tax. History: En. Sec. 3, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-415. Refunds -- interest -- limitations

16-1-415. Refunds -- interest -- limitations. (1) A claim for a refund or credit as a result of overpayment of taxes collected under this part must be filed within 3 years of the date that the return was due, without regard to any extension of time for filing. (2) (a) Interest paid by the department on an overpayment must be paid or credited at the same rate as the rate charged on delinquent taxes under 15-1-216. (b) Except as provided in subsection (2)(c), interest must be paid from the date that the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information. (c) The department is not required to pay interest if: (i) the overpayment is refunded or credited within 6 months of the date that a claim was filed; or (ii) the amount of overpayment and interest does not exceed \$1. History: En. Sec. 4, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-416. Department rulemaking

16-1-416. Department rulemaking. The department shall prescribe rules necessary to carry out the purposes of imposing and collecting the tax on the sale of alcoholic beverages. History: En. Sec. 5, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-417. through 16-1-420 reserved

16-1-417 through 16-1-420 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-421. Terminated

16-1-421. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992. History: En. Sec. 20, Ch. 15, Sp. L. July 1992; amd. Sec. 26, Ch. 455, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-422. Terminated

16-1-422. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992. History: En. Sec. 21, Ch. 15, Sp. L. July 1992; amd. Sec. 27, Ch. 455, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-423. Terminated

16-1-423. Terminated. Sec. 39, Ch. 15, Sp. L. July 1992. History: En. Sec. 22, Ch. 15, Sp. L. July 1992; amd. Sec. 28, Ch. 455, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 1. Administration and Taxation of Alcohol Part 4. Taxation of Alcoholic Beverages 16-1-424. Distillery -- reporting -- tax payment -- penalties

16-1-424. Distillery -- reporting -- tax payment -- penalties. (1) Except as provided in subsection (3), a distillery licensed to do business in this state under 16-4-311 shall, on or before the 15th day of each month, electronically on a form prescribed by the

department, make an exact return to the department reporting the total amount of liquor samples provided with or without charge at the distillery in the previous month. The department may at any time make an examination of the distillery's books and of the premises and may otherwise check the accuracy of the return. (2) The taxes imposed pursuant to 16-1-401 and 16-1-404 on a distillery licensed under 16-4-311 are due on or before the 15th day of each month from the distiller for liquor sold during the previous month. The department shall adopt rules and provide forms for the proper allocation of taxes. (3) A distillery for which the tax is less than \$10 a month from the sale of samples is not required to file a return or pay the tax for that month under this section. History: En. Sec. 7, Ch. 591, L. 2005; amd. Sec. 8, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 1. Policy and Definitions 16-10-101. Short title

16-10-101. Short title. This chapter shall be known, designated, and cited as "The Montana Cigarette Sales Act". History: En. Sec. 1, Ch. 258, L. 1965; R.C.M. 1947, 51-302.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 1. Policy and Definitions 16-10-102. Declaration of policy

16-10-102. Declaration of policy. The advertising, offering for sale, or sale of cigarettes below cost in the retail and wholesale trades is an unfair and deceptive business practice. It is the policy of the state to promote the public welfare, and it is the purpose of this chapter to carry out that policy in the public interest, stabilize the sale of cigarettes, and maximize and protect the state revenues from this source. History: En. Preamble, Ch. 258, L. 1965; R.C.M. 1947, 51-301; amd. Sec. 5, Ch. 5, L. 1979; amd. Sec. 3, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 1. Policy and Definitions 16-10-103. Definitions

16-10-103. Definitions. When used in this chapter, except when the context clearly indicates a different meaning, the following definitions apply: (1) "Basic cost of cigarettes" means the list cost of cigarettes as reported to the department by the manufacturer without any deductions for discounts or taxes of any kind. (2) "Business day" means any day other than a Sunday or a legal holiday. (3) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of nontobacco paper or any other substance or material except tobacco. (4) (a) The term "cost to the retailer" means the cost to the wholesaler from whom the cigarettes were purchased by the retailer plus the cost of doing business by the retailer as evidenced by the standards and methods of accounting regularly employed by the retailer in the retailer's determination of costs for income tax reporting purposes for the total operation of the retailer's establishment. Cost of doing business by the retailer includes, without limitation: (i) labor costs (including salaries of executives and officers); (ii) rent; (iii) depreciation; (iv) selling costs; (v) maintenance of equipment; (vi) delivery costs; (vii) all types of licenses; (viii) all types of business taxes; (ix) all types of insurance; (x) all types of advertising; (xi) any rebates, patronage dividends, or concessions, no matter how defined; (xii) expenses prior to opening for business, including all startup costs, land acquisition costs, construction costs, costs for marketing studies, and similar expenses; (xiii) any district, central, regional, and national administrative and operation costs and expenses; and (xiv) all other indirect or overhead costs with respect to the operation of the business of the retailer. (b) The cost of doing business by the retailer must be expressed as a percentage and applied to the cost to the wholesaler from whom the cigarettes were purchased. (c) A retailer who purchases directly from a manufacturer or from any other person at or at less than or about the price normally and usually charged for purchases in wholesale quantities shall, in determining the cost to the retailer, add the cost of doing business by the wholesaler, as determined in subsection (5)(b), to the basic cost of cigarettes to the retailer, as well as the cost of doing business by the retailer. (d) In the absence of the filing with the department of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the retailer is presumed to be 10% of the cost to the wholesaler. (5) (a) The term "cost to the wholesaler" means the basic cost of cigarettes purchased by the wholesaler from a manufacturer plus the cost of doing business by the wholesaler as evidenced by the standards and methods of accounting regularly employed by the wholesaler in the wholesaler's determination of costs for income tax reporting purposes for the total operation of the wholesaler's business. The cost of doing business by the wholesaler includes, without limitation: (i) labor costs (including salaries of executives and officers); (ii) rent; (iii) depreciation; (iv) selling costs; (v) maintenance of equipment; (vi) delivery costs; (vii) all types of licenses; (viii) all types of business taxes; (ix) all types of insurance; (x) all types of advertising; (xi) any rebates, patronage dividends, or concessions, no matter how defined; (xii) expenses prior to opening for business, including all startup costs, land acquisition costs, construction costs, costs for marketing studies, and similar expenses; (xiii) any district, central, regional, and national administrative and operation costs and expenses; and (xiv) all other indirect or overhead costs with respect to the operation of the wholesaler. (b) The cost of doing business by a wholesaler must be expressed as a percentage and applied to the basic cost of cigarettes. (c) In the absence of the filing with the department of proof that the department declares to be satisfactory of a lesser or higher cost of doing business by the wholesaler making the sale, the cost of doing business by the wholesaler is presumed to be 5% of the basic cost of cigarettes to the wholesaler plus cartage to the retail outlet if performed or paid for by the wholesaler. The cartage cost, in the absence of the filing with the department of satisfactory proof of a lesser or higher cost, is considered to be 3/4 of 1% of the basic cost of cigarettes to the wholesaler. (6) "Department" means the department of revenue provided for in 2-15-1301 and, when the meaning of the context

requires, includes its employees. (7) "Manufacturer" means any person who fabricates cigarettes from raw materials for the purpose of resale. (8) "Person" means an individual, firm, association, company, partnership, corporation, or other business entity, however formed. (9) "Retailer" means a person who operates a store, stand, booth, concession, or other outlet for the purpose of selling cigarettes at retail. (10) "Sale" or "sell" means any transfer of cigarettes for consideration, exchange, barter, gift, offer for sale, or distribution, in any manner or by any means. (11) "Sell at retail", "sale at retail", or "retail sales" means any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the retailer's business, to the purchaser for consumption or use. (12) "Sell at wholesale", "sale at wholesale", or "wholesale sales" means and includes any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale. (13) "Sole distributor" means a person who either causes a unique brand of cigarettes to be manufactured according to distinctive specifications and acts as the exclusive distributor of the cigarettes or is the exclusive distributor of a brand of cigarettes within the continental United States. (14) "Wholesaler" means a person who services retail outlets by maintaining an established place of business for the purchase of cigarettes and who: (a) purchases cigarettes from a manufacturer for the purpose of selling cigarettes to retailers; or (b) purchases cigarettes from a sole distributor, another wholesaler, or any other person for the purpose of selling cigarettes to retailers. History: En. Sec. 2, Ch. 258, L. 1965; amd. Sec. 1, Ch. 130, L. 1967; amd. Sec. 16, Ch. 391, L. 1973; R.C.M. 1947, 51-303; amd. Sec. 4, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 1. Policy and Definitions 16-10-104. Powers of department

16-10-104. Powers of department. (1) In addition to the penalties and rights imposed and set forth in 16-10-402, the department shall enforce the provisions of this chapter. (2) The department has the power to adopt, amend, and repeal rules necessary to enforce and administer the provisions of this chapter. History: En. Sec. 13, Ch. 258, L. 1965; R.C.M. 1947, 51-314(part); amd. Sec. 5, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 1. Policy and Definitions 16-10-105. through 16-10-109 reserved

16-10-105 through 16-10-109 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 1. Policy and Definitions 16-10-110. Licensure as both wholesaler and retailer allowed

16-10-110. Licensure as both wholesaler and retailer allowed. This chapter does not prevent a person from being licensed as both a wholesaler and a retailer. History: En. Sec. 1, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 2. Sales Price of Cigarettes 16-10-201. Wholesaler-to-wholesaler sales

16-10-201. Wholesaler-to-wholesaler sales. When one wholesaler sells cigarettes to any other wholesaler, the former may not be required to include in the selling price to the latter the cost to the wholesaler, as provided by 16-10-103, except that no such sale may be made at a price less than the basic cost of cigarettes, as defined in 16-10-103, but the latter wholesaler, upon resale to a retailer, is considered to be the wholesaler governed by the provisions of 16-10-103(5). History: En. Sec. 4, Ch. 258, L. 1965; R.C.M. 1947, 51-305; amd. Sec. 6, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 2. Sales Price of Cigarettes 16-10-203. Sales to meet competition permitted

16-10-203. Sales to meet competition permitted. (1) (a) A retailer may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is selling the same article at cost to the competitor as a retailer as prescribed in this chapter. (b) Any wholesaler may advertise, offer to sell, or sell cigarettes at a price made in good faith to meet the price of a competitor who is rendering the same type of service and is selling the same article at cost to the competitor as a wholesaler as prescribed in this chapter. (c) The price of cigarettes advertised, offered for sale, or sold under the exceptions specified in 16-10-304 may not be considered the price of a competitor and may not be used as a basis for establishing prices below cost, and the price established at a bankruptcy sale may not be considered the price of a competitor within the purview of this section. (2) In the absence of proof of the "price of a competitor" under this section, the "lowest cost to the retailer" or the "lowest cost to the wholesaler", determined by any "cost survey" made pursuant to 16-10-303, may be considered to be the "price of a competitor" within the meaning of this section. History: En. Sec. 7, Ch. 258, L. 1965; R.C.M. 1947, 51-308; amd. Sec. 209, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 2. Sales Price of Cigarettes 16-10-204. Determining cost -- prices below cost -- free merchandise

16-10-204. Determining cost -- prices below cost -- free merchandise. (1) In determining the cost to the retailer and the cost to the wholesaler, the department or a court shall receive and consider evidence tending to show that any person accused of violating the provisions of this chapter purchased cigarettes, with respect to the sale of which complaint is made, below either the cost to the

retailer or the cost to the wholesaler, depending upon the status of the person accused, or upon terms or in a manner or under invoices that conceal the true cost, discounts, or terms of purchase. Further, the department or a court shall receive and consider evidence of the normal, customary, and prevailing terms and discounts in connection with other sales of a similar nature in this state. (2) Merchandise given gratis or payment made to a retailer or wholesaler by the manufacturer of the merchandise for display, advertising, promotion purposes, any type of discount, or otherwise may not be considered in determining the cost of cigarettes to the retailer or wholesaler. History: En. Sec. 9, Ch. 258, L. 1965; R.C.M. 1947, 51-310; amd. Sec. 7, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 2. Sales Price of Cigarettes 16-10-205. Purchases outside ordinary trade channels

16-10-205. Purchases outside ordinary trade channels. In establishing the cost of cigarettes to the retailer or wholesaler, the invoice cost of said cigarettes purchased at a forced, bankrupt, or closeout sale or other sale outside of the ordinary channels of trade may not be used as a basis for justifying a price lower than one based upon the replacement cost of the cigarettes to the retailer or wholesaler in the quantity last purchased through the ordinary channels of trade. History: En. Sec. 10, Ch. 258, L. 1965; R.C.M. 1947, 51-311.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 3. Unlawful Practices -- Exceptions 16-10-301. Sales below cost

16-10-301. Sales below cost. It is unlawful and a violation of this chapter: (1) for any retailer or wholesaler to: (a) advertise, offer to sell, or sell, at retail or wholesale, cigarettes at less than cost to a retailer or wholesaler; (b) offer a rebate in price, give a rebate in price, offer a concession of any kind, or give a concession of any kind in connection with the sale of cigarettes that are sold by the wholesaler or retailer in the ordinary course of trade or business if the rebate or concession offered or given in connection with the sale of cigarettes is not offered or given by the wholesaler or retailer in the same ratio with respect to all other merchandise to which the rebate or concession may lawfully be given; (2) for any retailer to: (a) induce or attempt to induce or procure or attempt to procure the purchase of cigarettes at a price less than the cost to the wholesaler, as defined in this chapter; (b) induce or attempt to induce or procure or attempt to procure any rebate or concession of any kind or nature whatever in connection with the purchase of cigarettes. History: En. Sec. 3, Ch. 258, L. 1965; R.C.M. 1947, 51-304(1), (2), (4); amd. Sec. 8, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 3. Unlawful Practices -- Exceptions 16-10-302. Illegal contracts

16-10-302. Illegal contracts. Any contract, expressed or implied, made by any person in violation of any of the provisions of this chapter is declared to be an illegal and void contract, and no recovery thereon shall be had. History: En. Sec. 8, Ch. 258, L. 1965; R.C.M. 1947, 51-309.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 3. Unlawful Practices -- Exceptions 16-10-303. Cost survey as evidence

16-10-303. Cost survey as evidence. When a cost survey pursuant to cost accounting practices used for income tax reporting purposes has been made by the department, a trade association, an industry group, a wholesaler, or a retailer to establish either the lowest cost to the retailer or the lowest cost to the wholesaler, or both, for the state, the cost survey is competent evidence for use in proving the cost to the person complained against within the provisions of this chapter. History: En. Sec. 11, Ch. 258, L. 1965; R.C.M. 1947, 51-312; amd. Sec. 9, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 3. Unlawful Practices -- Exceptions 16-10-304. Exceptions

16-10-304. Exceptions. The provisions of this chapter shall not apply to sales at retail or sales at wholesale made: (1) as an isolated transaction and not in the usual course of business; (2) where cigarettes are advertised, offered for sale, or sold in bona fide clearance sales for the purpose of discontinuing trade in such cigarettes and said advertising, offer to sell, or sale shall state the reason thereof and the quantity of such cigarettes advertised, offered for sale, or sold as imperfect or damaged and said advertising, offer to sell, or sale shall state the reason therefor and the quantity of such cigarettes advertised, offered for sale, or to be sold; (3) where cigarettes are sold upon the final liquidation of a business; or (4) where cigarettes are advertised, offered for sale, or sold by any fiduciary or other officer acting under the order or direction of any court. History: En. Sec. 6, Ch. 258, L. 1965; R.C.M. 1947, 51-307.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 3. Unlawful Practices -- Exceptions 16-10-306. Cigarette and tobacco product labels -- federal requirements -- penalty

16-10-306. Cigarette and tobacco product labels -- federal requirements -- penalty. (1) A person may not knowingly import into this state for sale or other distribution any package of cigarettes or tobacco product that violates any federal: (a) tax, trademark, or copyright law; or (b) requirement for the placement of labels, warnings, or other information, including health hazards, that must be

on the container or individual package. (2) A person may not sell or offer to sell a package of cigarettes or tobacco product or affix the tax insignia on a package of cigarettes, as provided in 16-11-113, knowing that: (a) the package is marked as manufactured for use outside of the United States; (b) any label or language has been altered from the manufacturer's original packaging and labeling to conceal the fact that the package was manufactured for use outside of the United States; or (c) a stamp, label, or decal was affixed to conceal the fact that the package was manufactured for use outside of the United States. (3) A package of cigarettes or tobacco product found in this state that is marked for use outside of the United States is contraband and may be seized without a warrant by the department, any agent of the department, or any peace officer. Any cigarettes or tobacco products seized as contraband must be destroyed by the department. (4) (a) The department may proceed against a person who violates this section through a civil action under the civil enforcement provisions of Title 16, chapter 10, part 4. (b) A violation of this section is criminally punishable by a fine in an amount not to exceed \$10,000. (5) For the purposes of this section, "cigarette" has the meaning defined in 16-11-102 and "tobacco product" means all products containing tobacco for human consumption or use except cigarettes. History: En. Sec. 1, Ch. 465, L. 1999; amd. Sec. 7, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 4. Enforcement 16-10-402. Injunctive and other civil relief

16-10-402. Injunctive and other civil relief. (1) In addition to the penalty provided by 16-10-403, any person injured or any trade association that represents a person injured by any violation of this chapter may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation. If in the action a violation of this chapter is established, the court shall enjoin and restrain or otherwise prohibit the violation and, in addition, shall assess in favor of the plaintiff and against the defendant the costs of the suit and reasonable attorney fees. In the action, it is not necessary that actual damages to the plaintiff be alleged or proved, but when alleged and proved, the plaintiff in the action, in addition to injunctive relief and fees and costs of suit, is entitled to recover from the defendant the amount of actual damages sustained by the plaintiff. (2) If injunctive relief is not sought or required, any person injured by a violation of this chapter may maintain an action for damages alone in any court of competent jurisdiction. The measure of damages in the action is the same as prescribed in subsection (1). History: En. Sec. 12, Ch. 258, L. 1965; R.C.M. 1947, 51-313; amd. Sec. 10, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 10. Regulation of Cigarette Marketing Part 4. Enforcement 16-10-403. Revocation or suspension of license -- civil penalty

16-10-403. Revocation or suspension of license -- civil penalty. (1) The department may revoke or suspend the license of, impose a civil penalty not to exceed \$500 on, or order any combination of revocation, suspension, and penalty to be imposed on any licensed wholesaler or retailer upon sufficient cause appearing of the violation of this chapter or upon the failure of the licensee to comply with any of the provisions of this chapter. (2) A license may not be suspended or revoked except upon notice to the licensee and after a hearing prescribed by the department at its principal office. The department, upon a finding by it that the licensee has failed to comply with any provisions of this chapter or any rule promulgated under this chapter, shall, in the case of a first offender, suspend the license of the licensee for a period of not less than 5 or more than 20 consecutive business days, impose a civil penalty in an amount not to exceed \$500, or order both the suspension and the penalty. In the case of a second or plural offender, the department shall suspend the license for a period of not less than 20 consecutive business days or more than 12 months, impose a civil penalty in an amount not to exceed \$500, or order both the suspension and the penalty. In the event the department finds the offender has been guilty of willful and persistent violations, it may revoke the licensee's license and, in its discretion, may impose a civil penalty in an amount not to exceed \$500. (3) Any person whose license has been revoked may apply to the department at the expiration of 1 year for a reinstatement of the license. The license may be reinstated by the department if it appears to the satisfaction of the department that the licensee will comply with the provisions of this chapter and the rules promulgated under this chapter. (4) A person whose license has been suspended or revoked may not sell cigarettes or permit cigarettes to be sold during the period of the suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever. A disciplinary proceeding or action is not barred or abated by the expiration, transfer, surrender, continuance, renewal, or extension of any license issued under the provisions of the cigarette tax law. (5) Any determination by the department and any order of suspension or revocation of a license or refusal to reinstate a license after revocation is reviewable by the court in a proper case and in proceedings as provided by the procedural law of this jurisdiction. History: En. Sec. 13, Ch. 258, L. 1965; R.C.M. 1947, 51-314(part); amd. Sec. 11, Ch. 578, L. 1995; amd. Sec. 42, Ch. 51, L. 1999.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-101. Legislative intent

16-11-101. Legislative intent. The legislature hereby declares that its intent in enacting 16-11-111 is to enable those who are subject to the taxes imposed by the federal tax laws to avail themselves of the deductions respecting state and local taxes specified in section 164 of the Internal Revenue Code, 26 U.S.C. 164, as amended, in computing their taxable income. History: En. Sec. 2, Ch. 97, L. 1963; R.C.M. 1947, 84-5606.1; amd. Sec. 40, Ch. 114, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-102. Definitions

16-11-102. Definitions.(1) As used in this chapter, the following definitions apply, unless the context requires otherwise: (a) "Contraband" means: (i) any tobacco product possessed, sold, offered for sale, distributed, held, owned, acquired, transported, imported, or caused to be imported in violation of this part; (ii) any cigarette or roll-your-own tobacco that is possessed, sold, offered for sale, distributed, held, owned, acquired, transported, imported, or caused to be imported in violation of part 4 or 5; (iii) any cigarettes that bear trademarks that are counterfeit under state or federal trademark laws; (iv) any cigarettes bearing false or counterfeit insignia or tax stamps from any state; or (v) any cigarettes or tobacco products that violate 16-10-306. (b) "Department" means the department of revenue provided for in 2-15-1301. (c) "Person" means an individual, firm, partnership, corporation, association, company, committee, other group of persons, or other business entity, however formed. (2) As used in this part, the following definitions apply, unless the context requires otherwise: (a) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product and that, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance or the type of tobacco used in the filler and regardless of its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette described in subsection (2)(a)(i). (b) "Controlling person" means a person who owns an equity interest of 10% or more of a business or the equivalent. (c) "Directory" means the tobacco product directory as provided in 16-11-504. (d) "Full face value of insignia" means the total amount of the tax levied under this part. (e) "Insignia" or "indicia" means the impression, mark, or stamp approved by the department under the provisions of this part. (f) "Licensed retailer" means any person, other than a wholesaler, subjobber, or tobacco product vendor, who is licensed under the provisions of this part. (g) "Licensed subjobber" means a subjobber licensed under the provisions of this part. The person must be treated as a wholesaler. (h) "Licensed wholesaler" means a wholesaler licensed under the provisions of this part. (i) "Manufacturer" means any person who fabricates tobacco products from raw materials for the purpose of resale. (j) "Manufacturer's original container" means the original master shipping case or original shipping case used by the tobacco product manufacturer to ship multipack units, such as boxes, cartons, and sleeves, to warehouse distribution points. (k) "Moist snuff" means any finely cut, ground, or powdered tobacco, other than dry snuff, that is intended to be placed in the oral cavity. (l) (i) "Premium cigar" means any roll of tobacco that is hand wrapped in 100% whole tobacco leaf, is not wrapped by a machine, and does not contain a filter, tip, or any characterizing nontobacco flavor. (ii) The term does not include a cigarette. (m) "Record" means an original document, a legible facsimile, or an electronically preserved copy. (n) "Retailer" means a person, other than a wholesaler, who is engaged in the business of selling tobacco products to the ultimate consumer. The term includes a person who operates fewer than 10 tobacco product vending machines. (o) "Roll-your-own tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes. (p) "Sale" or "sell" means any transfer of tobacco products for consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means. (q) "Sole distributor" means a person who either causes a unique brand of tobacco products to be manufactured according to distinctive specifications and acts as the exclusive distributor of the tobacco products or is the exclusive distributor of a brand of tobacco products within the continental United States. (r) "Subjobber" means a person who purchases from a licensed wholesaler cigarettes with the Montana cigarette tax insignia affixed and sells or offers to sell tobacco products to a licensed retailer or tobacco product vendor. An isolated sale or exchange of cigarettes between licensed retailers does not constitute those retailers as subjobbers. (s) "Tobacco product" means cigarettes and all other products containing tobacco that are intended for human consumption or use. (t) (i) "Tobacco product vendor" means a person doing business in the state who purchases tobacco products through a wholesaler, subjobber, or retailer for 10 or more tobacco product vending machines that the person operates for a profit in premises or locations other than the person's own. (ii) A tobacco product vendor must be treated as a wholesaler. (u) "Wholesale price" means the established price for which a manufacturer sells a tobacco product to a wholesaler or any other person before any discount or reduction. (v) "Wholesaler" means a person who: (i) purchases tobacco products from a manufacturer for the purpose of selling tobacco products to subjobbers, tobacco product vendors, wholesalers, or retailers; or (ii) purchases tobacco products from a sole distributor, another wholesaler, or any other person for the purpose of selling tobacco products to subjobbers, tobacco product vendors, wholesalers, or retailers. History: En. Sec. 1, Ch. 140, L. 1969; amd. Sec. 205, Ch. 516, L. 1973; amd. Sec. 1, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.2; amd. Sec. 1, Ch. 130, L. 1991; amd. Sec. 12, Ch. 578, L. 1995; amd. Sec. 8, Ch. 511, L. 2005; amd. Sec. 13, Ch. 3, L. 2019; amd. Sec. 1, Ch. 652, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-103. Powers of department

16-11-103. Powers of department.(1) The department may prescribe rules not inconsistent with the provisions of this chapter for the detailed and efficient administration of this chapter. All rules and orders promulgated must be published promptly and a copy distributed to each wholesale licensee. The department is authorized to adopt rules for the effective collection and refund of the tax imposed by this chapter. (2) The department of revenue and the department of justice and their duly authorized agents may conduct inquiries and hearings, and any member of the department of revenue, department of justice, or any agent may administer oaths and take testimony under oath relative to the matter of inquiry. The director, the attorney general, or an authorized agent may subpoena witnesses and require the production of books, papers, and documents pertinent to the inquiry. The director, the attorney general, or an agent, after the hearing, shall make findings and issue an order in writing. The findings and order must be filed in the office of the department of revenue or the department of justice and must be open for public inspection. (3) The department is authorized to

contract with the department of justice for the investigations required under this chapter. The department may appoint additional assistants and establish an additional division of tobacco product enforcement as required to carry out the provisions of this chapter. (4) The department and the department of justice are authorized to employ clerical and field assistants necessary to properly administer the provisions of this chapter. (5) The department of justice may appoint one or more investigators or prosecuting officers who, under its direction, shall perform the duties it may require. (6) When requested by the department of revenue, the department of justice shall: (a) investigate all matters relating to the purchase, sale, importation, exportation, possession, and delivery of tobacco products; and (b) serve as a liaison to local law enforcement authorities in matters relating to tobacco law enforcement. History: (1)Ap. p. Sec. 26, Ch. 140, L. 1969; amd. Sec. 219, Ch. 516, L. 1973; Sec. 84-5606.27, R.C.M. 1947; Ap. p. Sec. 7, Ch. 12, Ex. L. 1969; amd. Sec. 254, Ch. 516, L. 1973; Sec. 84-6807, R.C.M. 1947; (2)En. Sec. 22, Ch. 140, L. 1969; amd. Sec. 110, Ch. 405, L. 1973; Sec. 84-5606.23, R.C.M. 1947; (3)En. Sec. 27, Ch. 140, L. 1969; amd. Sec. 220, Ch. 516, L. 1973; Sec. 84-5606.28, R.C.M. 1947; (4)En. Sec. 29, Ch. 140, L. 1969; amd. Sec. 5, Ch. 222, L. 1971; amd. Sec. 222, Ch. 516, L. 1973; Sec. 84-5606.30, R.C.M. 1947; R.C.M. 1947, 84-5606.23, 84-5606.27, 84-5606.28(part), 84-5606.30(part), 84-6807; amd. Sec. 17, Ch. 414, L. 1993; amd. Sec. 9, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-104. Carriers to report shipments -- penalties

16-11-104. Carriers to report shipments -- penalties. (1) Except as provided in subsection (3), every common carrier hauling, transporting, or shipping into or out of the state of Montana from or to any other state or country any tobacco products shall report in writing the shipments or deliveries to the department on forms furnished by the department. The reports must include the date, the person to whom the tobacco products were consigned and delivered, the quantity as shown by the bill of lading, and other information that the department may require. A carrier shall retain for 36 months all pertinent and relevant records necessary for the preparation of this report and any other information that the department may require. (2) A common carrier who violates the provisions of subsection (1) is subject to civil penalties as determined by the department. For a first offense, a natural person shall be fined an amount not to exceed \$50,000, and any other entity shall be fined an amount not to exceed \$75,000. For a second or subsequent offense, a natural person shall be fined an amount not to exceed \$100,000, and any other entity shall be fined an amount not to exceed \$150,000. (3) A common carrier hauling, transporting, or shipping tobacco products to a licensed wholesaler or retailer in Montana shall submit the reports described in subsection (1) to the department upon request of the department. History: En. Sec. 19, Ch. 140, L. 1969; amd. Sec. 215, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.20; amd. Sec. 3, Ch. 207, L. 1991; amd. Sec. 10, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-105. Rulemaking authority of department of justice

16-11-105. Rulemaking authority of department of justice. The department of justice may adopt rules to implement 16-11-103, 16-11-118, 16-11-124, 16-11-141, 16-11-142, and 16-11-147. History: En. Sec. 28, Ch. 414, L. 1993; amd. Sec. 5, Ch. 364, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-106. Regular and systematic solicitation of business -- compliance with chapter

16-11-106. Regular and systematic solicitation of business -- compliance with chapter. Every person who engages in the regular or systematic solicitation of consumers in this state to purchase tobacco products in any manner shall comply with all the requirements of this chapter and any rules adopted pursuant to this chapter. History: En. Sec. 1, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-107. Secretary of state as process agent for unlicensed person doing business in state

16-11-107. Secretary of state as process agent for unlicensed person doing business in state. Every person who engages in the regular or systematic solicitation of consumers in this state to purchase tobacco products in any manner without a license as required by this chapter must, by so doing, be considered to appoint the secretary of state as its agent upon whom all lawful process may be served. The secretary of state may be served with process issued within this state in any action or proceeding against the unlicensed person arising out of any contract or transaction. The regular and systematic solicitation of consumers in this state is considered to signify the person's assent to personal jurisdiction in the courts of this state and agreement that service of process on the secretary of state will have the same legal effect and validity as personal service of process upon the person in this state. History: En. Sec. 2, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-108. Service of process

16-11-108. Service of process. (1) Service of process pursuant to 16-11-107 must be made by delivering to and leaving with the secretary of state's office two copies of the summons and complaint and any fees required by law. The secretary of state shall, in a timely manner, mail by registered or certified mail one of the copies to the defendant at its last-known business address. The secretary of state shall keep the other copy as a record of the process served upon the secretary of state. The service of process is

sufficient if a notice of service and a copy of the process are sent within 10 days after service by certified mail by the plaintiff's attorney to the defendant at its last-known principal place of business and if the defendant's receipt or the receipt issued by the post office with which the letter is certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing compliance with this section are filed with the clerk of the court in which the action is pending on or before the date the defendant is required to appear or within a further time that the court may allow. (2) Service of process in any action, suit, or proceeding, in addition to being made in the manner provided in subsection (1), must be considered valid if: (a) served upon any person within this state on behalf of the person soliciting business who is: (i) soliciting orders for sale of tobacco products; (ii) making any contract for sale of tobacco products or delivering any tobacco products; or (iii) collecting or receiving any money for tobacco products; (b) a copy of the process is sent within 10 days after service, by certified mail, by the plaintiff's attorney to the defendant at the last-known principal place of business of the defendant; and (c) the defendant's receipt or the receipt issued by the post office with which the letter is certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff's attorney showing compliance with this subsection (2) are filed with the clerk of the court in which the action is pending on or before the date the defendant is required to appear or within a further time that the court may allow. (3) A plaintiff or complainant is not entitled to a judgment by default under this section until 30 days after the date of the filing of the affidavit of compliance. (4) This section does not limit or abridge the right to serve any process, notice, or demand upon any tobacco product seller in any other manner now or later permitted by law. History: En. Sec. 3, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-109. reserved

16-11-109 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-111. Cigarette, tobacco products, and moist snuff sales tax -- exemption for sale to tribal member

16-11-111. Cigarette, tobacco products, and moist snuff sales tax -- exemption for sale to tribal member. (1) (a) A tax on the purchase of cigarettes for consumption, use, or any purpose other than resale in the regular course of business is imposed and must be precollected by the wholesaler and paid to the state of Montana. The tax is \$1.70 on each package containing 20 cigarettes. Whenever packages contain other than 20 cigarettes, there is a tax on each cigarette equal to 1/20 the tax on a package containing 20 cigarettes. (b) The tax computed under subsection (1)(a) applies to illegally packaged cigarettes under 16-11-307. (2) The tax imposed in subsection (1) does not apply to quota cigarettes. (3) Subject to the refund or credit provided in subsection (4), the tax must be precollected on all cigarettes entering a Montana Indian reservation. (4) Pursuant to the procedure provided in subsection (5), a wholesaler making a sale of cigarettes to a retailer within the boundaries of a Montana Indian reservation may apply to the department for a refund or credit for taxes precollected on cigarettes sold by the retailer to a member of the federally recognized Indian tribe or tribes on whose reservation the sale is made. A wholesaler who does not file a claim within 1 year of the shipment date forfeits the refund or credit. (5) The distribution of tax-free cigarettes to a tribal member must be implemented through a system of preapproved wholesaler shipments. A licensed Montana wholesaler shall contact the department for approval prior to the shipment of the untaxed cigarettes. The department may authorize sales based on whether the quota, as established in a cooperative agreement between the department and an Indian tribe or as set out in this chapter, has been met. If authorized as a tax-exempt sale, the wholesaler, upon providing proof of order and delivery to a retailer within the boundaries of a Montana Indian reservation selling cigarettes to members of a federally recognized tribe or tribes of that reservation, must be given a refund or credit. Once the quota has been filled, the department shall immediately notify all affected wholesalers that further sales on that reservation must be taxed and that a claim for a refund or credit will not be honored for the remainder of the quota period. Quota allocations are not transferable between quota periods or between reservations. (6) The total amount of refunds or credits allowed by the department to all wholesalers claiming the refund or credit under subsection (4) for any month may not exceed an amount that is equal to the tax due on the quota allocation. The department shall determine the amount of refunds or credits for each Indian reservation at the beginning of each fiscal year, using the most recent census data available from the bureau of Indian affairs or as provided in a cooperative agreement with the tribe or tribes of the Indian reservation. (7) There must be collected and paid to the state of Montana a tax of 50% of the wholesale price, to the wholesaler, of all tobacco products other than cigarettes, premium cigars, and moist snuff. The tax on a premium cigar is the lesser of 50% of the wholesale price or 35 cents a premium cigar. The tax on moist snuff is 85 cents an ounce based upon the net weight of the package listed by the manufacturer. For packages of moist snuff that are less than or greater than 1 ounce, the tax must be proportional to the size of the package. Tobacco products shipped from Montana and destined for retail sale and consumption outside the state are not subject to this tax. (8) The tax imposed by subsection (7) must be precollected and paid by a wholesaler to the department upon sale to a Montana retailer. A wholesaler who fails to report or pay the tax required by this part must be assessed penalty and interest as provided in 15-1-216. (9) A retailer who purchases tobacco products for resale on which the tobacco products tax has not been collected and paid to the department shall comply with all the provisions of this part and the rules adopted to implement this part as if it were a wholesaler. (10) A retailer must assume that the tobacco products tax has not been collected and paid to the department in the absence of a statement on the retailer's invoice or sales slip for the tobacco products that states that the applicable Montana tobacco products tax is included in the total billing cost. History:

En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; R.C.M. 1947, 84-5606(2) thru (4); amd. Sec. 1, Ch. 267, L. 1981; amd. Sec. 1, Ch. 608, L. 1983; amd. Sec. 1, Ch. 450, L. 1985; amd. Sec. 1, Ch. 704, L. 1985; amd. Sec. 2, Ch. 681, L. 1989; amd. Sec. 2, Ch. 130, L. 1991; amd. Sec. 25, Ch. 15, Sp. L. July 1992; amd. Sec. 8, Ch. 352, L. 1993; amd. Sec. 13, Ch. 578, L. 1995; amd. Sec. 1, Ch. 56, L. 2001; amd. Sec. 49, Ch. 544, L. 2003; amd. Sec. 2, I.M. No. 149, approved Nov. 2, 2004; amd. Sec. 11, Ch. 511, L. 2005; amd. Sec. 2, Ch. 652, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-112. Tax on ultimate consumer

16-11-112. Tax on ultimate consumer. All taxes paid pursuant to 16-11-111 shall be conclusively presumed to be direct taxes on the retail consumer precollected for the purpose of convenience and facility only. The full face value of the insignia or tax shall be added to the cost of the cigarettes and recovered from the ultimate consumer or user. When the tax is paid by any other person, such payment shall be considered as an advance payment and shall be added to the price of the cigarettes and recovered from the ultimate consumer or user. Any person selling cigarettes at retail shall state or separately display in the licensed premises a notice of the tax included in the selling price and charged or payable pursuant to this section. The provisions of this section shall in no way affect the method of collection of such tax. History: Ap. p. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; Sec. 84-5606, R.C.M. 1947; Ap. p. Sec. 9, Ch. 140, L. 1969; Sec. 84-5606.10, R.C.M. 1947; R.C.M. 1947, 84-5606(1), 84-5606.10(part).

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-113. Tax insignia

16-11-113. Tax insignia. (1) Except as provided in this section, the wholesaler of any cigarettes shall cause to be securely affixed to the cigarettes the required insignia denoting the applicable tax. (2) The insignia must be properly applied prior to sale, under regulations that the department may prescribe. (3) Retailers licensed under this part may buy, sell, or have in their possession only cigarettes that have on each package the insignia provided for in this part. The insignia provided for in this part may be sold only to and must be affixed only by licensed wholesalers. (4) If any cigarettes without the insignia affixed are found in the place of business of any unlicensed wholesaler, retailer, or other person, the presumption is that the cigarettes are kept in that place of business in violation of the provisions of this part. (5) This section does not apply to a wholesaler who has cigarettes in possession that are either to be shipped or consigned to an Indian tribe that has entered into a cooperative agreement with the state or to a military reservation. History: (1) thru (3) En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; Sec. 84-5606, R.C.M. 1947; (4) En. Sec. 6, Ch. 140, L. 1969; Sec. 84-5606.7, R.C.M. 1947; (5) En. Sec. 27, Ch. 140, L. 1969; amd. Sec. 220, Ch. 516, L. 1973; Sec. 84-5606.28, R.C.M. 1947; R.C.M. 1947, 84-5606(part), 84-5606.7, 84-5606.28(part); amd. Sec. 1, Ch. 382, L. 1979; amd. Sec. 3, Ch. 130, L. 1991; amd. Sec. 14, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-114. Insignia discount

16-11-114. Insignia discount. (1) Each licensed wholesaler is entitled to purchase an insignia at full face value less the following percentage of the face value upon payment for the insignia as defrayment of the costs of affixing insignia and precollecting the tax on behalf of the state of Montana: (a) 0.90% for the first 2,580 cartons or portion of 2,580 cartons purchased in any calendar month; (b) 0.60% for the next 2,580 cartons or portion of 2,580 cartons purchased in any calendar month; and (c) 0.45% for purchases in excess of 5,160 cartons in any calendar month. (2) The taxes for tobacco products, other than cigarettes, that are paid by the wholesaler must be paid to the department in full less a 1.5% defrayment for the wholesaler's collection and administrative expenses and must, in accordance with the provisions of 17-2-124, be deposited by the department in the state general fund except as provided in 16-11-119. Refunds of the tax paid must be made as provided in 15-1-503 in cases in which the tobacco products purchased become unsalable. History: En. Sec. 11, Ch. 140, L. 1969; R.C.M. 1947, 84-5606.12; amd. Sec. 2, Ch. 267, L. 1981; amd. Sec. 1, Ch. 600, L. 1983; amd. Sec. 15, Ch. 578, L. 1995; amd. Sec. 50, Ch. 544, L. 2003; amd. Sec. 3, I.M. No. 149, approved Nov. 2, 2004; amd. Sec. 12, Ch. 511, L. 2005; amd. Sec. 23, Ch. 475, L. 2007.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-115. Tax meter machine -- tax stamp-applying machine -- purchase of stamps

16-11-115. Tax meter machine -- tax stamp-applying machine -- purchase of stamps. (1) The department may authorize any wholesaler of cigarettes licensed under this part to use a tax meter machine to imprint an insignia upon each package of cigarettes imported, sold, or delivered in this state. The insignia must be one approved by the department. Each package of cigarettes imported into or delivered or sold in this state must be marked with the proper insignia of the tax-stamping meter, and any original package of

cigarettes so marked may be lawfully possessed and sold within the state by any wholesaler licensed under this part. The department shall supervise and check the operation of the tax meter machines. Before using the machine, the operator of the machine shall take the machine's meter to the county treasurer of the county in which the machine is operated. The county treasurer shall set the meter for the number of packages specified and required by the operator. Prior to setting the meter, the county treasurer shall charge the operator the amount of money proper for the setting, less the expense defrayment provided for in 16-11-114. The county treasurer shall collect this amount in advance unless the department has allowed the purchaser credit as provided in 16-11-117. The county treasurer shall report to the department on forms prescribed by it the name of the licensed wholesaler and the number of packages for which the meter was set and shall forward to the department any amounts collected from the licensee. (2) (a) The department may authorize a licensed wholesaler to affix tax stamps to packages of cigarettes with a heat-applied machine approved by the department. The department shall supervise and check the operation of the stamp-applying machine. (b) Tax stamps applied as provided in this subsection must be purchased from the department, and payment for the stamps must accompany the order unless the department has allowed the purchaser to delay payment as provided in 16-11-117. History: En. Sec. 13, Ch. 140, L. 1969; amd. Sec. 210, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.13; amd. Sec. 2, Ch. 600, L. 1983; amd. Sec. 4, Ch. 130, L. 1991; amd. Sec. 16, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-116. Resale of insignia prohibited -- rebate

16-11-116. Resale of insignia prohibited -- rebate. A wholesaler may not resell to any other wholesaler any insignia purchased from the department. A wholesaler who has on hand any meter settings or tax insignia at the time of discontinuing the business of selling cigarettes may apply to the department and be paid the face value of the meter settings or tax insignia less the amount of the expense defrayment allowed by 16-11-114. History: En. Sec. 13, Ch. 140, L. 1969; amd. Sec. 211, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.14; amd. Sec. 5, Ch. 130, L. 1991; amd. Sec. 17, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-117. When payment for insignia due

16-11-117. When payment for insignia due. The department may permit a licensed wholesaler to pay for the insignia purchased, or affixation of insignia, within 30 days. To be eligible to defer payment, a wholesaler shall file with the department either a surety bond or other cash security, as approved by the department, for the amount that the department may fix, but not in excess of an amount equal to the maximum insignia purchases incurred for any 30-day period in the previous calendar year. Any newly licensed wholesaler shall pay on a cash basis for 1 complete calendar year, after which the department may permit the wholesaler 30 days to pay for the purchase or affixation of insignia and shall require a bond or security as provided in this section. History: En. Sec. 14, Ch. 140, L. 1969; amd. Sec. 212, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.15; amd. Sec. 18, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-118. Records of wholesalers, subjobbers, tobacco product vendors, and retailers

16-11-118. Records of wholesalers, subjobbers, tobacco product vendors, and retailers. (1) All wholesalers and subjobbers shall keep for 3 years all: (a) invoices of tobacco products purchased, imported, or sold; (b) all receipts issued and insignia purchased; and (c) an accurate record of all sales of tobacco products, showing the name and address of each purchaser, the date of sale, the quantity of each kind sold, the name of any carrier, the shipping point, and the destination. (2) All retailers and tobacco product vendors shall keep for 3 years all invoices of tobacco products purchased and received, showing the date of each purchase, the brand purchased, the quantity of each brand purchased, and an accurate record of the total sales of tobacco products. (3) A wholesaler, retailer, subjobber, or tobacco product vendor shall permit the department and the department of justice and their assistants, authorized agents, or representatives to examine all tobacco products, invoices, receipts, books, paper, memoranda, and records as may be necessary to determine compliance with this chapter. (4) A person that violates the provisions of subsections (1) through (3) is subject to civil penalties as determined by the department of not less than \$1,000 or more than \$10,000. History: En. Sec. 16, Ch. 140, L. 1969; amd. Sec. 214, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.17; amd. Sec. 6, Ch. 130, L. 1991; amd. Sec. 18, Ch. 414, L. 1993; amd. Sec. 19, Ch. 578, L. 1995; amd. Sec. 13, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-119. Disposition of taxes -- statutory appropriation

16-11-119. Disposition of taxes -- statutory appropriation. (1) A sum equal to the amount necessary to purchase cigarette tax stamps must be deposited to or allocated from the state special revenue fund to the credit of the department from cigarette taxes collected under the provisions of 16-11-111, as provided in subsection (5) of this section. (2) After the deposit or allocation in subsection (1), cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows: (a) 8.3% or \$5 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes; (b) 2.6% in the major repair long-range building program account provided for in 17-7-221; (c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201; (d) \$150,000 in the veterans and surviving spouses state special revenue

account provided for in 10-2-108; and (e) the remainder to the state general fund. (3) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund. (4) The taxes collected on tobacco products other than cigarettes must in accordance with the provisions of 17-2-124 be deposited as follows: (a) one-half in the state general fund; and (b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201. (5) Each fiscal year, a sum equal to the amount of money necessary to purchase cigarette tax stamps is statutorily appropriated, as provided in 17-7-502, from the state special revenue fund allocation in subsection (1) to the department for tax administration responsibilities. History: En. Sec. 29, Ch. 140, L. 1969; amd. Sec. 5, Ch. 222, L. 1971; amd. Sec. 222, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.30(part); amd. Sec. 3, Ch. 267, L. 1981; amd. Sec. 7, Ch. 281, L. 1983; amd. Sec. 2, Ch. 608, L. 1983; amd. Sec. 2, Ch. 704, L. 1985; amd. Sec. 3, Ch. 681, L. 1989; amd. Sec. 1, Ch. 3, Sp. L. July 1992; amd. Sec. 26, Ch. 15, Sp. L. July 1992; amd. Sec. 29, Ch. 455, L. 1993; amd. Sec. 1, Ch. 548, L. 1993; amd. Sec. 29, Ch. 18, L. 1995; amd. Sec. 2, Ch. 456, L. 1995; amd. Sec. 54, Ch. 546, L. 1995; amd. Sec. 17, Ch. 422, L. 1997; amd. Sec. 51, Ch. 544, L. 2003; amd. Sec. 4, I.M. No. 149, approved Nov. 2, 2004; amd. Sec. 14, Ch. 511, L. 2005; amd. Sec. 24, Ch. 475, L. 2007; amd. Sec. 5, Ch. 461, L. 2009; amd. Sec. 9, Ch. 486, L. 2009; amd. Sec. 1, Ch. 324, L. 2011; amd. Sec. 2, Ch. 77, L. 2017; amd. Sec. 8, Ch. 469, L. 2019; amd. Sec. 1, Ch. 561, L. 2021; amd. Sec. 1, Ch. 547, L. 2023; amd. Sec. 2, Ch. 738, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-120. Tobacco product licenses

16-11-120. Tobacco product licenses. Every wholesaler, subjobber, retailer, or tobacco product vendor shall obtain a license from the department before engaging in the business of wholesaler, subjobber, retailer, or tobacco product vendor. A separate application and a separate license is required for each place of business owned, controlled, or operated by the wholesaler, subjobber, retailer, or tobacco product vendor within the state of Montana. Application forms must include the type and general description of applicant organizations, names of all known owners, and other pertinent information that the department may require by rule. The department shall comply with rules issued by the board of review established in 30-16-302 with respect to the form of electronic verification of information required or acceptable for licensing purposes. History: En. Sec. 2, Ch. 140, L. 1969; amd. Sec. 206, Ch. 516, L. 1973; amd. Sec. 2, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.3; amd. Sec. 2, Ch. 366, L. 1997; amd. Sec. 15, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-121. Vending machines not places of business

16-11-121. Vending machines not places of business. Cigarette vending machines may not be considered as places of business per se, but a report of each machine must be made on forms prescribed by the department. The form must include the name and address of the cigarette vendor, the assigned location of each machine, with best machine identification available, type of business, and other information that the department may require for proper administration of this part. History: En. Sec. 3, Ch. 140, L. 1969; amd. Sec. 207, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.4; amd. Sec. 20, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-122. License fees -- renewal

16-11-122. License fees -- renewal. (1) Each application for a wholesaler's license or a tobacco product vendor's license must be accompanied by a fee of \$50. (2) Each application for a subjobber's license must be accompanied by a fee of \$50. (3) Each application for a retailer's license must be accompanied by a fee of \$50. (4) Each application for a license to sell either alternative nicotine products or vapor products must be accompanied by a fee of \$20. (5) The fees for the licenses in subsections (2) and (3) may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party. (6) These licenses must be renewed annually on or before the anniversary date established by rule by the board of review established in 30-16-302 and upon payment of the annual fee are effective for 1 year, without proration, and are not transferable. History: En. Sec. 4, Ch. 140, L. 1969; amd. Sec. 3, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.5(part); amd. Sec. 3, Ch. 366, L. 1997; amd. Sec. 16, Ch. 511, L. 2005; amd. Sec. 1, Ch. 337, L. 2015; amd. Sec. 3, Ch. 455, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-123. Display of license

16-11-123. Display of license. (1) Each license shall be prominently displayed on the licensed premises, and a separate license shall be displayed at each place of business owned, controlled, or operated by such wholesaler, subjobber, retailer, or cigarette vendor. (2) Each cigarette vendor shall affix a license decal furnished by the department in a prominent position on each vending machine. History: En. Sec. 4, Ch. 140, L. 1969; amd. Sec. 3, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.5(part).

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-124. Disposition of license fees

16-11-124. Disposition of license fees. (1) All license fees collected under the provisions of this part must be deposited with the state treasurer in the general fund. (2) Each biennium, there must be appropriated to the department and the department of justice an amount justified and reasonable to operate the cigarette enforcement responsibilities of each department. History: En. Sec. 5, Ch.

140, L. 1969; amd. Sec. 208, Ch. 516, L. 1973; amd. Sec. 6, Ch. 286, L. 1977; R.C.M. 1947, 84-5606.6(part); amd. Sec. 1, Ch. 277, L. 1983; amd. Sec. 1, Ch. 351, L. 1989; amd. Sec. 19, Ch. 414, L. 1993; amd. Sec. 1, Ch. 10, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-125. Licensure as both wholesaler and retailer allowed

16-11-125. Licensure as both wholesaler and retailer allowed. This chapter does not prevent a person from being licensed as both a wholesaler and a retailer. History: En. Sec. 1, Ch. 578, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-126. Joint and several liability

16-11-126. Joint and several liability. (1) An individual is individually liable, jointly and severally, with and to the same extent as the business upon a determination that the individual possessed the responsibility on behalf of the business to comply or direct compliance with state law regarding sales of tobacco products if the individual is: (a) a controlling person who directly or indirectly controls a business liable for a violation of the tax and directory requirements of this chapter; or (b) a partner, officer, director, or person occupying a similar status or performing similar functions. (2) For the purpose of determining liability for violations of the tax and directory requirements of this chapter, a member-managed limited liability company must be treated as a partnership with liability extending to each member who was a member at the time the violation occurred. (3) For the purpose of determining personal liability for the failure to comply with the tax requirements of this chapter by a manager-managed limited liability company, the managers of the limited liability company are jointly and severally liable along with the limited liability company for all penalties owed. (4) For determining personal liability for the failure to comply with the tax requirements of this chapter, the partners of the limited liability partnership are jointly and severally liable, along with the limited liability partnership, for any penalties and interest due. History: En. Sec. 4, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-127. reserved

16-11-127 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-128. Tobacco product sales reporting requirements

16-11-128. Tobacco product sales reporting requirements. (1) Prior to delivering, mailing, or shipping tobacco products into Montana to a person other than a licensed wholesaler or retailer, a person who accepts purchase orders for tobacco product sales shall file a statement with the department. The statement must set forth: (a) the name, trade name, and address of the principal place of business of the seller, any other place of business of the seller, and the seller's domicile state; and (b) all owners or controlling persons and every partner, officer, director, or person occupying a similar status or performing similar functions and their home addresses. (2) By the 10th day of each calendar month, each person that has made a sale or delivered, mailed, or shipped tobacco products into this state or contracted with another party for delivery service in connection with a sale of tobacco products into this state made during the previous calendar month shall file a memorandum of sale or a copy of the sales invoice with the department. The memorandum or sales invoice must provide, for each delivery sale made during the previous calendar month: (a) the name and address of the consumer to whom the sale was made; (b) the brand or brands of the tobacco products that were sold; and (c) the quantity of tobacco products that were sold. (3) A person that satisfies the requirements of 15 U.S.C. 376 is considered to meet the requirements of this section. (4) The department may seek an injunction to restrain the actual or threatened violation of this section and to compel the seller to comply with this section. History: En. Sec. 5, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-129. Enforcement

16-11-129. Enforcement. The attorney general, a designee of the attorney general, or any person who holds a permit under 26 U.S.C. 5713 may bring an action in the appropriate Montana district court to prevent or restrain violations of 16-11-128 by any person or by a principal of the person. History: En. Sec. 34, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-130. reserved

16-11-130 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-131. Transporting tobacco products without compliance a misdemeanor -- invoices and delivery tickets required -- stop and inspection authorized

16-11-131. Transporting tobacco products without compliance a misdemeanor -- invoices and delivery tickets required -- stop and inspection authorized. (1) It is unlawful for a person to transport into, receive, carry, or move from place to place within this state,

except in the course of interstate commerce, any tobacco products that do not comply with the requirements of this chapter. (2) (a) When transporting unstamped cigarettes or roll-your-own tobacco, a person shall possess invoices or delivery tickets for the cigarettes or roll-your-own tobacco that show the name and address of the consignor or seller, the name of the consignee or purchaser, and the quantity and brands of the cigarettes or roll-your-own tobacco being transported. (b) The cigarettes or roll-your-own tobacco transported are contraband and are subject to seizure, forfeiture, destruction, and sale as provided in 16-11-141, 16-11-147, 16-11-158, 16-11-159, 16-11-509, and this section if: (i) there are no invoices or delivery tickets; (ii) the name or address of the consignee or purchaser is falsified; (iii) the consignee or purchaser is not authorized to possess unstamped cigarettes or roll-your-own tobacco; or (iv) the cigarettes or roll-your-own tobacco are intended for sale in this state and are not on the directory. (3) Transportation of cigarettes or roll-your-own tobacco from a point outside the state to a point in another state is not a violation of this section if the person transporting the unstamped cigarettes or cigarettes or roll-your-own tobacco that is not on the directory possesses adequate invoices or delivery tickets that give the name and address of the out-of-state consignor or seller and the out-of-state consignee or purchaser. (4) If the department, its authorized agent, the department of justice, or a peace officer of the state has knowledge or reasonable grounds to believe that a vehicle is transporting tobacco products in violation of this chapter, the department, its agent, the department of justice, or a peace officer may stop and inspect the vehicle. (5) When a person engaged in the business of selling tobacco products ships or causes to be shipped any tobacco products to any person in this state that are not in the tobacco product manufacturer's original container or wrapping, the container or wrapping must be plainly and visibly marked with the words "tobacco products". (6) A person violating the provisions of this section is guilty of a misdemeanor and is subject to the penalties in 16-11-148. History: En. Sec. 20, Ch. 140, L. 1969; amd. Sec. 216, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.21(part); amd. Sec. 2, Ch. 382, L. 1979; amd. Sec. 9, Ch. 352, L. 1993; amd. Sec. 21, Ch. 578, L. 1995; amd. Sec. 17, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-132. Unlawful to sell tobacco products without valid license -- exceptions

16-11-132. Unlawful to sell tobacco products without valid license -- exceptions. (1) Unless approved by the department, a person may not sell, offer to sell, or possess with intent to sell any tobacco products, at wholesale or retail, unless the person's license is current and valid under the provisions of this part. (2) A person may not sell, offer to sell, or possess with intent to sell any tobacco products, at wholesale or retail, to a resident or nonresident wholesaler, subjobber, tobacco product vendor, or retailer who is not licensed under this part or who is not licensed by the state in which the person sells, offers to sell, or intends to sell tobacco products. However, a wholesaler, subjobber, tobacco product vendor, or retailer licensed under the provisions of this chapter may sell cigarettes to any person, wholesaler, subjobber, tobacco product vendor, or retailer not licensed under this chapter if: (a) the person, wholesaler, subjobber, tobacco product vendor, or retailer is exempt from state tobacco product taxation provisions; (b) the person, wholesaler, subjobber, tobacco product vendor, or retailer furnishes documentary evidence of exemption from state tobacco product taxation provisions; and (c) the person, wholesaler, subjobber, tobacco product vendor, or retailer signs a receipt of purchase for any tobacco products evidencing an exemption from state tobacco product taxation provisions. (3) A person violating the provisions of this section shall be punished as provided in 16-11-148, and all tobacco products in the person's possession must be seized, forfeited, and destroyed pursuant to 16-11-147, 16-11-158, and 16-11-159. History: En. Sec. 8, Ch. 140, L. 1969; amd. Sec. 1, Ch. 319, L. 1973; R.C.M. 1947, 84-5606.9; amd. Sec. 3, Ch. 382, L. 1979; amd. Sec. 22, Ch. 578, L. 1995; amd. Sec. 18, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-133. Sale and use of cigarettes without insignia unlawful

16-11-133. Sale and use of cigarettes without insignia unlawful. (1) Unless approved by the department, a person who sells any package of cigarettes that does not bear the insignia required by this part and a person who uses or consumes a cigarette within this state, taken from a package that does not bear the required insignia, is guilty of a misdemeanor and is subject to the penalties in 16-11-148. (2) This section may not be construed to prohibit a natural person from physically transporting into the state of Montana for the person's own personal consumption or use, a maximum of: (a) 600 cigarettes that bear the tax insignia of another state; or (b) 30 ounces of tobacco products, other than cigarettes, on which the tobacco taxes of another state have been paid. History: En. Sec. 17, Ch. 140, L. 1969; amd. Sec. 12, Ch. 126, L. 1977; R.C.M. 1947, 84-5606.18; amd. Sec. 4, Ch. 382, L. 1979; amd. Sec. 23, Ch. 578, L. 1995; amd. Sec. 19, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-134. Forged license stamp or insignia

16-11-134. Forged license stamp or insignia. A person who makes, alters, forges, or counterfeits any license stamp or insignia provided for in this law, who assists or is concerned in the creation of the stamp or insignia, or who has in the person's possession any altered, forged, counterfeit, or spurious stamp, license, or insignia with intent to defraud the state is guilty of forgery. History: En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; R.C.M. 1947, 84-5606(part); amd. Sec. 210, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1.

Tax on Tobacco Products16-11-135. through 16-11-140 reserved

16-11-135 through 16-11-140 reserved.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and Marijuana**Chapter 11. Taxation of Tobacco Products****Part 1. Tax on Tobacco Products**16-11-141. Powers of arrest -- search and seizure

16-11-141. Powers of arrest -- search and seizure.(1) The department of justice is a criminal justice agency. Designated agents of the department of justice have peace officer status and may arrest any person violating any provision of this chapter, enter a complaint before any court of competent jurisdiction, and lawfully search and seize and use as evidence contraband found in the possession of any person or in any place. (2) Any investigator or peace officer who finds a tobacco product that the investigator or peace officer has reasonable cause to believe is contraband may seize and remove the contraband and the packages in which the contraband is kept. The contraband and all packages containing the contraband must, in addition to any other penalty prescribed by this chapter, be forfeited to the state of Montana as provided in 16-11-159 and destroyed as provided in 16-11-158. History: En. Sec. 25, Ch. 140, L. 1969; amd. Sec. 112, Ch. 405, L. 1973; amd. Sec. 13, Ch. 126, L. 1977; R.C.M. 1947, 84-5606.26; amd. Sec. 20, Ch. 414, L. 1993; amd. Sec. 20, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and Marijuana**Chapter 11. Taxation of Tobacco Products****Part 1. Tax on Tobacco Products**16-11-142. Duties of county attorneys and peace officers

16-11-142. Duties of county attorneys and peace officers.In the enforcement of this chapter, the department of justice may call to its assistance and it is the duty of any county attorney or any peace officer in this state to assist the department of justice in the enforcement of this chapter. History: En. Sec. 27, Ch. 140, L. 1969; amd. Sec. 220, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.28(part); amd. Sec. 21, Ch. 414, L. 1993; amd. Sec. 21, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and Marijuana**Chapter 11. Taxation of Tobacco Products****Part 1. Tax on Tobacco Products**16-11-143. Penalty and interest for unpaid tobacco product tax

16-11-143. Penalty and interest for unpaid tobacco product tax.(1) If a person fails or refuses to pay the tobacco product tax required by this part when due, the department shall proceed to determine the tax due from the information that the department can obtain and shall assess the tax plus penalty and interest as provided in 15-1-216. (2) In the case of any violation of this chapter, the department may sue, in the district where the department maintains its principal office, for the amount of the unpaid tobacco product tax, penalty, and costs, including reasonable expense of the department in effecting collection of the unpaid tax and penalty. When the court finds that the failure to pay the tax has been willful, the court shall, in addition, assess damages in treble the amount of the tax found to be due. History: En. Secs. 15, 28, Ch. 140, L. 1969; amd. Secs. 213, 221, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.16, 84-5606.29; amd. Sec. 24, Ch. 578, L. 1995; amd. Sec. 50, Ch. 427, L. 1999; amd. Sec. 22, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and Marijuana**Chapter 11. Taxation of Tobacco Products****Part 1. Tax on Tobacco Products**16-11-144. Revocation or suspension of license

16-11-144. Revocation or suspension of license.(1) The department may revoke or suspend the license of any wholesaler, subjobber, tobacco product vendor, retailer, or person licensed under 16-11-303 for failure to comply with any provision of The Montana Cigarette Sales Act (Title 16, chapter 10), this chapter, or with any lawful rule of the department made pursuant to those laws. (2) A person aggrieved by a revocation or suspension may apply to the department for a hearing, which must be open to the public. If the person is aggrieved by the decision of the department, the person may further appeal to the court. (3) When a license has been revoked, a license may not be issued to the licensee for a period of 1 year after revocation. When a license has been suspended, the suspension may be for any period not to exceed 1 year. (4) A person who sells tobacco products after the person's license has been revoked or suspended is guilty of a misdemeanor and is subject to the penalties in 16-11-148, and all tobacco products in the person's possession must be seized and forfeited to the state. History: En. Sec. 7, Ch. 140, L. 1969; amd. Sec. 209, Ch. 516, L. 1973; amd. Sec. 4, Ch. 445, L. 1975; R.C.M. 1947, 84-5606.8; amd. Sec. 1, Ch. 439, L. 1995; amd. Sec. 25, Ch. 578, L. 1995; amd. Sec. 23, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and Marijuana**Chapter 11. Taxation of Tobacco Products****Part 1. Tax on Tobacco Products**16-11-145. Place where violations committed considered public nuisance

16-11-145. Place where violations committed considered public nuisance.Each person having possession or control of or who maintains a building or place where tobacco products are sold in violation of this chapter or who permits the tobacco products to be sold in violation of this chapter in any place or building possessed, controlled, or maintained by that person is guilty of maintaining and keeping a nuisance. The building or place so used, together with the personal property and fixtures used in connection with the building, is considered a nuisance. The person must be enjoined and the building or place, personal property, and fixtures abated as a nuisance at the instance of the state. History: En. Sec. 18, Ch. 140, L. 1969; R.C.M. 1947, 84-5606.19; amd. Sec. 26, Ch. 578, L. 1995; amd. Sec. 24, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and Marijuana**Chapter 11. Taxation of Tobacco Products****Part 1.**

Tax on Tobacco Products16-11-146. Penalty for forged license stamp or insignia

16-11-146. Penalty for forged license stamp or insignia.A person found guilty of forgery under 16-11-134 shall be punished by imprisonment in the state prison for not less than 1 year or more than 14 years. In addition, the department may impose the civil penalties in 16-11-148. History: En. Sec. 6, Ch. 289, L. 1947; amd. Sec. 16, Initiative No. 54 (L. 1951, p. 781); amd. Sec. 1, Ch. 123, L. 1953; amd. Sec. 3, Ch. 18, L. 1957; amd. Sec. 7, Ch. 44, L. 1957; amd. Sec. 1, Ch. 222, L. 1957; amd. Sec. 1, Ch. 97, L. 1963; amd. Sec. 6, Ch. 270, L. 1963; amd. Sec. 5, Ch. 318, L. 1967; amd. Sec. 4, Ch. 222, L. 1971; R.C.M. 1947, 84-5606(part); amd. Sec. 25, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 11. Taxation of Tobacco ProductsPart 1. Tax on Tobacco Products16-11-147. Seizure and forfeiture of property used in transporting contraband

16-11-147. Seizure and forfeiture of property used in transporting contraband.A motor vehicle, airplane, conveyance, vehicle, or other means of transportation in which contraband with a value of \$1,000 or more is being unlawfully transported, together with the contraband and other equipment or personal property used in connection with and found in that transportation, is subject to seizure by the department of justice, its authorized agent, a sheriff or deputy, or any other peace officer and is subject to forfeiture as provided in 16-11-159. History: En. Secs. 20, 21, Ch. 140, L. 1969; amd. Secs. 216, 217, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.21(part), 84-5606.22; amd. Sec. 254, Ch. 800, L. 1991; amd. Sec. 10, Ch. 352, L. 1993; amd. Sec. 22, Ch. 414, L. 1993; amd. Sec. 26, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 11. Taxation of Tobacco ProductsPart 1. Tax on Tobacco Products16-11-148. Penalties and other remedies

16-11-148. Penalties and other remedies.(1) Unless otherwise provided, the purposeful, knowing, or negligent violation of any provision of this part constitutes a misdemeanor punishable by imprisonment for a term of up to 1 year or by a fine of up to \$1,000, or both. For a first offense, if a violation of this part involves contraband the value of which does not exceed \$1,000, the offense is punishable by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not less than 30 days or more than 6 months, or both. Second and subsequent purposeful, knowing, or negligent violations of any provision of this part constitute a felony punishable by imprisonment for a term exceeding 1 year or a fine not to exceed \$50,000, or both. (2) In addition to any other civil or criminal remedy provided by law, upon a determination that a license holder under this part has violated any section in this part or any rule adopted pursuant to this part, the license may be suspended or revoked in the manner provided in 16-11-144 in a proceeding brought by the department or the attorney general. (3) (a) Except as provided in subsection (3)(b), in addition to the criminal penalties provided in subsection (1), the department or the department of justice may assess a person who violates any provision of this part a civil penalty of \$250 for the first full or partial pack of contraband cigarettes and \$10 for each additional full or partial pack of contraband cigarettes. For purposes of this definition of cigarette, 0.09 ounces of roll-your-own tobacco constitutes one individual cigarette. Each tax insignia affixed and each offer to sell, sale, or possession for sale of cigarettes in violation of this part constitutes a separate violation. (b) A civil penalty may not be assessed to a person for a first violation of subsection (1) if the offense involves contraband with a value of \$1,000 or less. (4) The department or the department of justice shall determine the amount of the penalty provided in subsection (3) and notify the person who unlawfully possessed or transported the contraband cigarettes of the amount. The penalty is due and payable on the date of the notice. A penalty not paid when due is subject to interest at the rate of 10% a year. History: En. Sec. 30, Ch. 140, L. 1969; amd. Sec. 223, Ch. 516, L. 1973; R.C.M. 1947, 84-5606.31; amd. Sec. 27, Ch. 578, L. 1995; amd. Sec. 27, Ch. 511, L. 2005.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 11. Taxation of Tobacco ProductsPart 1. Tax on Tobacco Products16-11-149. Hearings before department

16-11-149. Hearings before department.(1) A person aggrieved by any action of the department or its authorized agents taken to enforce the tax provisions of this part, except for a revocation of a license pursuant to 16-11-144, may apply to the department, in writing, for a hearing or rehearing within 30 days after the action of the department or its authorized agents. (2) The department shall promptly consider the application, set the application for hearing, and notify the applicant of the time and place fixed for the hearing or rehearing, which may be at its office or in the county of the applicant. After the hearing or rehearing, the department may make any further or other order on the grounds that it may consider proper and lawful and shall furnish a copy to the applicant. (3) The department, on its own initiative, may order a contested case hearing on any matter concerned with licensing, as defined in 2-4-102, in connection with the administration of this part upon at least 10 days' notice in writing to the person or persons to be investigated. (4) A person may appeal a final order of the department to the Montana tax appeal board as provided in 15-2-302. History: En. Sec. 23, Ch. 140, L. 1969; amd. Sec. 111, Ch. 405, L. 1973; amd. Sec. 7, Ch. 155, L. 1977; R.C.M. 1947, 84-5606.24; amd. Sec. 23, Ch. 414, L. 1993; amd. Sec. 28, Ch. 578, L. 1995; amd. Sec. 28, Ch. 511, L. 2005; amd. Sec. 18, Ch. 44, L. 2007; amd. Sec. 6, Ch. 364, L. 2009; amd. Sec. 45, Ch. 142, L. 2021.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 11. Taxation of Tobacco ProductsPart 1. Tax on Tobacco Products16-11-150. Appeal to district court

16-11-150. Appeal to district court.Any person aggrieved by any action or decision of the department or the department of justice or

a licensing decision of the department made under the provisions of this part may appeal to the district court in accordance with the Montana Administrative Procedure Act. History: En. Sec. 24, Ch. 140, L. 1969; amd. Sec. 218, Ch. 516, L. 1973; amd. Sec. 8, Ch. 155, L. 1977; R.C.M. 1947, 84-5606.25; amd. Sec. 29, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-151. through 16-11-154 reserved

16-11-151 through 16-11-154 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-155. Definitions

16-11-155. Definitions. As used in 16-11-111, 16-11-155, 16-11-156, and 16-11-158, the following definitions apply: (1) "Indian reservation" means lands declared to be a reservation for an Indian tribe or tribes: (a) by a treaty between the tribe and a territorial government, a state government, or the United States; (b) through an act of the United States congress; or (c) through an executive order of the United States. (2) "Quota" means 150% of the national average individual consumption of cigarettes multiplied by the enrolled tribal member population of an Indian reservation on which the cigarette sales are made or any other formula or amount agreed to in a state-tribal cooperative agreement. History: En. Sec. 1, Ch. 352, L. 1993; amd. Sec. 30, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-156. Stamps affixed on cigarettes -- exception

16-11-156. Stamps affixed on cigarettes -- exception. Except for cigarettes sold on a military reservation, cigarettes sold in Montana must have a Montana cigarette tax stamp affixed prior to sale. History: En. Sec. 2, Ch. 352, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-158. Sale or retention of forfeited property -- use of sale proceeds -- destruction of contraband

16-11-158. Sale or retention of forfeited property -- use of sale proceeds -- destruction of contraband. (1) When property is forfeited under 16-11-159, the department may: (a) retain the property or any part of the property for official use or, upon application by a law enforcement agency of this state, another state, the District of Columbia, or the United States, for the exclusive use of enforcing the provisions of this chapter or the laws of another state, the District of Columbia, or the United States; or (b) after advertising, sell the property, other than contraband, at public auction to the highest bidder. (2) The proceeds of a sale under this section must be applied first to paying the expenses of any investigation leading to the seizure of the property, including costs incurred by a local, state, tribal, or federal law enforcement agency, and of the forfeiture and sale proceedings, including the expenses of seizure, maintenance, custody, and court costs. The balance of the proceeds, less an amount that is based on the value of the property seized on an Indian reservation and that is allocated to a tribe pursuant to a state-tribal cooperative agreement, must be deposited in the state general fund. (3) Contraband forfeited under 16-11-159 must be destroyed. History: En. Sec. 7, Ch. 352, L. 1993; amd. Sec. 31, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 1. Tax on Tobacco Products 16-11-159. Forfeiture of contraband and property used in transporting contraband

16-11-159. Forfeiture of contraband and property used in transporting contraband. (1) Upon the seizure of any contraband and within 10 working days after seizure of any equipment or property, the officer making the seizure shall: (a) deliver an inventory of the property or contraband seized to the person from whom the seizure was made or to any other person having a right or interest in the seized property or contraband, if known; and (b) file a copy of the inventory with the department if the tobacco product is contraband under part 1 of this chapter or with the department of justice if the tobacco product is contraband under parts 4 or 5 of this chapter. (2) If a person other than the person from whom the property or contraband was seized, as described in subsection (1), does not notify the department that issued the notice of a written claim of ownership or right of possession of the items seized within 15 days of the date of the inventory required in subsection (1), the seized property or contraband is considered forfeited. (3) If a person notifies the appropriate department in writing of a claim of ownership or right of possession of the items seized within 15 days of the date of inventory required in subsection (1), the person is entitled to a hearing on the claim or right. The hearing must be held before the issuing department's director or the director's designee, in accordance with the Montana Administrative Procedure Act. If the aggregate value of the seized property or contraband is more than \$500, a person seeking the return of the property or contraband may, in lieu of requesting a hearing, bring an action in the district court of the county in which the property or contraband was seized. (4) All property and contraband forfeited must be disposed of as provided in 16-11-158. History: En. Sec. 6, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-301. Short title

16-11-301. Short title. This part may be cited as the "Youth Access to Tobacco Products Control Act". History: En. Sec. 1, Ch. 569,

L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-302. Definitions

16-11-302. Definitions. For the purposes of 16-11-301 through 16-11-308, the following definitions apply: (1) (a) "Alternative nicotine product" means any manufactured noncombustible product containing nicotine derived from tobacco that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. (b) The term does not include a tobacco product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act. (2) "Distribute" means: (a) to give, deliver, sample, or sell; (b) to offer to give, deliver, sample, or sell; or (c) to cause or hire another person to give, deliver, sample, or sell or offer to give, deliver, sample, or sell. (3) "Health warning" means a tobacco product label required by federal law and intended to alert users of the product to the health risks associated with tobacco use. The term includes warning labels required under the Federal Cigarette Labeling and Advertising Act and the Comprehensive Smokeless Tobacco Health Education Act of 1986. (4) "License" means a retail tobacco product sales license. (5) "Person" means a natural person, company, corporation, firm, partnership, organization, or other legal entity. (6) (a) "Tobacco product" means a substance intended for human consumption that contains tobacco. The term includes cigarettes, cigars, snuff, smoking tobacco, and smokeless tobacco. (b) The term does not include an alternative nicotine product, a vapor product, or a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act. (7) (a) "Vapor product" means a noncombustible product that may contain nicotine and that uses a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, to produce vapor from a solution or other substance. The term includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. (b) The term does not include a product regulated as a drug or device by the United States food and drug administration under Chapter V of the Federal Food, Drug, and Cosmetic Act. History: En. Sec. 2, Ch. 569, L. 1993; amd. Sec. 2, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-303. License for retail sale of tobacco products -- alternative nicotine products -- vapor products

16-11-303. License for retail sale of tobacco products -- alternative nicotine products -- vapor products. (1) A person may not sell tobacco products, alternative nicotine products, or vapor products at retail, whether over the counter, by vending machine, or otherwise, without a license obtained from the department of revenue. (2) A license for the retail sale of tobacco products, alternative nicotine products, or vapor products may be obtained from the department of revenue. (3) The fee collected by the department must be deposited in the general fund. History: En. Sec. 3, Ch. 569, L. 1993; amd. Sec. 3, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-304. Signs

16-11-304. Signs. A retail seller of tobacco products, alternative nicotine products, or vapor products shall conspicuously display, at each place on the premises at which tobacco products, alternative nicotine products, or vapor products are displayed and sold, a sign that is to be provided without charge by the department of revenue that states: "Montana law prohibits the sale of tobacco products, alternative nicotine products, and vapor products to persons under 18 years of age." History: En. Sec. 4, Ch. 569, L. 1993; amd. Sec. 2, Ch. 439, L. 1995; amd. Sec. 4, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-305. Sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under 18 years of age prohibited

16-11-305. Sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under 18 years of age prohibited. (1) A person may not sell or distribute a tobacco product, alternative nicotine product, or vapor product to an individual under 18 years of age, whether over the counter, by vending machine, or otherwise. (2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of a driver's license or other generally accepted identification that includes a picture of the individual. (3) If the seller scans a person's government or tribal-issued identification, the seller shall handle data and metadata from the scan in accordance with 16-3-313. History: En. Sec. 5, Ch. 569, L. 1993; amd. Sec. 5, Ch. 337, L. 2015; amd. Sec. 2, Ch. 264, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-306. Sales of tobacco, alternative nicotine products, or vapor products through vending machines restricted

16-11-306. Sales of tobacco, alternative nicotine products, or vapor products through vending machines restricted. (1) Tobacco products, alternative nicotine products, and vapor products may be sold through a vending machine only in places where alcoholic

beverages are sold and consumed on the premises and where the vending machine is under the direct line-of-sight supervision of the owner or an employee of the establishment. The tobacco products, alternative nicotine products, or vapor products must be in a vending machine that contains only tobacco products, alternative nicotine products, or vapor products. (2) Tobacco products, alternative nicotine products, or vapor products may not be sold through a vending machine that is located in a restaurant unless the restaurant has a bar, the restaurant area shares seating with the bar area, and the vending machine meets the requirements of subsection (1). (3) The sale of tobacco products, alternative nicotine products, or vapor products from a vending machine under the direct line-of-sight supervision of an owner or employee is considered a sale of tobacco products, alternative nicotine products, or vapor products by the owner or employee for the purposes of 16-11-305. History: En. Sec. 6, Ch. 569, L. 1993; amd. Sec. 1, Ch. 518, L. 1997; amd. Sec. 6, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-307. Distribution of tobacco products in other than sealed packages prohibited -- minimum package size

16-11-307. Distribution of tobacco products in other than sealed packages prohibited -- minimum package size. (1) A person may not distribute a tobacco product for commercial purposes in other than a sealed package that is provided by the manufacturer and that contains the health warning required by federal law. Single cigarettes may not be sold. (2) A person may not knowingly manufacture or distribute for commercial purposes cigarettes in a package containing fewer than 20 cigarettes or rolling tobacco in a package containing less than 0.6 ounces net weight of tobacco. For purposes of 16-11-308 and this section, "rolling tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes. History: En. Sec. 7, Ch. 569, L. 1993; amd. Sec. 3, Ch. 439, L. 1995; amd. Sec. 2, Ch. 56, L. 2001.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-308. Civil penalties -- license suspension -- tobacco education fee

16-11-308. Civil penalties -- license suspension -- tobacco education fee. (1) Failure to obtain a license, as required by 16-11-303, failure to post signs, as provided in 16-11-304, or the manufacture or sale of cigarettes or rolling tobacco in violation of the minimum package size requirements of 16-11-111 or 16-11-307 is punishable by a civil penalty of \$100. The department may collect the penalty in the manner provided for the collection of other debts. (2) A person who violates 16-11-305(1) or 16-11-307(1) at any one location within a 3-year period shall be punished as follows: (a) A first through third offense is punishable by a verbal notification of violation. (b) A fourth offense is punishable by a written notice of violation to be sent by the department of public health and human services to the owner of the establishment. (c) A fifth offense is punishable by assessment against the owner of the establishment of a tobacco education fee of \$500. The employee or other person who sold the tobacco product, alternative nicotine product, or vapor product, the establishment manager, and the establishment owner, if the owner is a sole proprietor or partner, shall read and view the tobacco education material. (d) A sixth offense under 16-11-305(1) or 16-11-307(1) or a third offense under 16-11-307(2) is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 3 months. (e) A seventh and subsequent offense under 16-11-305(1) or 16-11-307(1) or a fourth and subsequent offense under 16-11-307(2) is punishable by suspension of the licenses required by 16-11-120 and 16-11-303 for 1 year. (3) After 2 years from the first violation, if a person has not received notice of any further violations, a second violation is considered a first violation for the purposes of subsection (2). (4) A license may not be reissued after suspension under subsection (2)(d) or (2)(e) unless tobacco education fees or civil penalties are paid in full. (5) Tobacco education fees must be assessed and collected by the department of public health and human services. Notice of an assessment pursuant to subsection (2) and this subsection must be made by the department of public health and human services within 30 days of the alleged violation by certified letter addressed to the establishment owner or manager. The notice of assessment against the owner of the establishment must provide an opportunity for a hearing. The hearing may be conducted using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the owner or manager shall notify the department of public health and human services that the owner or manager objects to the assessment and request a hearing pursuant to this subsection. (6) In addition to the penalty provided for in subsection (2), a first and subsequent violation of 16-11-305(1) or 16-11-307(1) is punishable by an assessment of a tobacco education fee of \$25 against the employee who sold the tobacco product, alternative nicotine product, or vapor product if the employee is not the owner of the establishment. The tobacco education fee must be assessed and collected by the department of public health and human services. Within 30 days of the alleged violation, notice of assessment pursuant to this subsection must be made by the department of public health and human services by certified letter addressed to the employee. The notice of assessment must provide an opportunity for a hearing. The hearing may be conducted using electronic equipment and must comply with the provisions of the Montana Administrative Procedure Act. Within 30 days from the date on which the notice of assessment was mailed, the employee shall notify the department of public health and human services that the employee objects to the assessment and requests a hearing pursuant to this subsection. (7) The tobacco education material referred to in this section must be provided by the department of public health and human services in the form of written and video self-teaching materials. The education materials may be used only for the purposes provided in this section. Upon completion of the self-teaching materials, the establishment owner or manager shall execute a written statement on a form provided by the department of public health and human services verifying that the employee, owner, or manager, as appropriate, has read and viewed the self-teaching material and shall

return the statement and the self-teaching video to the department of public health and human services. (8) Upon the sixth and subsequent violation of this section, the department of public health and human services shall notify the department of revenue in writing to initiate suspension of the licenses required by 16-11-120 and 16-11-303 and shall notify the licensee in writing of the alleged violation and of the referral of the licensee's record of violations to the department of revenue for suspension of the licenses pursuant to 16-11-144 and this section. The department of revenue shall review the record of violations and may initiate license suspension proceedings in accordance with 16-11-144. If, upon a review of the record of violations, the department of revenue declines to initiate suspension proceedings, the violation may not be charged against the licensee for the purposes of this section. (9) Fees assessed pursuant to this section must be deposited in the state general fund. History: En. Sec. 8, Ch. 569, L. 1993; amd. Sec. 4, Ch. 439, L. 1995; amd. Sec. 2, Ch. 518, L. 1997; amd. Sec. 10, Ch. 389, L. 1999; amd. Sec. 3, Ch. 56, L. 2001; amd. Sec. 7, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-309. Inspection and notification of violation required

16-11-309. Inspection and notification of violation required. (1) The department of public health and human services shall conduct inspections of persons selling or distributing tobacco products, alternative nicotine products, or vapor products to determine compliance with 16-11-303, 16-11-304, 16-11-305(1), 16-11-306, and 16-11-307. Inspections may be conducted directly by the department of public health and human services or may be provided for by contract let by the department of public health and human services. Persons found to be in violation of the requirements of this part or the rules of the department of public health and human services a fourth and subsequent time must be notified in writing by the department of public health and human services of the facts of the violation and the penalties provided by this part. (2) The department of public health and human services shall provide documentation of alleged violations of 16-11-303, 16-11-305, and 16-11-307 to the department of revenue. History: En. Sec. 5, Ch. 439, L. 1995; amd. Sec. 8, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-310. Minors not liable for possession or attempt to purchase

16-11-310. Minors not liable for possession or attempt to purchase. An individual under 18 years of age assisting in the enforcement of this part is not liable under a civil or criminal law for the possession of or the attempt to purchase a tobacco product, alternative nicotine product, or vapor product for the purposes of enforcing this part. History: En. Sec. 6, Ch. 439, L. 1995; amd. Sec. 2, Ch. 498, L. 2001; amd. Sec. 9, Ch. 337, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-311. Local regulations

16-11-311. Local regulations. A local government may by ordinance adopt regulations on the subjects of 16-11-301 through 16-11-308, including alternative nicotine or vapor products as provided in 16-11-313, that are no more stringent than 16-11-301 through 16-11-308 and 16-11-313. History: En. Sec. 10, Ch. 569, L. 1993; amd. Sec. 4, Ch. 455, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-312. Rulemaking authority

16-11-312. Rulemaking authority. The department of revenue may adopt rules to implement 16-11-301 through 16-11-308. History: En. Sec. 11, Ch. 569, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 3. Youth Access to Tobacco Products Control Act 16-11-313. Alternative nicotine products and vapor products -- local ordinance or resolution -- prohibition

16-11-313. Alternative nicotine products and vapor products -- local ordinance or resolution -- prohibition. (1) A local government may not adopt or enforce any local ordinance or resolution that prohibits the sale of alternative nicotine products or vapor products. (2) Subject to 16-11-311, nothing in this section may be construed to restrict a local government from enacting reasonable ordinances or resolutions relating to the sale of alternative nicotine products or vapor products. History: En. Sec. 1, Ch. 455, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 4. Tobacco Products Reserve Fund -- Administration 16-11-401. Findings and purpose

16-11-401. Findings and purpose. (1) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of thousands of tobacco-related deaths in the United States each year. These diseases most often do not appear until many years after the person in question begins smoking. (2) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance. (3)

Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking. (4) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State or are found culpable by the courts. (5) On November 23, 1998, leading United States tobacco product manufacturers entered into a settlement agreement, entitled the "Master Settlement Agreement," with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the State (tied in part to their volume of sales); to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking. (6) It would be contrary to the policy of the State if tobacco product manufacturers who determine not to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them if they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise. History: En. Sec. 1, Ch. 412, L. 1999.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 4. Tobacco Products Reserve Fund -- Administration 16-11-402. Definitions

16-11-402. Definitions. (1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement. (2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons. (3) "Allocable share" means Allocable Share as that term is defined in the Master Settlement Agreement. (4) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (a) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette." (5) "Master Settlement Agreement" means the settlement agreement (and related documents) entered into on November 23, 1998 by the State and leading United States tobacco product manufacturers. (6) "Qualified escrow fund" means an escrow arrangement with a federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000 where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with 16-11-403(2) of this Act. (7) "Released claims" means Released Claims as that term is defined in the Master Settlement Agreement. (8) "Releasing parties" means Releasing Parties as that term is defined in the Master Settlement Agreement. (9) "Tobacco Product Manufacturer" means an entity that after the date of enactment of this Act directly (and not exclusively through any affiliate): (a) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the Master Settlement Agreement) that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the Master Settlement Agreement and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States); (b) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or (c) becomes a successor of an entity described in paragraph (a) or (b). The term "Tobacco Product Manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of paragraphs (a) - (c) above. (10) "Units sold" means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the State on packs or "roll-your-own" tobacco containers. The department of revenue shall promulgate such regulations as are necessary to ascertain the amount of State excise tax paid on the cigarettes of such tobacco product manufacturer for each year. History: En. Sec. 2, Ch. 412, L. 1999; amd. Sec. 1, Ch. 324, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 4. Tobacco Products Reserve Fund -- Administration 16-11-403. Requirements

16-11-403. Requirements. Any tobacco product manufacturer selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary or intermediaries) after the date of enactment of this Act shall do one of the

following: (1) become a participating manufacturer (as that term is defined in section II(jj) of the Master Settlement Agreement) and generally perform its financial obligations under the Master Settlement Agreement; or (2) (a) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts (as such amounts are adjusted for inflation) -- 1999: \$0.0094241 per unit sold after the date of enactment of this Act; 2000: \$0.0104712 per unit sold; for each of 2001 and 2002: \$0.0136125 per unit sold; for each of 2003 through 2006: \$0.0167539 per unit sold; for each of 2007 and each year thereafter: \$0.0188482 per unit sold. (b) A tobacco product manufacturer that places funds into escrow pursuant to paragraph (a) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances- (i) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this subparagraph (A) in the order in which they were placed into escrow and (B) only to the extent and at the time necessary to make payments required under such judgment or settlement; (ii) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX(i) of that Agreement, including a final determination of all adjustments, that the manufacturer would have been required to make on account of those units had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or (iii) to the extent not released from escrow under subparagraphs (i) or (ii), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow. (c) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this subsection shall annually certify to the Attorney General that it is in compliance with this subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this section shall- (i) be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 5 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 100 percent of the original amount improperly withheld from escrow; (ii) in the case of a knowing violation, be required within 15 days to place such funds into escrow as shall bring it into compliance with this section. The court, upon a finding of a knowing violation of this subsection, may impose a civil penalty to be paid to the general fund of the state in an amount not to exceed 15 percent of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed 300 percent of the original amount improperly withheld from escrow; and (iii) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State (whether directly or through a distributor, retailer or similar intermediary) for a period not to exceed 2 years. Each failure to make an annual deposit required under this section shall constitute a separate violation. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003.) History: En. Sec. 3, Ch. 412, L. 1999; amd. Sec. 14, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 4. Tobacco Products Reserve Fund -- Administration 16-11-404. Attorney fees and costs

16-11-404. Attorney fees and costs. (1) In an action under 16-11-403(2)(c), the court, upon a finding that a tobacco product manufacturer has failed to comply with its obligations under 16-11-403(1) or (2)(a), shall award the attorney general the expenses incurred in investigating the claim, the costs of suit, and reasonable attorney fees. In cases in which outside counsel represents the attorney general, the attorney fees awarded must equal the outside counsel charges reasonably incurred by the attorney general for attorney fees and expenses in prosecuting the action. In all other cases, the attorney fees must be calculated by reference to the hourly rate charged by the agency legal services bureau for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action. (2) Investigation expenses, attorney fees, and costs recovered under this section are allocated to the department of justice for deposit in the attorney general's major litigation account and may be used by the attorney general for any purpose for which funds appropriated to that account may be used. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003.) History: En. Sec. 13, Ch. 397, L. 2003; amd. Sec. 2, Ch. 324, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-501. Findings and purpose

16-11-501. Findings and purpose. The legislature finds that violations of 16-11-401 through 16-11-403 threaten the integrity of the tobacco Master Settlement Agreement, the fiscal soundness of the state, and the public health. The legislature finds that enacting procedural enhancements will help prevent violations of 16-11-401 through 16-11-403 and will safeguard the Master Settlement Agreement, the fiscal soundness of the state, and the public health. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 1, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-502. Definitions

16-11-502. Definitions. As used in this part, the following definitions apply: (1) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including but not

limited to "menthol", "lights", "kings", and "100s", and includes any use of a brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to or identifiable with a previously known brand of cigarettes. (2) "Cigarette" has the meaning provided in 16-11-402. (3) "Department" means the department of revenue. (4) "Master Settlement Agreement" has the meaning provided in 16-11-402. (5) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer. (6) "Participating manufacturer" has the meaning provided in section II(jj) of the Master Settlement Agreement defined in 16-11-402 and all amendments thereto. (7) "Qualified escrow fund" has the meaning provided in 16-11-402. (8) "Tobacco product manufacturer" has the meaning provided in 16-11-402. (9) "Units sold" has the meaning provided in 16-11-402. (10) "Wholesaler" means a person that is authorized to affix tax insignia to packages or other containers of cigarettes under 16-11-113, a person that is required to remit the tobacco tax imposed on cigarettes pursuant to 16-11-111, or a person that is required to remit the tobacco tax imposed on other tobacco products under 16-11-111(7). (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 2, Ch. 397, L. 2003; amd. Sec. 3, Ch. 324, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-503. Certifications

16-11-503. Certifications. (1) Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a wholesaler, distributor, retailer, or similar intermediary or intermediaries, shall execute and deliver, on a form prescribed by the attorney general, a certification to the director of the department and the attorney general, no later than April 30 of each year, certifying under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer either is a participating manufacturer or is in full compliance with parts 4 and 5 of this chapter and any rules adopted pursuant to 16-11-511. (2) A participating manufacturer shall include in its certification a list of its brand families. (3) (a) A nonparticipating manufacturer shall include in its certification a list of all of its brand families, the number of units sold in the state during the preceding calendar year for each brand family, and a list of all of its brand families that have been sold in the state at any time during the current calendar year. (b) The certification must indicate by an asterisk any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of the certification. (c) The certification must identify by name and address any other manufacturer of the brand families in the preceding or current calendar year. (4) A tobacco product manufacturer shall update its list of brand families 30 calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the attorney general and the director of the department. (5) A nonparticipating manufacturer shall further certify: (a) that the nonparticipating manufacturer is registered to do business in the state and has appointed an agent for service of process and has provided notice as required by 16-11-506; (b) that the nonparticipating manufacturer has: (i) established and continues to maintain a qualified escrow fund; and (ii) executed a qualified escrow agreement that has been reviewed and approved by the attorney general and that governs the qualified escrow fund; (c) that the nonparticipating manufacturer is in full compliance with 16-11-403 and this section and any rules adopted pursuant to 16-11-403 and this section; (d) (i) the name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established the qualified escrow fund required by 16-11-403 and all rules adopted pursuant to 16-11-403; (ii) the account number of the qualified escrow fund and any subaccount number for the state of Montana; (iii) the amount the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in the state during the preceding calendar year, the date and amount of each deposit, and any evidence or verification considered necessary by the attorney general to confirm the provisions of this subsection (5)(d)(iii); and (iv) the amounts and dates of any withdrawal or transfer of funds that the nonparticipating manufacturer made at any time from the qualified escrow fund or from any other qualified escrow fund into which the nonparticipating manufacturer ever made escrow payments pursuant to 16-11-403 and all rules adopted pursuant to 16-11-403. (6) A tobacco product manufacturer may not include a brand family in its certification unless: (a) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be considered its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement; and (b) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be considered to be its cigarettes for purposes of 16-11-403. (7) This part may not be construed to limit or otherwise affect the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payment under the Master Settlement Agreement or for purposes of 16-11-401 through 16-11-403. (8) A tobacco product manufacturer shall maintain all invoices and documentation of sales and other similar information relied upon for its certifications for a period of 5 years unless otherwise required by law to maintain them for a longer period of time. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 3, Ch. 397, L. 2003; amd. Sec. 4, Ch. 324, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-504. Directory of cigarettes approved for stamping and sale

16-11-504. Directory of cigarettes approved for stamping and sale. (1) Not later than July 16, 2003, the attorney general shall develop and publish on the attorney general's website a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of 16-11-503 and all brand families that are listed in the certifications, except as otherwise provided in this section. (2) The attorney general may not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose

certification the attorney general determines is not in compliance with 16-11-503, unless the attorney general has determined that the violation has been cured to the satisfaction of the attorney general. (3) Neither a tobacco product manufacturer nor a brand family may be included or retained in the directory if the attorney general concludes, in the case of a nonparticipating manufacturer that: (a) an escrow payment required pursuant to 16-11-403 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general; or (b) an outstanding final judgment, including interest on the judgment, for a violation of 16-11-403 has not been fully satisfied for the brand family or the manufacturer. (4) The attorney general shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this part. The attorney general shall post in the directory and transmit by electronic mail and certified mail, return receipt requested, to each wholesaler notice of the intended removal from the directory of a tobacco product manufacturer or brand family no less than 30 days prior to the removal. During that period, cigarettes of the tobacco product manufacturer or brand family subject to the notice are contraband under 16-11-147 and the affixing of tax insignia to or the sale or possession for sale of the cigarettes is unlawful as provided in 16-11-505, except that, notwithstanding the provisions of 16-11-147 and 16-11-505: (a) a wholesaler may affix tax insignia to, possess for sale, or sell at wholesale cigarettes of any tobacco product manufacturer or brand family subject to notice of removal under this subsection (4) if the cigarettes were shipped to the wholesaler on or before the date of issuance of the notice and if the total number of the cigarettes sold by the wholesaler following issuance of the notice of removal and prior to reinstatement of the tobacco product manufacturer or brand family in the directory does not exceed a number that is the average of the number of cigarettes of the tobacco product manufacturer or brand family sold by the wholesaler during each of the 3 months preceding the issuance of the notice; and (b) a licensed seller at retail may possess and sell cigarettes of a tobacco product manufacturer or brand family that the attorney general has removed from the directory or that is subject to notice of removal if the cigarettes were lawfully shipped to the retailer before the issuance of the notice of removal or after the issuance of notice of removal but before the attorney general removes the tobacco product manufacturer or brand family from the directory. A contract with a tobacco product manufacturer that has been removed from the directory that purports to require, contemplate, or provide for delivery of cigarettes or tobacco products in any applicable brand family after the date of removal from the directory is not valid or enforceable. (5) Every wholesaler shall provide and update as necessary an electronic mail address to the attorney general for the purpose of receiving any notifications required by this part. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 4, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-505. Prohibition against stamping or sale of cigarettes not in directory

16-11-505. Prohibition against stamping or sale of cigarettes not in directory. It is unlawful for any person to: (1) affix a tax insignia to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or (2) sell, offer for sale, or possess for sale in this state cigarettes of a tobacco product manufacturer or brand family not included in the directory. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 5, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-506. Agent for service of process

16-11-506. Agent for service of process. (1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory, appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of 16-11-403 and this part, may be served in any manner authorized by law. The service constitutes legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of the agent to the satisfaction of the attorney general. (2) The nonparticipating manufacturer shall provide notice to the attorney general at least 30 calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the attorney general of the appointment of a new agent no less than 5 calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the attorney general of the termination within 5 calendar days and include proof to the satisfaction of the attorney general of the appointment of a new agent. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 6, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-507. Reporting of information

16-11-507. Reporting of information. (1) Not later than 20 calendar days after the end of each calendar quarter and more frequently if directed by the attorney general, each wholesaler shall submit information that the attorney general requires to facilitate compliance with this section by nonparticipating manufacturers, including but not limited to a list by brand family of the total number of nonparticipating manufacturer cigarettes or, in the case of nonparticipating manufacturer roll-your-own tobacco, the equivalent amount of tobacco, calculated as provided in 16-11-402(4), on which the wholesaler precollected tax as provided in

16-11-113 and that the wholesaler sold during the period covered by the report. The wholesaler shall maintain and make available to the attorney general all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the attorney general for a period of 5 years. (2) The department is authorized to disclose to the attorney general any information received by it and requested by the attorney general for purposes of determining compliance with and enforcing the provisions of this part. The department and attorney general shall share the information received under this part with each other and may share the information with other federal, state, or local agencies only for the purposes of enforcement of 16-11-403, this part, or the corresponding laws of other states. (3) The attorney general may require at any time from the nonparticipating manufacturer proof from the financial institution in which the manufacturer has established a qualified escrow fund for the purpose of compliance with 16-11-403 of: (a) the amount of money in the fund, exclusive of interest; (b) the amount and dates of each deposit to the fund; and (c) the amount and dates of each withdrawal from the fund. (4) In addition to the information required to be submitted pursuant to subsections (1) through (3), the attorney general may require a wholesaler or tobacco product manufacturer to submit any additional information, including but not limited to samples of the packaging or labeling of each brand family, to enable the attorney general to determine whether a tobacco product manufacturer or wholesaler is in compliance with this part. All information submitted by a wholesaler or tobacco product manufacturer under this section must be full, complete, and accurate. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 7, Ch. 397, L. 2003; amd. Sec. 5, Ch. 324, L. 2005; amd. Sec. 32, Ch. 511, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-508. Escrow installments

16-11-508. Escrow installments. To promote compliance with the provisions of this part, the attorney general may adopt rules requiring a tobacco product manufacturer to make the escrow deposits required in 16-11-403 in installments during the year in which the sales covered by the deposits are made. The attorney general may require production of information sufficient to enable the attorney general to determine the adequacy of the amount of the installment deposit. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 8, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-509. Penalties and other remedies

16-11-509. Penalties and other remedies. (1) In addition to any other civil or criminal remedy provided by law, upon a determination that a wholesaler has violated 16-11-505 or any rule adopted pursuant to that section, the department may revoke or suspend the license of the wholesaler in the manner provided by 16-11-144 in a proceeding initiated by the department or at the request of the attorney general. For each violation of 16-11-505, a civil penalty in the amount of \$250 for the first full or partial pack and \$10 for each additional full or partial pack to which a tax insignia is affixed or that is sold, offered for sale, or possessed for sale in violation of 16-11-505 may be imposed. Each tax insignia affixed, each offer to sell cigarettes, and each pack sold, offered for sale, or possessed for sale in violation of 16-11-505 constitutes a separate violation. The penalty may be imposed in the manner provided by 16-11-143(2) in a proceeding brought by the department or the attorney general. (2) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of 16-11-505 may be considered contraband under 16-11-147. The cigarettes are subject to seizure and forfeiture as provided in 16-11-147, and all cigarettes seized and forfeited must be destroyed and not resold. (3) The attorney general may seek an injunction to restrain a threatened or actual violation of 16-11-505 or 16-11-507(1) or (4) by a wholesaler and to compel the wholesaler to comply with those sections. (4) (a) In any action brought pursuant to this part, the prevailing party is entitled to recover the costs of the action and reasonable attorney fees calculated as provided in 16-11-404. If the state is the prevailing party, its recoverable costs must include the state's costs of investigation of the violation. (b) In cases in which the state is the prevailing party and outside counsel represents the attorney general, the attorney fees awarded must equal the outside counsel charges reasonably incurred by the attorney general's office for attorney fees and expenses in prosecuting the action. In all other cases in which the state is the prevailing party, the state's attorney fees must be calculated by reference to the hourly rate charged by the agency legal services bureau of the department for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action. (5) (a) It is unlawful for a person to: (i) sell, offer for sale, or distribute cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505; or (ii) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505. (b) A violation of this section is a misdemeanor punishable as provided in 16-11-148. (6) If a court determines that a person has violated this part, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be paid to the state treasurer for deposit in the trust fund created by Article XII, section 4, of the Montana constitution. (7) Penalties, investigation expenses, attorney fees, and costs recovered under parts 4 and 5 of this chapter are allocated to the department of justice for deposit in the major litigation account and may be used for any purpose for which funds deposited in that account may be used. The funds are statutorily appropriated, as provided in 17-7-502, to the department of justice. (8) Unless otherwise expressly provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of this state. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 9, Ch. 397, L. 2003; amd. Sec. 6, Ch. 324, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-510. Contested case and judicial review of attorney general determinations

16-11-510. Contested case and judicial review of attorney general determinations. A determination of the attorney general not to include or to remove from the directory a brand family or tobacco product manufacturer is subject to review by the attorney general or an employee of the department of justice designated by the attorney general to issue final decisions under this part in the manner prescribed by Title 2, chapter 4, part 6. The decision of the attorney general or designated employee constitutes the final agency decision, and judicial review may be sought from the final decision as provided in Title 2, chapter 4, part 7. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 10, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-511. Rules

16-11-511. Rules. The attorney general may adopt rules necessary to implement part 4 and this part. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 11, Ch. 397, L. 2003; amd. Sec. 7, Ch. 324, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 11. Taxation of Tobacco Products Part 5. Tobacco Products Reserve Fund -- Enforcement 16-11-512. Construction

16-11-512. Construction. If a court of competent jurisdiction finds that the provisions of 16-11-401 through 16-11-403 and of this part conflict and cannot be harmonized, then the legislature intends the provisions of 16-11-401 through 16-11-403 to control. Except as specifically provided in this part, the provisions of this part are not intended to and may not be interpreted to override the provisions of 16-11-401 through 16-11-403. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.) History: En. Sec. 12, Ch. 397, L. 2003.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-101. Short title -- purpose

16-12-101. Short title -- purpose. (1) This chapter may be cited as the "Montana Marijuana Regulation and Taxation Act". (2) The purpose of this chapter is to: (a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of age or older; (b) provide for the licensure and regulation of the cultivation, manufacture, production, distribution, transportation, and sale of marijuana and marijuana products; (c) eliminate the illicit market for marijuana and marijuana products; (d) prevent the manufacture and distribution of synthetic marijuana products; (e) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age; (f) ensure the safety of marijuana and marijuana products; (g) ensure the security of licensed premises; (h) establish reporting requirements for licensees; (i) establish inspection requirements for licensees, including data collection on energy use, chemical use, water use, and packaging waste to ensure a clean and healthy environment; (j) provide for the testing of marijuana and marijuana products by licensed testing laboratories; (k) give local governments authority to allow for the operation of marijuana businesses in their community and establishing standards for the cultivation, manufacture, and sale of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions; (l) tax the sale of marijuana and marijuana products to provide compensation for the economic and social costs of marijuana; (m) authorize courts to resentencing persons who are currently serving sentences for acts that are permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge those offenses from the criminal records of persons who have completed their sentences as set forth in this chapter; and (n) preserve and protect Montana's well-established hemp industry by drawing a clear distinction between those participants and programs and the participants and programs associated with the marijuana industry. (3) Marijuana and marijuana products are not agricultural products, and the cultivation, processing, manufacturing or selling of marijuana or marijuana products is not considered agriculture subject to regulation by the department of agriculture unless expressly provided. History: En. Sec. 1, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 37, Ch. 576, L. 2021; amd. Sec. 4, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-102. Definitions

16-12-102. Definitions. As used in this chapter, the following definitions apply: (1) "Adult-use dispensary" means a licensed premises from which a person licensed by the department may: (a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and (b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both. (2) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, another person. (3) "Beneficial owner of", "beneficial ownership of", or "beneficially owns an" is determined in accordance with section 13(d) of the federal Securities and Exchange Act of 1934, as amended. (4) "Canopy" means the total amount of square footage dedicated to live plant production at a licensed premises consisting of the area of the floor, platform, or means of support or suspension of the plant. (5) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or marijuana products for personal use from a licensed dispensary but not for resale. (6) "Control", "controls", "controlled", "controlling", "controlled by", and "under

common control with" mean the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting owner's interests, by contract, or otherwise. (7) "Controlling beneficial owner" means a person that satisfies one or more of the following: (a) is a natural person, an entity that is organized under the laws of and for which its principal place of business is located in one of the states or territories of the United States or District of Columbia, or a publicly traded corporation, and: (i) acting alone or acting in concert, owns or acquires beneficial ownership of 5% or more of the owner's interest of a marijuana business; (ii) is an affiliate that controls a marijuana business and includes, without limitation, any manager; or (iii) is otherwise in a position to control the marijuana business; or (b) is a qualified institutional investor acting alone or acting in concert that owns or acquires beneficial ownership of more than 15% of the owner's interest of a marijuana business. (8) "Correctional facility or program" means a facility or program that is described in 53-1-202(2) or (3) and to which an individual may be ordered by any court of competent jurisdiction. (9) "Cultivator" means a person licensed by the department to: (a) plant, cultivate, grow, harvest, and dry marijuana; and (b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary. (10) "Debilitating medical condition" means: (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the patient's health status; (b) cachexia or wasting syndrome; (c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with daily activities as documented by the patient's treating physician; (d) intractable nausea or vomiting; (e) epilepsy or an intractable seizure disorder; (f) multiple sclerosis; (g) Crohn's disease; (h) painful peripheral neuropathy; (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms; (j) admittance into hospice care in accordance with rules adopted by the department; or (k) posttraumatic stress disorder. (11) "Department" means the department of revenue provided for in 2-15-1301. (12) (a) "Employee" means an individual employed to do something for the benefit of an employer. (b) The term includes a manager, agent, or director of a partnership, association, company, corporation, limited liability company, or organization. (c) The term does not include a third party with whom a licensee has a contractual relationship. (13) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or indirectly through a business, an investment, or a spouse, parent, or child relationship, to 5% or more of the net profits or net worth of the entity in which the interest is held. (b) The term does not include interest held by a bank or licensed lending institution or a security interest, lien, or encumbrance but does include holders of private loans or convertible securities. (14) "Former medical marijuana licensee" means a person that was licensed by or had an application for licensure pending with the department of public health and human services to provide marijuana to individuals with debilitating medical conditions on April 27, 2021. (15) (a) "Indoor cultivation facility" means an enclosed area used to grow live plants that is within a permanent structure using artificial light exclusively or to supplement natural sunlight. (b) The term may include: (i) a greenhouse; or (ii) a similar structure that protects the plants from variable temperature, precipitation, and wind. (16) "Licensed premises" means all locations related to, or associated with, a specific license that is authorized under this chapter and includes all enclosed public and private areas at the location that are used in the business operated pursuant to a license, including offices, kitchens, restrooms, and storerooms. (17) "Licensee" means a person holding a state license issued pursuant to this chapter. (18) "Local government" means a county, a consolidated government, or an incorporated city or town. (19) "Manufacturer" means a person licensed by the department to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repackage, label, or relabel marijuana products as allowed under this chapter. (20) (a) "Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. (b) The term does not include hemp as provided in 80-18-101. (c) The term does not include synthetic marijuana products. (d) The term does not include a drug approved by the United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq. (21) "Marijuana business" means a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, combined-use marijuana licensee, testing laboratory, marijuana transporter, or any other business or function that is licensed by the department under this chapter. (22) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the resin extracted from any part of the marijuana plant. (23) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or byproducts of the marijuana plant, including but not limited to marijuana concentrates and other marijuana products. (24) "Marijuana product" means a product that contains marijuana and is intended for use by a consumer. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates, including concentrates intended for use by smoking or vaping. (25) "Marijuana transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances. (26) "Mature marijuana plant" means a harvestable marijuana plant. (27) "Medical marijuana" means marijuana or marijuana products that are for sale solely to a cardholder who is registered under Title 16, chapter 12, part 5. (28) "Medical marijuana dispensary" means the location from which a registered cardholder may obtain marijuana or marijuana products. (29) "Outdoor cultivation" means live plants growing in an area exposed to natural sunlight and environmental conditions including variable temperature, precipitation, and wind. (30) "Owner's interest" means the shares of stock in a corporation, a membership in a nonprofit corporation, a membership interest in a limited liability company, the interest of a member in a cooperative or in a limited cooperative association, a partnership interest in a limited partnership, a partnership interest in a partnership, and the interest of a member in a limited partnership association. (31) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101. (32) "Passive beneficial owner" means any person acquiring an owner's interest in a marijuana

business that is not otherwise a controlling beneficial owner or in control. (33) "Person" means an individual, partnership, association, company, corporation, limited liability company, or organization. (34) "Qualified institutional investor" means: (a) a bank or banking institution including any bank, trust company, member bank of the federal reserve system, bank and trust company, stock savings bank, or mutual savings bank that is organized and doing business under the laws of this state, any other state, or the laws of the United States; (b) a bank holding company as defined in 32-1-109; (c) a company organized as an insurance company whose primary and predominant business activity is the writing of insurance or the reinsuring of risks underwritten by insurance companies, and that is subject to regulation or oversight by the insurance department of the office of the state auditor or a similar agency of another state, or any receiver or similar official or any liquidating agent for such a company, in their capacity as such an insurance company; (d) an investment company registered under section 8 of the federal Investment Company Act of 1940, as amended; (e) an employee benefit plan or pension fund subject to the federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary holding company licensee that directly or indirectly owns 10% or more of a licensee; (f) a state or federal government pension plan; or (g) any other entity identified by rule by the department. (35) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical condition who has received and maintains a valid registry identification card. (36) "Registry identification card" means a document issued by the department pursuant to 16-12-503 that identifies an individual as a registered cardholder. (37) (a) "Resident" means an individual who meets the requirements of 1-1-215. (b) An individual is not considered a resident for the purposes of this chapter if the individual: (i) claims residence in another state or country for any purpose; or (ii) is an absentee property owner paying property tax on property in Montana. (38) "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height and 12 inches in diameter. (39) "Synthetic cannabinoids" has the meaning provided in 50-32-222 and includes any cannabinoids produced artificially, whether from chemical synthesis or biosynthesis using recombinant biological agents, including but not limited to yeast and algae. (40) "Synthetic marijuana product" means marijuana or marijuana products that contain synthetic cannabinoids. (41) "Testing laboratory" means a qualified person, licensed under this chapter that: (a) provides testing of representative samples of marijuana and marijuana products; and (b) provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample. (42) (a) "Usable marijuana" means the dried leaves and flowers of the marijuana plant that are appropriate for the use of marijuana by an individual. (b) The term does not include the seeds, stalks, and roots of the plant. History: En. Sec. 2, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 38, Ch. 576, L. 2021; amd. Sec. 1, Ch. 743, L. 2023, Sec. 12, Ch. 743, L. 2023; amd. Sec. 5, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-103. Department authority

16-12-103. Department authority. The department shall license and regulate the cultivation, manufacture, transport, and sale of marijuana as allowed by this chapter and shall administer and enforce this chapter. History: En. Sec. 3, I.M. No. 190, approved Nov. 3, 2020.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-104. Department responsibilities -- licensure

16-12-104. Department responsibilities -- licensure. (1) The department shall establish and maintain a registry of persons who receive licenses under this chapter. (2) (a) The department shall issue the following license types to persons who submit applications meeting the requirements of this chapter: (i) cultivator license; (ii) manufacturer license; (iii) adult-use dispensary license or a medical marijuana dispensary license; (iv) testing laboratory license. (v) marijuana transporter license. (vi) combined-use marijuana license. (b) The department may establish other license types, subtypes, endorsements, and restrictions it considers necessary for the efficient administration of this chapter. (3) A licensee may not cultivate hemp or engage in hemp manufacturing at a licensed premises. (4) A person licensed to cultivate or manufacture marijuana or marijuana products is subject to the provisions contained in the Montana Pesticides Act provided for in Title 80, chapter 8. (5) The department shall assess applications for licensure or renewal to determine if an applicant, controlling beneficial owner, or a person with a financial interest in the applicant meets any of the criteria established in this chapter for denial of a license. (6) A license issued pursuant to this chapter must be displayed by the licensee as provided for in rule by the department. (7) (a) Except as provided in subsection (8), the department shall review the information contained in an application or renewal submitted pursuant to this chapter and shall approve or deny an application: (i) within 60 days of receiving the application or renewal and all related application materials from a former medical marijuana licensee or an existing licensee under this chapter; and (ii) within 120 days of receiving the application and all related application materials from a new applicant. (b) If the department fails to act on a completed application within the time allowed under subsection (7)(a), the department shall: (i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a licensee seeking renewal of a license by 5% each week that the application is pending; and (ii) allow a licensee to continue operation until the department takes final action. (c) The department may not take final action on an application for a license or renewal of a license until the department has completed a satisfactory inspection as required by this chapter and related administrative rules. (d) The department shall issue a license or endorsement within 5 days of approving an application or renewal. (8) (a) The department may issue a probationary license under subsection (2)(a)(iv) only if: (i) an applicant has completed the International Organization for Standardization application for assessment; and (ii) there are no pending corrective actions to obtain International Organization for Standardization accreditation. (b) A probationary license is valid for 180 days from the date of issue and may be renewed one time:

(i) if the application is denied after a good faith application effort; or (ii) if the application remains pending International Organization for Standardization accreditation. (c) If an applicant voluntarily closes the application process after receiving a probationary license, the applicant may not receive a second probationary license for 2 years. (9) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act. (b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate. (c) An appeal pursuant to subsection (9)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision. (10) Licenses issued under this chapter must be renewed annually. (11) (a) The department shall provide the names and phone numbers of persons, including the names of controlling beneficial owners, licensed under this chapter and the city, town, or county where licensed premises are located to the public on the department's website. Except as provided in subsection (11)(b), the department may not disclose the physical location or address of a marijuana business. (b) The department may share the physical location or address of a marijuana business with another state agency, political subdivision, and the state fire marshal. (c) The name of a controlling beneficial owner is not considered confidential information as defined in 2-6-1002. (12) The department may not prohibit a cultivator, manufacturer, or adult-use dispensary licensee operating in compliance with the requirements of this chapter from operating at a shared location with a medical marijuana dispensary. (13) The department may not adopt rules requiring a consumer to provide a licensee with identifying information other than government-issued identification to determine the consumer's age. A licensee that scans a person's driver's license using an electronic reader to determine the person's age: (a) may only use data or metadata from the scan determine the person's age; (b) may not transfer or sell that data or metadata to another party; and (c) shall permanently delete any data or metadata from the scan within 180 days, unless otherwise provided for in this chapter or by the department. (14) (a) Except as provided in subsection (14)(b), licenses issued by the department under this chapter are nontransferable. (b) A licensee may sell its marijuana business, including live plants, inventory, and material assets, to a person who is licensed by the department under the provisions of this chapter. The department may, in its discretion, issue a temporary license to the acquiring party to facilitate the transfer of the licensee's marijuana business. (15) A person who is not a controlling beneficial owner in a licensee may not receive or otherwise obtain an ownership interest in a licensee that results in the person becoming a controlling beneficial owner unless the licensee notifies, in writing, the department of the proposed transaction and the department determines that the person qualifies for ownership under the provisions of this chapter. History: En. Sec. 4, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 39, Ch. 576, L. 2021; amd. Sec. 4, Ch. 712, L. 2023; amd. Sec. 1, Ch. 714, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-105. Department responsibility to monitor and assess marijuana production, testing, sales, and license revocation

16-12-105. Department responsibility to monitor and assess marijuana production, testing, sales, and license revocation. (1) (a) The department shall implement a system for tracking marijuana and marijuana products from either the seed or the seedling stage until it is sold to a consumer or registered cardholder. (b) The system must ensure that marijuana and marijuana products cultivated, manufactured, possessed, and sold under this chapter are not sold or otherwise provided to an individual who is under 21 years of age unless that person is a registered cardholder. (c) The system must be made available to licensees, except that licensees shall bear the responsibility and cost for procuring unique identification tracking tags to facilitate the tracking of marijuana and marijuana products. (2) The department shall, if technology allows, require use of a mandatory semicashless payment system occurring at the point of sale for all dispensaries. Adult-use dispensaries and medical marijuana dispensaries are required to utilize a semicashless point-of-sale system when selling marijuana and marijuana products to consumers or registered cardholders. The department may establish by rule the requirements, standards, and private company that a licensee must use when utilizing such a system in a dispensary. The semicashless processor is authorized to make deposits to an account specified by the department for tax collection. (3) The department is authorized to share seed-to-sale information with the licensee's depository institution, any other government agency, or the semicashless processor. History: En. Sec. 6, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 40, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-106. Personal use and cultivation of marijuana -- penalties

16-12-106. Personal use and cultivation of marijuana -- penalties. (1) Subject to the limitations in 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain, search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the laws of any local government for a person who is 21 years of age or older or a registered cardholder: (a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed in solid form; (b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or older or a registered cardholder, 1 ounce or less of usable marijuana, except that not more than 8 grams may be in a concentrated form and not more than 800 milligrams of THC may be in edible marijuana products meant to be eaten or swallowed

in solid form; (c) in or on the grounds of a private residence, possessing, planting, or cultivating up to two mature marijuana plants and two seedlings, or four mature marijuana plants and four seedlings for a registered cardholder, and possessing, harvesting, drying, processing, or manufacturing the marijuana, provided that: (i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision from a public place; (ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be cultivated in or on the grounds of a single private residence simultaneously; (iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private residence where the plants are cultivated and stored or obtain written permission to cultivate and store marijuana from the owner of the private residence; and (iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana products for personal use may be shared with, rented, or leased to a marijuana business; (d) assisting another person who is at least 21 years of age or a registered cardholder, in any of the acts permitted by this section, including allowing another person to use one's personal residence for any of the acts described in this section; and (e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to persons 18 years of age or older paraphernalia relating to marijuana. (2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding \$250 and forfeiture of the marijuana. (3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject to a civil fine not exceeding \$250 and forfeiture of the marijuana. (4) A person who smokes marijuana in a public place, other than in an area licensed for that activity by the department, is subject to a civil fine not exceeding \$50. (5) For a person who is under 21 years of age and is not a registered cardholder, possession, use, delivery without consideration, or distribution without consideration of marijuana is punishable in accordance with 45-5-624. (6) For a person who is under 18 years of age and is not a registered cardholder, possession, use, transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is punishable by forfeiture of the marijuana paraphernalia and 8 hours of drug education or counseling. (7) Unless otherwise permitted under the provisions of Title 16, chapter 12, part 5, the possession, production, delivery without consideration to a person 21 years of age or older, or possession with intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and: (a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to 4 hours of community service in lieu of the fine; (b) for a second violation, the person's choice between a civil fine not exceeding \$300 or completing up to 6 hours of community service in lieu of the fine; and (c) for a third or subsequent violation, the person's choice between a civil fine not exceeding \$500 or completing up to 8 hours of community service in lieu of the fine. (8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for conduct that is permitted by this chapter. (9) A person may not be denied access to or priority for an organ transplant or denied access to health care solely for conduct that is permitted by this chapter. History: En. Sec. 8, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 312, L. 2021; amd. Sec. 41, Ch. 576, L. 2021; amd. Sec. 5, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-107. Legal protections -- allowable amounts

16-12-107. Legal protections -- allowable amounts. (1) A cultivator may have the canopy allotment allowed by the department. (2) Except as provided in 16-12-108, a person licensed under this chapter may not be arrested, prosecuted, penalized, or denied any right or privilege, including but not limited to civil fine or disciplinary action by a professional licensing board or the department of labor and industry, solely because the person cultivates, manufactures, possesses, or transports marijuana in the amounts and manner allowed under this chapter. (3) A person may not be arrested or prosecuted for possession, conspiracy as provided in 45-4-102, or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana products as permitted under this chapter. (4) Except as provided in 16-12-210, possession of or application for a license does not solely constitute probable cause to search a person or the property of a person or otherwise subject a person or property of a person to inspection by any governmental agency, including a law enforcement agency. (5) The provisions of this section relating to protection from arrest or prosecution do not apply to a person unless the person has obtained a license prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that a person obtains a license after an arrest or the filing of a criminal charge. (6) A cultivator or manufacturer is presumed to be engaged in the use of marijuana as allowed by this chapter if the person is in possession of an amount of marijuana that does not exceed the amount permitted under this chapter. History: En. Sec. 14, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 42, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-108. Limitations of act

16-12-108. Limitations of act. (1) This chapter does not permit: (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while under the influence of marijuana or marijuana products; (b) consumption of marijuana or marijuana products while operating or being in physical control of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated; (c) smoking or consuming marijuana while riding in the passenger seat within an enclosed compartment of a motor vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated; (d) production, delivery, distribution, purchase, or consumption of synthetic marijuana products; (e) delivery or distribution of marijuana or marijuana products, with or without consideration, to a person under 21 years of age, unless the person is a registered cardholder; (f) purchase, consumption, or use of marijuana or marijuana products

by a person under 21 years of age, unless the person is a registered cardholder; (g) possession or transport of marijuana or marijuana products by a person under 21 years of age unless the underage person is a registered cardholder or is at least 18 years of age and is an employee of a marijuana business licensed under this chapter and engaged in work activities; (h) possession or consumption of marijuana or marijuana products or possession of marijuana paraphernalia: (i) on the grounds of any property owned or leased by a school district, a public or private preschool, school, or postsecondary school as defined in 20-5-402; (ii) in a school bus; (iii) in a health care facility as defined in 50-5-101; or (iv) on the grounds of any correctional facility; (i) using marijuana or marijuana products in a location where smoking tobacco is prohibited; (j) smoking marijuana in a hotel or motel room, except for a hotel or motel room that is designated as a smoking room and rented to a guest; (k) consumption of marijuana or marijuana products: (i) in a public place, except as allowed by the department; or (ii) on trains, buses, or other forms of public transportation. (l) conduct that endangers others; (m) undertaking any task while under the influence of marijuana or marijuana products if doing so would constitute negligence or professional malpractice; or (n) performing solvent-based extractions on marijuana using solvents other than water, glycerin, propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department. (2) (a) A violation of subsections (1)(h)(i) through (1)(h)(iii) and (1)(i) through (1)(k) is subject to the penalties provided for in 50-40-115. (b) In addition to the penalties provided for in 50-40-115, a person in violation of subsection (1)(h)(iv) may be subject to administrative action by the department of corrections and the department of justice, and a violation of subsection (1)(h)(iv) may be subject to the penalties provided for in 45-7-307. (c) A violation of subsection (1)(n) is subject to the penalties provided for in 45-9-110(3). (3) A person may not cultivate marijuana in a manner that is visible from the street or other public area. (4) A hospice or residential care facility licensed under Title 50, chapter 5, may adopt a policy that allows use of marijuana by a registered cardholder. (5) Nothing in this chapter may be construed to: (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any workplace or on the employer's property; (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for working while intoxicated by marijuana or marijuana products; (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of employment because of the individual's violation of a workplace drug policy or intoxication by marijuana or marijuana products while working; (d) prohibit an employer from including in any contract a provision prohibiting the use of marijuana for a debilitating medical condition; or (e) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or discrimination pursuant to 49-1-102. (6) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages, except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain federal funding. (7) A licensee who violates 15-64-103 or 15-64-104 or fails to pay any other taxes owed to the department under Title 15 is subject to revocation of the person's license from the date of the violation until a period of up to 1 year after the department certifies compliance with 15-64-103 or 15-64-104. (8) Unless specifically exempted by this chapter, the provisions of Title 45, chapter 9, apply to the conduct of consumers, licensees, and registered cardholders. History: En. Sec. 16, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 43, Ch. 576, L. 2021; amd. Sec. 6, Ch. 712, L. 2023; amd. Sec. 6, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-109. Unlawful conduct by licensees -- penalties

16-12-109. Unlawful conduct by licensees -- penalties. (1) If the department has reasonable cause to believe that a licensee has violated a provision of this chapter or a rule of the department, it may, in its discretion and in addition to any other penalties prescribed: (a) reprimand a licensee; (b) revoke the license of the licensee; (c) suspend the license for a period of up to 1 year; (d) refuse to grant a renewal of the license after its expiration; or (e) impose a civil penalty not to exceed \$3,000. (2) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are: (a) compliance with the provisions of this chapter within the prior 3 years; (b) the licensee has made good faith efforts to prevent a violation; or (c) the licensee has cooperated in the investigation of the violation and the licensee or an employee or agent of the licensee accepts responsibility. (3) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are: (a) prior warnings about compliance problems; (b) prior violations of the provisions of this chapter within the past 3 years; (c) lack of written policies governing employee conduct; (d) additional violations revealed during the course of the investigation; (e) efforts to conceal a violation; (f) intentional violations; or (g) involvement of more than one patron or employee in a violation. (4) For each licensing program regulated by the department under this chapter, the department is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding licensees and license applicants and regarding possible unlicensed practice. (5) The department shall revoke and may not reissue a license or endorsement belonging to a person: (a) whose controlling beneficial owner is an individual convicted of a felony drug offense; (b) who allows another person not authorized or lawfully allowed to be in possession of the license; (c) who transports marijuana or marijuana products outside of Montana, unless otherwise allowed by federal law; (d) who operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing license; (e) who purchases marijuana from an unauthorized source in violation of this chapter; or (f) who sells, distributes, or transfers marijuana or marijuana products to a person the licensee knows or should know is under 21 years of age, unless the person is a registered

cardholder. (6) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the revocation. (7) (a) Review of a department action imposing a fine, suspension, or revocation under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act. (b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate. (c) An appeal pursuant to subsection (7)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision. History: En. Sec. 20, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 44, Ch. 576, L. 2021; amd. Sec. 7, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-110. Legislative monitoring

16-12-110. Legislative monitoring. (1) The economic affairs interim committee shall provide oversight of activities pursuant to this chapter, including but not limited to monitoring of: (a) the number of licensees; (b) (i) the total square footage of canopy licensed in the state; and (ii) the percentage of total canopy in production; (c) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; (d) the development, implementation, and use of the seed-to-sale tracking system established in accordance with 16-12-105; (e) the number of registered cardholders; (f) the number and type of violations committed by registered cardholders, together with the penalties imposed on registered cardholders by the department; and (g) laboratory testing procedures performed by the department in accordance with this chapter. (2) The economic affairs interim committee shall identify issues likely to require future legislative attention and develop legislation to present to the next regular session of the legislature. (3) (a) The department shall periodically report to the economic affairs interim committee and submit a report to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed or registered pursuant to 16-12-203 and 16-12-503. The report must include: (i) the number of cultivators, manufacturers, and dispensaries licensed pursuant to this chapter; (ii) the number and type of violations committed by licensees; (iii) the number of licenses revoked; (iv) the amount of marijuana and marijuana products cultivated and sold pursuant to this chapter; (v) the number of applications for registry identification cards and the number of registered cardholders approved; (vi) the nature of the debilitating medical conditions of the registered cardholders; (vii) the number of registry identification cards revoked; and (viii) the number of physicians providing written certification for registered cardholders and the number of written certifications each physician has provided. (b) The report may not provide any identifying information of registered cardholders or physicians. (4) The report on inspections required under 16-12-210 must include, at a minimum, the following information for both announced and unannounced inspections: (a) the number of inspections conducted, by canopy licensure tier; (b) the number of licensees that were inspected more than once during the year; (c) the number of inspections that were conducted because of complaints made to the department; and (d) the types of enforcement actions taken as a result of the inspections. (5) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee. (6) Pursuant to 37-3-203, the board of medical examiners shall report annually in accordance with 5-11-210 to the economic affairs interim committee on the number and types of complaints the board has received involving physician practices in providing written certification for the use of marijuana. History: En. Sec. 25, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 45, Ch. 576, L. 2021; amd. Sec. 8, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess funds

16-12-111. Marijuana state special revenue account -- operating reserve -- transfer of excess funds. (1) There is a dedicated marijuana state special revenue account within the state special revenue fund established in 17-2-102, to be administered by the department. (2) The account consists of: (a) money deposited into the account pursuant to this chapter; (b) the taxes collected pursuant to Title 15, chapter 64, part 1; (c) license and registered cardholder fees deposited into the account pursuant to this chapter; (d) taxes deposited into the account pursuant to 16-12-310; and (e) civil penalties collected under this chapter. (3) Except as provided in subsection (4), money in the account must be used by the department for the purpose of administering the provisions of this chapter. (4) At the end of each fiscal year, the department shall transfer funds in excess of a 3-month operating reserve necessary to fund operating costs at the beginning of the next fiscal year in the following order: (a) an amount not to exceed \$6 million must be transferred to the healing and ending addiction through recovery and treatment (HEART) account established in 16-12-122; (b) the net balance remaining after distribution to the HEART account must be distributed as follows: (i) 20% to the credit of the department of fish, wildlife, and parks to be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and used pursuant to 87-1-209; (ii) 4% to the state park account established in 23-1-105(1); (iii) 4% to the trails and recreational facilities account established in 23-2-108; (iv) 4% to the nongame wildlife account established in 87-5-121; (v) 3% or \$200,000, whichever is less, to the veterans and surviving spouses state special revenue account provided for in 10-2-108; (vi) for the biennium beginning July 1, 2021, \$300,000 to the department of justice to administer grant funding to local and state law enforcement agencies for the purpose of purchasing and training drug detection canines and canine handlers, including canines owned by local law enforcement agencies to replace canines who were trained to detect marijuana; (vii) \$150,000 to the

board of crime control to fund crisis intervention team training as provided in 44-7-110; and (viii) the remainder to the general fund. (Subsection (4)(b)(vi) terminates June 30, 2025--sec. 117(2), Ch. 576, L. 2021.) History: En. Sec. 35, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 46, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-112. Rulemaking authority -- fees

16-12-112. Rulemaking authority -- fees. (1) The department may adopt rules to implement and administer this chapter, including: (a) the manner in which the department will consider applications for licenses, permits, and endorsements and renewal of licenses, permits, and endorsements; (b) the acceptable forms of proof of Montana residency; (c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under 16-12-129; (d) the security and operating requirements for licensees; (e) the security and operating requirements for manufacturing, including but not limited to requirements for: (i) safety equipment; (ii) extraction methods, including solvent-based and solvent-free extraction; and (iii) post-processing procedures; (f) notice and contested case hearing procedures for fines or license and endorsement revocations, suspensions, or modifications; (g) implementation of a system to allow the tracking of marijuana and marijuana products as required by 16-12-105; (h) labeling and packaging standards that protect public health by requiring the listing of pharmacologically active ingredients, including but not limited to THC, cannabidiol (CBD) and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package, and quantity limits per sale to comply with the allowable possession amount; (i) investigating and making rules to limit, if necessary, the appropriate THC potency percentages for marijuana and marijuana products; (j) requirements that packaging and labels may not be made to be attractive to children, that they have required warning labels as set forth in 16-12-215, and that marijuana and marijuana products be sold in resealable, child-resistant exit packaging to protect public health as provided in 16-12-208; (k) requirements and standards for the testing and retesting of marijuana and marijuana products, including testing of samples collected during the department's inspections of licensed premises; (l) the amount of variance allowable in the results of raw testing data that would warrant a departmental investigation of inconsistent results as provided in 16-12-202; (m) requirements and standards to prohibit or limit marijuana, marijuana products, and marijuana accessories that are unsafe or contaminated; (n) the activities that constitute advertising in violation of 16-12-211 and requirements and standards for electronic advertising as permitted under 16-12-211; (o) requirements and incentives to promote renewable energy, reduce water usage, and reduce packaging waste to maintain a clean and healthy environment in Montana; (p) procedures for collecting and destroying samples of marijuana and marijuana products that fail to meet testing requirements pursuant to 16-12-209; and (q) the fees for testing laboratories, the fingerprint-based and name-based background checks required under 16-12-129, employee certification, the marijuana transporter license, marijuana worker permits, and other fees necessary to administer and enforce the provisions of this chapter. The fees established by the department, taxes collected pursuant to Title 15, chapter 64, part 1, civil penalties imposed pursuant to this chapter, and the licensing fees established by rule and in part 2 of this chapter must be sufficient to offset the expenses of administering this chapter but may not exceed the amount necessary to cover the costs to the department of implementing and enforcing this chapter. (2) The department may not adopt any rule or regulation that is unduly burdensome or undermines the purposes of this chapter. (3) The department may consult or contract with other public agencies in carrying out its duties under this chapter. History: En. Sec. 26, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 1, Ch. 505, L. 2021; amd. Sec. 47, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-113. Decriminalized acts -- petition for expungement or resentencing -- retroactive application

16-12-113. Decriminalized acts -- petition for expungement or resentencing -- retroactive application. (1) A person currently serving a sentence for an act that is permitted under this chapter or is punishable by a lesser sentence under this chapter than the person was awarded may petition for an expungement of the conviction or resentencing. (2) Upon receiving a petition under subsection (1), the expungement or resentencing of marijuana conviction court, as provided in 16-12-114 through 16-12-116, shall presume the petitioner satisfies the criteria in subsection (1) unless the county attorney provides the court with a reasonable basis on which the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subsection (1), the court shall grant the petition unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety. (3) A person who is serving a sentence and is resentenced pursuant to subsection (1) must be given credit for any time already served and may not be subject to supervision. (4) Resentencing under this section may not result in the imposition of a term longer than the original sentence or the reinstatement of charges dismissed pursuant to a negotiated plea agreement. (5) (a) A person who has completed a sentence for an act that is permitted under this chapter or is punishable by a lesser sentence under this chapter than the person was awarded may petition the sentencing court to: (i) expunge the conviction; or (ii) redesignate the conviction as a misdemeanor or civil infraction in accordance with this chapter. (b) The petition must be served on the county attorney for the county where the petition is filed. (6) Upon receiving a petition under subsection (5), the court shall presume the petitioner satisfies the criteria in subsection (5) unless the county attorney provides the court with a reasonable basis on which the petitioner does not satisfy the criteria. Once the applicant satisfies the criteria in subsection (5), the court shall redesignate the conviction as a misdemeanor or civil infraction or expunge the conviction as legally invalid pursuant to this chapter. (7) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subsection (5). (8) Any felony conviction that is recalled under subsection (1) or designated

as a misdemeanor or civil infraction under subsection (5) must be considered a misdemeanor or civil infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subsection (1) or designated as a civil infraction under subsection (5) must be considered a civil infraction for all purposes. (9) Nothing in this section constitutes a waiver of any right or remedy otherwise available to the petitioner or applicant. (10) Nothing in this chapter is intended to impact the finality of judgment in any case not falling within the purview of this chapter. (11) The provisions of this section apply equally to juvenile cases if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under this chapter. (12) Petitioning for expungement or resentencing pursuant to this section does not make a person ineligible to petition for misdemeanor expungement pursuant to Title 46, chapter 18, part 11. History: En. Sec. 36, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 48, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-114. Definitions

16-12-114. Definitions. As used in 16-12-114 through 16-12-116, unless the context clearly indicates otherwise, the following definitions apply: (1) "Expungement or resentencing of marijuana conviction court" means the court that is responsible for determining petitions for expungement and resentencing as provided in 16-12-113. (2) "Petition for expungement or resentencing" means a petition filed pursuant to 16-12-113 seeking expungement or resentencing of a marijuana conviction. History: En. Sec. 101, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-115. Appointment of judge

16-12-115. Appointment of judge. (1) A petition for expungement or resentencing of a marijuana conviction filed as provided in 16-12-113 may be determined by a judge pro tempore or special master, who must be a member of the bar of the state, agreed on in writing by the petitioner and the county attorney, appointed by the supreme court as provided in 3-5-115, and sworn to determine whether the petitioner meets the criteria for expungement or resentencing as provided in 16-12-113. On appointment, the individual must be designated as the decriminalized marijuana conviction expungement judge. (2) A judge appointed under subsection (1) has the authority and power of an elected district court judge in the civil action involving petitions filed as provided in 16-12-113. All proceedings must be conducted in accordance with the rules of evidence and procedure governing district courts. (3) Any determination rendered in a petition by the judge has the same force and effect as if determined by the district court with the regular judge presiding. (4) A party stipulating to have a petition determined by the judge appointed under subsection (1) may not file a motion for substitution of the judge pursuant to 3-1-804. (5) All filings relating to a petition filed as provided in 16-12-113 must be filed with the clerk of court in the judicial district in which the marijuana conviction took place. The applicant and the county attorney shall provide a copy of each filing to the judge appointed as provided in subsection (1). History: En. Sec. 102, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-116. Petition for expungement -- venue

16-12-116. Petition for expungement -- venue. When the applicant requests a hearing, as provided in 16-12-113, the judge appointed as provided in 16-12-115 may hear the petition in any venue stipulated by the petitioner and the county attorney, as provided in 25-2-202, or in any venue otherwise determined by the judge in accordance with a stipulation of the petitioner and the county attorney. In stipulating venue, the petitioner and the county attorney shall take into consideration the availability of courtroom facilities. The judge may prepare a list of available courtroom facilities for consideration. History: En. Sec. 103, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-117. Synthetic marijuana products prohibited -- restriction on sale of marijuana products

16-12-117. Synthetic marijuana products prohibited -- restriction on sale of marijuana products. (1) A person may not manufacture, process, or offer for sale a synthetic marijuana product. (2) Products containing or consisting of cannabinoids produced and processed for any type of consumption into a human body, whether marketed as containing or consisting of cannabinoids or not, that exceed a THC concentration of 0.3% may only be sold by a manufacturer licensed under 16-12-222 or a dispensary licensed under 16-12-224 unless the products are authorized as a drug by the United States food and drug administration. Products under this section may not exceed the potency levels established in 16-12-224. (3) Products containing a THC concentration of 0.3% or less sold by any person other than a licensed manufacturer under 16-12-222 or a licensed dispensary under 16-12-224 may not exceed 0.5 milligrams of THC for each serving and may not exceed 2 milligrams per package. (4) This section does not apply to unadulterated hemp flower that is not further processed into extracts, infused products, or concentrates. History: En. Sec. 1, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-118. through 16-12-121 reserved

16-12-118 through 16-12-121 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-122. Healing and ending addiction through recovery and treatment account -- report

16-12-122. Healing and ending addiction through recovery and treatment account -- report. (1) There is a healing and ending addiction through recovery and treatment account in the state special revenue fund. The account consists of money transferred to the account pursuant to 16-12-111. (2) Revenue in the account must be used to provide statewide programs for: (a) substance use disorder prevention; (b) youth suicide prevention; (c) mental health promotion; and (d) crisis, treatment, and recovery services for substance use and mental health disorders. The services include but are not limited to crisis stabilization services as defined in 53-21-1401 and provided under Title 53, chapter 6, or Title 53, chapter 21, part 14. (3) The programs must be designed to: (a) increase the number of individuals choosing treatment over incarceration; (b) improve access to, utilization of, and engagement and retention in prevention, treatment, and recovery support services; (c) expand the availability of community-based services that reflect best practices or are evidence-based; (d) leverage additional federal funds when available for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11, and the medicaid program provided for in Title 53, chapter 6, for the purposes of this section; (e) provide funding for programs and services that are described in subsections (2)(a) through (2)(d) and provided on an Indian reservation located in this state; or (f) provide funding for grants and services to tribes for use in accordance with this section. (4) (a) An amount not to exceed \$500,000, including eligible federal matching sources when applicable, must be used to provide funding for grants and services to tribes for tobacco prevention and cessation, substance use disorder prevention, mental health promotion, and substance use disorder and mental health crisis, treatment, and recovery services. (b) The department of public health and human services shall: (i) manage the programs funded by the special revenue account; (ii) adopt rules to implement the programs; and (iii) provide a written report to the children, families, health, and human services interim committee, in accordance with 5-11-210, no later than September 1 of each year on the programs, grants, and services funded under this section. The report must include the amount of funding each program received. (5) The legislature shall appropriate money from the state special revenue account provided for in this section for: (a) the chemical dependency treatment room and board voucher program provided for in 53-24-218; and (b) the programs referred to in this section. (6) Programs funded under this section must be funded through contracted services with service providers. (Subsection (5)(a) terminates June 30, 2027--sec. 7, Ch. 187, L. 2023.) History: En. Sec. 100, Ch. 576, L. 2021; amd. Sec. 1, Ch. 181, L. 2023; amd. Sec. 1, Ch. 186, L. 2023; amd. Sec. 2, Ch. 187, L. 2023; amd. Sec. 1, Ch. 301, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-123. and 16-12-124 reserved

16-12-123 and 16-12-124 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-125. Hotline -- reporting -- referrals

16-12-125. Hotline -- reporting -- referrals. (1) The department shall create and maintain a hotline to receive reports of suspected abuse of the provisions of this chapter. (2) An individual making a complaint must be a resident and shall provide the individual's name, street address, and phone number. (3) The department shall provide a copy of the complaint to the person or licensee that is the subject of the complaint. (4) The department may: (a) investigate reports of suspected abuse of the provisions of this chapter; or (b) refer reports of suspected abuse to the law enforcement agency having jurisdiction in the area where the suspected abuse is occurring. (5) The department shall make available to the public complaints about violations of 16-12-117(3), including: (a) information regarding the types of businesses or products being reported; and (b) any disciplinary action taken against a person in violation of 16-12-117(3). (6) The department reports made to the legislature pursuant to 16-12-110 must include the number of investigations and complaints the department referred to law enforcement and the complaints' disposition. History: En. Sec. 1, Ch. 576, L. 2021; amd. Sec. 9, Ch. 712, L. 2023; amd. Sec. 7, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-126. through 16-12-128 reserved

16-12-126 through 16-12-128 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 1. General Provisions 16-12-129. Department to conduct background checks

16-12-129. Department to conduct background checks. (1) In addition to any other requirement imposed under this chapter, before issuing any license under this chapter the department shall conduct: (a) a fingerprint-based background check meeting the requirements for a fingerprint-based background check by the department of justice and the federal bureau of investigation in association with an application for initial licensure and every 5 years thereafter; and (b) a name-based background check in association with an application for initial licensure and each year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based background check. (2) For the purpose of the background records check required under subsection (1), the department shall obtain fingerprints from each individual listed on an application submitted under this chapter

and each individual who has a controlling beneficial ownership or financial interest in the license or prospective license, including: (a) each partner of an applicant that is a limited partnership; (b) each member of an applicant that is a limited liability company; (c) each director and officer of an applicant that is a corporation; (d) each individual who holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; (e) each individual who is a partner, member, director, or officer of a legal entity that holds a 5% financial interest in the license applicant or is a controlling beneficial owner of the person applying for the license; and (f) a person designated by the applicant as responsible for operating the licensed establishment on behalf of the licensee. (3) The department may establish procedures for obtaining fingerprints for the fingerprint-based and name-based background checks required under this section. History: En. Sec. 2, Ch. 576, L. 2021; amd. Sec. 10, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-201. Licensing of cultivators, manufacturers, and dispensaries

16-12-201. Licensing of cultivators, manufacturers, and dispensaries. (1) (a) Between January 1, 2022, and June 30, 2025, the department may only accept applications from and issue licenses to former medical marijuana licensees that were licensed by or had an application pending with the department of public health and human services on April 27, 2021, and are in good standing with the department and in compliance with this chapter, rules adopted by the department, and any applicable local regulations or ordinances as of January 1, 2022. (b) The department shall begin accepting applications for and issuing licenses to cultivate, manufacture, or sell marijuana or marijuana products to applicants who are not former medical marijuana licensees under subsection (1)(a) on or after July 1, 2025. (2) (a) The department shall adopt rules to govern the operation of former medical marijuana licensees and facilitate the process of transitioning former medical marijuana licensees to the appropriate license under this chapter with a minimum of disruption to business operations. (b) Beginning January 1, 2022, a former medical marijuana licensee may sell marijuana and marijuana products to registered cardholders at the medical tax rate set forth in 15-64-102 and to consumers at the adult-use marijuana tax rate set forth in 15-64-102 under the licensee's existing license in a jurisdiction that allows for the operation of marijuana businesses pursuant to 16-12-301 until the former medical marijuana licensee's next license renewal date, by which time the former medical licensee must have applied for and obtained the appropriate licensure under this chapter to continue operations, unless an extension of time is granted by the department. (c) (i) Except as provided in subsection (2)(c)(ii), for the purpose of this subsection (2), "appropriate licensure" means a cultivator license, medical marijuana dispensary license, adult-use dispensary license, and, if applicable, a manufacturer license. (ii) A former medical marijuana licensee who sells marijuana and marijuana products exclusively to registered cardholders is not required to obtain an adult-use dispensary license. (3) The department may amend or issue licenses to provide for staggered expiration dates. The department may provide for initial license terms of greater than 12 months but no more than 23 months in adopting staggered expiration dates. Thereafter, licenses expire annually. License fees for the license term implementing staggered license terms may be prorated by the department. History: En. Sec. 5, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 49, Ch. 576, L. 2021; amd. Sec. 2, Ch. 743, L. 2023, Sec. 11, Ch. 743, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-202. Testing laboratories -- licensing -- inspection

16-12-202. Testing laboratories -- licensing -- inspection. (1) (a) A person who obtains a testing laboratory license or is an employee of a licensed testing laboratory is authorized to possess and test marijuana as allowed by this chapter. (b) A person who is a controlling beneficial owner of a testing laboratory or holds a financial interest in a licensed testing laboratory may not be a controlling beneficial owner or have a financial interest in any entity involved in the cultivation, manufacture, or sale of marijuana or marijuana products for whom testing services are performed. (2) (a) The department shall endorse a testing laboratory to perform the testing required under 16-12-206 and 16-12-209 before a testing laboratory may apply for licensure or renewal with the department. (b) (i) The department shall inspect a testing laboratory before endorsing a testing laboratory for licensure or renewal and may not endorse a testing laboratory for licensure or renewal if the applicant does not meet the requirements of 16-12-206 and this section. (ii) The department may not issue a temporary license while an inspection is pending. (3) An inspection conducted for licensure or renewal of a license must include a review of an applicant's or testing laboratory's: (a) physical premises where testing will be conducted; (b) instrumentation; (c) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal; (d) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and (e) vehicles used for transporting marijuana or marijuana product samples for testing purposes. (4) On receiving an endorsement from the department for licensure or annual renewal, a testing laboratory must apply for licensure or renewal with the department by submitting to the department: (a) the information required by 16-12-203; and (b) a fee that the department shall establish by rule. (5) The department shall: (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; (b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants; and (c) establish and enforce standard operating procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders receive consistent and uniform information about the potency and quality of the marijuana and marijuana products they receive. The department shall: (i) consult with independent national or international organizations that establish testing standards for marijuana and marijuana products; (ii) require testing laboratories to follow uniform standards and protocols for the samples accepted for testing and the processes used for testing the samples; and (iii) track

and analyze the raw data for the results of testing conducted by testing laboratories to ensure that the testing laboratories are providing consistent and uniform results. (6) The department may retain the services of the analytical laboratory provided by the department of agriculture pursuant to 80-1-104 for the testing contemplated in this section. (7) If an analysis of raw testing data indicates that licensees are providing test results that vary among testing laboratories by an amount determined by the department by rule, the department shall investigate the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that each testing laboratory provides accurate and consistent results. (8) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent results, the department may suspend the testing laboratory's license. A suspension must be based on rules adopted by the department. (9) The department shall revoke a testing laboratory's license upon a determination that the laboratory is: (a) providing test results that are fraudulent or misleading; or (b) providing test results without having: (i) the equipment needed to test marijuana, marijuana concentrates, or marijuana products; or (ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing results. (10) (a) Review of a rejection of an application or renewal may be conducted as a contested case hearing before the department's office of dispute resolution pursuant to the provisions of the Montana Administrative Procedure Act. (b) A person may appeal any decision of the department concerning the issuance, rejection, suspension, or revocation of a license provided for in this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate. (c) An appeal pursuant to subsection (10)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision. History: En. Sec. 7, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 50, Ch. 576, L. 2021; amd. Sec. 12, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-203. Licensing types -- requirements -- limitations -- activities

16-12-203. Licensing types -- requirements -- limitations -- activities. (1) (a) Subject to subsection (3) and this subsection (1), the department shall issue a license to or renew a license for a person who is applying to be a cultivator, manufacturer, medical marijuana dispensary, adult-use dispensary, or testing laboratory if the person submits to the department: (i) the person's name, date of birth, and street address on a form prescribed by the department; (ii) proof that the natural person having day-to-day operational control over the business is a Montana resident; (iii) a statement, on a form prescribed by the department, that the person: (A) will not divert to any other person the marijuana that the person cultivates or the marijuana products that the person manufactures for consumers or registered cardholders, unless the marijuana or marijuana products are sold to another licensee as allowed under this section and by rules of the department; and (B) has no pending citations for violations occurring under this chapter or the marijuana laws of any other state or jurisdiction; (iv) the street address of the location at which marijuana, marijuana concentrates, or marijuana products will be cultivated, manufactured, sold, or tested; and (v) proof that the applicant has source of funding from a suitable source. A lender or other source of money or credit may be found unsuitable if the source: (A) is a person whose prior financial or other activities or criminal record: (B) poses a threat to the public interest of the state; (C) poses a threat to the effective regulation and control of marijuana and marijuana products; or (D) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business. (b) If the person to be licensed consists of more than one individual, the names of all owners must be submitted along with the fingerprints and date of birth of each owner having at least a 5% controlling beneficial ownership interest. (c) Nonindividuals who apply for the issuance of a marijuana business license shall disclose to the department the following: (i) a complete and accurate organizational chart of the marijuana business disclosing the identity and ownership percentages of its controlling beneficial owners; (ii) whether the applicant has ever filed for bankruptcy; (iii) whether the applicant has ever been a party to a lawsuit, either as a plaintiff or defendant; (iv) any financial interests held by the applicant in another marijuana business in any state; (v) if the controlling beneficial owner is a publicly traded corporation, the controlling beneficial owners' managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner; (vi) if the controlling beneficial owner is not a publicly traded corporation, the controlling beneficial owner's managers and any beneficial owners that directly or indirectly beneficially own 5% or more of the owner's interest in the controlling beneficial owner; (vii) if the controlling beneficial owner is a natural person, the natural person's identifying information; (viii) a person that is both a passive beneficial owner and a financial interest holder in the marijuana business; and (ix) any financial interest holder that holds two or more financial interests in the marijuana business or that is contributing over 50% of the operating capital of the marijuana business. (d) The department may request that the marijuana business disclose each beneficial owner and affiliate of an applicant or marijuana business or each controlling beneficial owner that is not a publicly traded corporation. (e) An applicant or marijuana business that is not a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department. (f) An applicant or marijuana business that is a publicly traded corporation shall affirm under penalty of perjury that it exercised reasonable care to confirm that its passive beneficial owners, financial interest holders, and qualified institutional investors are not persons prohibited pursuant to this section, or otherwise restricted from holding an interest under this chapter. An applicant's or marijuana business's failure to exercise reasonable care is a basis for denial, fine, suspension, revocation, or other sanction by the department. (g) This section does not restrict the department's ability to reasonably request information or records at renewal or as

part of any other investigation following initial licensure of a marijuana business. (h) The department shall furnish to the economic affairs interim committee, on request, a list containing the names of all controlling beneficial owners for each licensee. (2) The department may not license a person under this chapter if the person or an owner, including a person with a financial interest: (a) has a felony conviction or a conviction for a drug offense, including but not limited to, a conviction for a violation of any marijuana law in any other state within the past 5 years and, after an investigation, the department finds that the applicant has not been sufficiently rehabilitated as to warrant the public trust; (b) is in the custody of or under the supervision of the department of corrections or a youth court; (c) has been convicted of a violation under 16-12-302 or of making a fraudulent representation under the former medical marijuana program administered by the department of public health and human services; (d) is under 21 years of age; (e) has failed to: (i) pay any taxes, interest, penalties, or judgments due to a government agency; (ii) comply with any provisions of Title 15 or Title 16, including the failure to file any tax return or report; (iii) stay out of default on a government-issued student loan; (iv) pay child support; or (v) remedy an outstanding delinquency for child support or for taxes or judgments owed to a government agency; (f) has had a license issued under this chapter or a former medical marijuana license revoked within 3 years of the date of the application; or (g) has resided in Montana for less than 1 year. (3) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana unless federal law otherwise allows for the interstate distribution of marijuana. (4) Except as provided in 16-12-209, a cultivator, manufacturer, medical marijuana dispensary, or adult-use dispensary shall: (a) prior to selling marijuana or marijuana products, submit samples to a testing laboratory pursuant to this chapter and administrative rules; (b) allow the department to collect samples of marijuana or marijuana products during inspections of licensed premises for testing as provided by the department by rule; and (c) participate as required by the department by rule in a seed-to-sale tracking system established by the department pursuant to 16-12-105. (5) (a) A person licensed under this section may cultivate marijuana and manufacture marijuana products for use by consumers or registered cardholders only at one of the following locations: (i) a property that is owned by the licensee; or (ii) with written permission of the property owner filed with the department when applying for or renewing a license, a property that is rented or leased by the licensee. (b) No portion of the property used for cultivation of marijuana or manufacture of marijuana products or marijuana concentrate may be shared with or rented or leased to another licensee. (c) Marijuana or marijuana products may not be consumed on the premises of any licensed premises. (6) A cultivator licensed under this chapter in accordance with licensing requirements set forth in this chapter and rules adopted by the department: (a) may operate adult-use dispensaries; (b) may engage in manufacturing; and (c) may not engage in outdoor cultivation of marijuana, except as provided in 16-12-223(6). (7) A cultivator or manufacturer: (a) may contract or otherwise arrange for another party that is licensed to process a cultivator's or manufacturer's marijuana into marijuana products and return the marijuana products to the cultivator or manufacturer for sale; and (b) except as allowed pursuant to 16-12-207, may not open a dispensary before obtaining the required license and before the department has completed the inspection required under this chapter unless permitted to do so pursuant to 16-12-207. History: En. Sec. 9, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 51, Ch. 576, L. 2021; amd. Sec. 13, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-204. Renumbered 16-12-221

16-12-204. Renumbered 16-12-221. Code Commissioner, 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-206. Testing laboratories -- licensing inspections

16-12-206. Testing laboratories -- licensing inspections. (1) A testing laboratory may: (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic acid content of marijuana and marijuana products; and (b) test marijuana and marijuana products for pesticides, solvents, moisture levels, mold, mildew, and other contaminants. A testing laboratory may transport samples to be tested. (2) A licensed testing laboratory shall employ a scientific director who is responsible for ensuring the achievement and maintenance of quality standards of practice. A scientific director must have the following minimum qualifications: (a) a doctorate in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or (b) a master's degree in chemical or biological sciences from a college or university accredited by a national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience. (3) All owners and employees of a testing laboratory shall submit fingerprints to the department to facilitate a fingerprint and background check as set forth in 16-12-129. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted of a felony offense. (4) To qualify for licensure, a testing laboratory shall demonstrate that: (a) staff members are proficient in operation of the laboratory equipment; and (b) the laboratory: (i) maintains the equipment and instrumentation required by rule; (ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance testing requirements established by rule, including the ability to certify results at the required level of sensitivity; (iii) meets insurance and bonding requirements established by rule; (iv) has the capacity and ability to serve rural areas of the state; and (v) has passed a proficiency program approved by the department that demonstrates it is able to meet all testing requirements. (5) Except as provided in 16-12-209, a testing laboratory shall conduct tests of: (a) samples of marijuana and marijuana products submitted by cultivators and manufacturers pursuant to 16-12-209 and related administrative rules prior to sale of the marijuana or marijuana products; (b) samples of marijuana or marijuana products collected by the department during inspections of licensed premises; and (c) samples submitted by consumers or registered cardholders. History: En. Sec. 12, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 53, Ch. 576, L. 2021; amd. Sec. 14, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-207. Licensing as privilege -- criteria

16-12-207. Licensing as privilege -- criteria. (1) A cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, combined-use marijuana license, marijuana transporter license, or any other license authorized under this chapter is a privilege that the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing decision, the department shall consider: (a) the qualifications of the applicant; and (b) the suitability of the proposed licensed premises, including but not limited to cultivation centers, dispensaries, and manufacturing facilities. (2) The department may deny or revoke a license based on proof that the applicant made a false statement in any part of the original application or renewal application. (3) (a) The department shall deny a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana license, or testing laboratory license if the applicant's proposed licensed premises: (i) is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the department; (ii) is not approved by local building, health, or fire officials as provided for in this chapter; or (iii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship, as a school or postsecondary school other than a commercially operated school, or as a child-care facility licensed or registered by the department of public health and human services, unless the locality requires a greater distance. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This subsection (3)(a)(iii) does not apply if the application is for license renewal and the licensed premises was established before the church, synagogue, or other place of worship or school or postsecondary school or child-care facility existed on the same street. (b) For the purposes of this subsection (3), "school" includes public and private preschools. (c) The provisions of subsection (3)(a)(iii) apply to new license applications submitted on or after January 1, 2024. (4) A licensee may not sell or otherwise transfer marijuana or marijuana products through a drive-up window, except that a dispensary may hand-deliver marijuana or marijuana products to a registered cardholder in a vehicle that is parked immediately outside the subject dispensary. (5) A marijuana business may not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises. (6) A marijuana business may not utilize the United States postal service or an alternative carrier other than a licensed marijuana transporter to transport, distribute, ship, or otherwise deliver marijuana or marijuana products. (7) A marijuana business may not provide free marijuana or marijuana products or offer samples of marijuana or marijuana products. (8) Marijuana or a marijuana product may not be given as a prize, premium, or consideration for a lottery, contest, game of chance, game of skill, or competition of any kind. (9) (a) Except as provided in subsection (9)(c), an adult-use dispensary or medical marijuana dispensary must have a single, secured entrance for patrons and shall implement strict security measures to deter and prevent the theft of marijuana and unauthorized entrance in accordance with department rule. (b) Except as provided in subsection (9)(c), a marijuana business that is not an adult-use dispensary or medical marijuana dispensary shall implement security measures in accordance with department rule to deter and prevent the theft of marijuana and unauthorized entrance. (c) The provisions of this subsection (9) do not supersede any state or local requirements relating to minimum numbers of points of entry or exit or any state or local requirements relating to fire safety. (10) Each marijuana business shall install a video monitoring system that must, at a minimum: (a) allow for the transmission and storage, by digital means, of a video feed that displays the interior and exterior of the cannabis establishment; and (b) be capable of being recorded as prescribed by the department. (11) An adult-use dispensary or medical marijuana dispensary may not operate between the hours of 8 p.m. and 9 a.m. daily. (12) A person under 21 years of age is not permitted inside a marijuana business unless the person is an employee of the marijuana business or a registered cardholder. History: En. Sec. 13, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 54, Ch. 576, L. 2021; amd. Sec. 15, Ch. 712, L. 2023; amd. Sec. 3, Ch. 743, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-208. Restrictions

16-12-208. Restrictions. (1) A cultivator or manufacturer may not cultivate marijuana or manufacture marijuana products in a manner that is visible from the street or other public area without the use of binoculars, aircraft, or other optical aids. (2) A cultivator or manufacturer may not cultivate, process, test, or store marijuana at any location other than the licensed premises approved by the department and within an enclosed area that is secured in a manner that prevents access by unauthorized persons. (3) A licensee shall make the licensed premises, books, and records available to the department for inspection and audit under 16-12-210 during normal business hours. (4) A licensee may not allow a person under 18 years of age to volunteer or work for the licensee. (5) Edible marijuana products manufactured as candy may not be sold in shapes or packages that are attractive to children or that are easily confused with commercially sold candy that does not contain marijuana. (6) (a) Marijuana or marijuana products must be sold or otherwise transferred in resealable, child-resistant exit packaging that complies with federal child resistance standards and is designed to be significantly difficult for children under 5 years of age to open and not difficult for adults to use properly. (b) (i) Packaging of individual products may contain only the following design elements and language on a white label: (A) the seller's business name and any accompanying logo or design mark; (B) the name of the product; and (C) the THC content or CBD content, health warning messages as provided in 16-12-215, and ingredients. (ii) All packaging and outward labeling, including business logos and design marks, must also comply with any standards or criteria established by the department, including but not limited to allowable symbols and imagery. (7) An adult-use dispensary or medical marijuana dispensary may not sell or otherwise transfer

hemp flower, hemp plants, synthetic cannabinoids, or alcohol from a licensed premises. (8) (a) Prior to selling, offering for sale, or transferring marijuana or marijuana product that is for ultimate sale to a consumer or registered cardholder, a licensee or license applicant shall submit both a package and a label application, in a form prescribed by the department, to receive approval from the department. (b) The initial submission must be made electronically if required by the department. The licensee or license applicant shall submit a physical prototype upon request by the department. (c) If a license applicant submits packages and labels for preapproval, final determination for packages and labels may not be made until the applicant has been issued a license. (d) A packaging and label application must include: (i) a fee provided for in rule by the department; (ii) documentation that all exit packaging has been certified as child-resistant by a federally qualified third-party child-resistant package testing firm; (iii) a picture or rendering of and description of the item to be placed in each package; and (iv) for label applications for inhalable marijuana products that contain nonmarijuana additives: (A) the nonmarijuana additive's list of ingredients; and (B) in a form and manner prescribed by the department, information regarding the additive or additives and the manufacturer of the additive or additives. (9) For the purpose of this section, "exit packaging" means a sealed, child-resistant certified receptacle into which marijuana or marijuana products already within a container are placed at the retail point of sale. History: En. Sec. 15, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 55, Ch. 576, L. 2021; amd. Sec. 16, Ch. 712, L. 2023; amd. Sec. 8, Ch. 746, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-209. Testing of marijuana and marijuana products

16-12-209. Testing of marijuana and marijuana products. (1) A cultivator, manufacturer, adult-use dispensary, or medical marijuana dispensary may not sell marijuana or marijuana products until the marijuana or marijuana products have been tested by a testing laboratory and meet the requirements of this section. The licensee shall pay for the testing. (2) A licensee shall submit material that has been collected in accordance with a sampling protocol established by the department by rule. The protocol must address the division of marijuana and marijuana products into batch sizes for testing. (3) The department shall adopt rules regarding the types of tests that must be performed to ensure product safety and consumer protection. Rules must include but are not limited to testing for: (a) the potency of the cannabinoids present; and (b) the presence of contaminants. (4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of levels of foreign matter, debris, insects, and visible mold. (5) The department shall establish by rule the acceptable levels of moisture, pesticides, residual solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana products may contain. (6) The testing laboratory shall: (a) issue a certificate of analysis certifying the test results; and (b) report the results to the seed-to-sale tracking system established pursuant to 16-12-105. (7) A licensee may request that material that has failed to pass the required tests be retested in accordance with the rules adopted by the department providing for retesting parameters and requirements. (8) Marijuana or a marijuana product must include a label indicating that the marijuana or marijuana product has been tested. (9) (a) The department shall collect and, except as provided in subsection (9)(b), destroy samples of marijuana and marijuana products that fail to meet the acceptable levels to ensure product safety and consumer protection. (b) If a sample fails due to THC levels in excess of the allowable limit and is not deficient in any other respect, the department may dispose of the sample by means other than destruction in accordance with rule. (c) The department may contract for the duties under this subsection (9). History: En. Sec. 17, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 56, Ch. 576, L. 2021; amd. Sec. 17, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees

16-12-210. Inspections -- procedures -- prohibition on inspector affiliation with licensees. (1) (a) The department shall conduct unannounced inspections of licensed premises. (b) The department may not conduct more than two unannounced inspections of a licensed premises per year unless a citation has been issued to a licensee at the premises within the last 2 years or there is other just and reasonable cause. (2) (a) The department shall inspect annually each premises operated by a licensee. (b) The department may collect samples during the inspection of a licensed premises and submit the samples to a testing laboratory or the analytical laboratory authorized by 80-1-104 for testing as provided by the department by rule. (3) (a) Each licensee shall keep a complete set of records necessary to show all transactions with consumers and registered cardholders. The records must be open for inspection by the department and state or local law enforcement agencies. (b) Each testing laboratory shall keep: (i) a complete set of records necessary to show all transactions with a licensee; and (ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana products. (c) The records and data required under this subsection (3) must be open for inspection by the department and state or local law enforcement agencies. (d) The department may require a licensee to furnish information that the department considers necessary for the proper administration of this chapter. (4) (a) Each licensed premises, including any places of storage, where marijuana is cultivated, manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement agencies for the purpose of inspection or investigation. (b) If any part of a licensed premises consists of a locked area, the licensee shall make the area available for inspection immediately upon request of the department or state or local law enforcement officials. (5) The department may not hire or contract with a person to be an inspector if the person, during the previous 4 years, was or worked for a Montana business or facility operating under this chapter or a former medical marijuana licensee. (6) In addition to any other penalties provided under this chapter, the department may revoke, suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon inspection and subsequent notice to the licensee, the department finds

that any of the following circumstances exist: (a) a cause for which issuance of the license or endorsement could have been rejected had it been known to the department at the time of issuance; (b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or (c) noncompliance with any provision of this chapter. (7) The department may suspend or modify a license or endorsement without advance notice upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of the licensee, or members of the public. The department may establish by rule the applicable procedures for securing or disposing of the inventory in such circumstances. (8) (a) Review of a department action imposing a suspension, revocation, or other modification under this chapter must be conducted as a contested case hearing before the department's office of dispute resolution under the provisions of the Montana Administrative Procedure Act. (b) A person may appeal any decision of the department of revenue concerning the issuance, rejection, suspension, or revocation of a license provided for by this chapter to the district court in the county in which the person operates or proposes to operate. If a person operates or seeks to operate in more than one county, the person may seek judicial review in the district court with jurisdiction over actions arising in any of the counties where it operates or seeks to operate. (c) An appeal pursuant to subsection (8)(b) must be made by filing a complaint setting forth the grounds for relief and the nature of relief demanded with the district court within 30 days following receipt of notice of the department's final decision. (9) The department shall establish a training protocol to ensure uniform application and enforcement of the requirements of this chapter. (10) The department shall report biennially to the economic affairs interim committee concerning the results of inspections conducted under this section. The report must include the information required under 16-12-110. History: En. Sec. 19, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 57, Ch. 576, L. 2021; amd. Sec. 18, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-211. Limitations on advertising -- rulemaking

16-12-211. Limitations on advertising -- rulemaking. (1) Except as provided in subsection (3), persons with licenses may not advertise marijuana or marijuana products. (2) A listing in a directory of businesses authorized under this chapter is not advertising for the purposes of this section. (3) (a) A licensee may engage in electronic advertising such as maintaining a website and advertising on web applications, provided that no electronic advertisement produced by the licensee contains a statement or illustration that: (i) is false or misleading; (ii) promotes overconsumption of marijuana or marijuana products; (iii) depicts the actual consumption of marijuana or marijuana products; (iv) depicts a person under 21 years of age consuming marijuana; (v) makes any health, therapeutic, or medicinal claims about marijuana or marijuana products; or (vi) is designed in a way that is likely to appeal to minors and includes cartoons, animals, children, or any other likeness to images, characters, or phrases that are designed in any manner to be appealing or to encourage consumption of marijuana by persons under 21 years of age. (b) A licensee may not advertise marijuana or marijuana products using pop-up advertisements that display in a new internet browser window. (c) A licensee may not direct advertising of marijuana or marijuana products toward mobile devices in the form of push notifications unless users affirmatively opt in to receiving push notifications related to marijuana or marijuana products. (4) The department shall adopt rules to clearly identify the activities that constitute advertising that are prohibited under this section. History: En. Sec. 24, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 2, Ch. 505, L. 2021; amd. Sec. 58, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-212. through 16-12-214 reserved

16-12-212 through 16-12-214 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-215. Required warning labels

16-12-215. Required warning labels. A person may not manufacture, package, sell, or transfer any marijuana or marijuana product unless the package containing the marijuana or marijuana product bears the following statements in a form required by the department: (1) "WARNING: Consumption of marijuana may cause anxiety, agitation, paranoia, psychosis, and cannabinoid hyperemesis." (2) "WARNING: Consumption of marijuana by pregnant women may result in fetal injury and low birth weight." (3) "WARNING: Consumption of marijuana by nursing mothers may result in infant hyperactivity and poor cognitive function." History: En. Sec. 109, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-216. through 16-12-220 reserved

16-12-216 through 16-12-220 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-221. Manufacturer -- requirements -- limitations -- fees

16-12-221. Manufacturer -- requirements -- limitations -- fees. (1) A person licensed as a manufacturer shall: (a) prepare marijuana products at a licensed premises exclusively; and (b) use equipment that is used exclusively for the manufacture and preparation of marijuana products. (2) All licensed premises on which marijuana products are manufactured must meet any applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102. (3) An applicant for a manufacturer license shall

demonstrate that the local government approval provisions contained in 16-12-301 have been satisfied in the jurisdiction where each proposed manufacturing facility is located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election. (4) When evaluating an initial or renewal application, the department shall evaluate each proposed manufacturing facility for compliance with the provisions of 16-12-207 and 16-12-210. (5) Marijuana products may not be considered a food or drug for the purposes of Title 50, chapter 31. (6) (a) The department shall charge a manufacturer license fee for an initial application and at each renewal. The license fee is based on the amount of concentrate produced at a manufacturing facility on a monthly basis. The annual fees for licensees are: (i) \$5,000 for each manufacturing facility that produces, on a monthly basis, less than 1 pound of concentrate and up to 10 pounds of concentrate; (ii) \$10,000 for each manufacturing facility that produces, on a monthly basis, between 10 pounds of concentrate and 15 pounds of concentrate; and (iii) \$20,000 for each manufacturing facility that produces, on a monthly basis, 15 pounds or more of concentrate. (b) The department may create additional fee levels as necessary. (c) A manufacturer may apply to advance to the next licensing level in conjunction with a regular renewal application by demonstrating that its proposed additional or expanded manufacturing facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election. (7) The department may adopt rules: (a) for the inspection of proposed manufacturing facilities; (b) for investigating the amount of concentrate produced at a manufacturing facility; and (c) for investigating owners or applicants for a determination of beneficial ownership or financial interest. History: En. Sec. 10, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 52, Ch. 576, L. 2021; Sec. 16-12-204, MCA 2020; redes. 16-12-221 by Code Commissioner, 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-222. Licensing of marijuana transporters

16-12-222. Licensing of marijuana transporters. (1) (a) A marijuana transporter license may be issued to a person to provide logistics, distribution, delivery, and storage of marijuana and marijuana products. A marijuana transporter license is valid for 2 years. A licensed marijuana transporter is responsible for the marijuana and marijuana products after it takes control of the marijuana or marijuana product. (b) A marijuana transporter may contract with multiple licensed marijuana businesses. (c) Except as otherwise provided in this section, all persons who transport marijuana or marijuana products must hold a valid marijuana transporter license. (d) The department shall establish by rule the requirements for licensure and the applicable fee for a marijuana transporter license or the renewal of a transporter license. The department may not license a person to be a marijuana transporter if the applicant meets any of the criteria established for denial of a license under 16-12-203(2). (2) A person who is not licensed under this chapter shall apply for and obtain a marijuana transporter license in order to transport marijuana or marijuana products. (3) A registered cardholder or consumer is not required to possess a marijuana transporter license when purchasing marijuana or marijuana products at a dispensary. (4) A person who obtains a cultivator license, manufacturer license, adult-use dispensary license, medical marijuana dispensary license, or testing laboratory license or is an employee of one of those licensees, may: (a) transport marijuana or marijuana products between other licensed premises without a transporter license so long as the transportation: (i) complies with rules implementing the seed-to-sale tracking system set forth in 16-12-105; and (ii) includes a printed manifest containing information as required by the department; and (b) deliver marijuana from a dispensary to a registered cardholder provided that the person delivering the marijuana or marijuana products: (i) complies with rules adopted by the department; and (ii) includes a printed delivery manifest from a dispensary to a registered cardholder containing the registered cardholder's address and cardholder number and the dispensary's address and license number. (5) (a) A marijuana transporter licensee may maintain a licensed premises to temporarily store marijuana and marijuana products and to use as a centralized distribution point in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election. (b) The licensed premises must be located in a jurisdiction that permits the operation of a marijuana business and comply with rules adopted by the department. (c) A marijuana transporter may store and distribute marijuana and marijuana products from this location. A storage facility must meet the same security requirements that are required to obtain a license under this chapter. (6) A marijuana transporter shall use the seed-to-sale tracking system developed pursuant to 16-12-105 to create shipping manifests documenting the transport of retail marijuana and retail marijuana products throughout the state. (7) A marijuana transporter may deliver marijuana or marijuana products to licensed premises or registered cardholders only and may not make deliveries of marijuana or marijuana products to individual consumers. (8) A person delivering marijuana or marijuana products for a marijuana transporter must possess a valid marijuana worker permit provided for under 16-12-226 and be a current employee of the marijuana transporter licensee. History: En. Sec. 3, Ch. 576, L. 2021; amd. Sec. 19, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-223. Licensing of cultivators

16-12-223. Licensing of cultivators. (1) (a) The department shall license cultivators according to a tiered canopy system. Except as provided in subsection (6), all cultivation that is licensed under this chapter may only occur at an indoor cultivation facility. (b) Except as provided in subsection (6), the system must include, at a minimum, the following license types: (i) A micro tier canopy license allows for a canopy of up to 250 square feet at one indoor cultivation facility. (ii) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one indoor cultivation facility. (iii) A tier 2 canopy license allows for a canopy of up to 2,500 square

feet at up to two indoor cultivation facilities. (iv) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three indoor cultivation facilities. (v) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four indoor cultivation facilities. (vi) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five indoor cultivation facilities. (vii) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five indoor cultivation facilities. (viii) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five indoor cultivation facilities. (ix) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five indoor cultivation facilities. (x) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six indoor cultivation facilities. (xi) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven indoor cultivation facilities. (xii) A tier 11 canopy license allows for a canopy of up to 40,000 square feet at up to eight indoor cultivation facilities. (xiii) A tier 12 canopy license allows for a canopy of up to 50,000 square feet at up to nine indoor cultivation facilities. (c) A cultivator shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied for the jurisdiction where each proposed indoor cultivation facility or facilities is or will be located if a proposed facility would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election. (d) When evaluating an initial or renewal license application, the department shall evaluate each proposed indoor cultivation facility for compliance with the provisions of 16-12-207 and 16-12-210. (e) (i) Except as provided in subsection (1)(e)(iii), a cultivator who has reached capacity under the existing license may apply to advance to the next licensing tier in conjunction with a regular renewal application by demonstrating that: (A) the cultivator is using the full amount of canopy currently authorized; (B) the tracking system shows the cultivator is selling at least 80% of the marijuana produced by the square footage of the cultivator's existing license over the 2 previous quarters or the cultivator can otherwise demonstrate to the department that there is a market for the marijuana it seeks to produce; and (C) its proposed additional or expanded indoor cultivation facility or facilities are located in a jurisdiction where the local government approval provisions contained in 16-12-301 have been satisfied or that they are located in a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election. (ii) Except as provided in subsection (1)(e)(iii), the department may increase a licensure level by only one tier at a time. (iii) A cultivator under a combined-use license may increase its licensure level by more than one tier at a time, up to a tier 5 canopy license, without meeting the requirements of subsections (1)(e)(i)(A) and (1)(e)(i)(B). (iv) The department shall conduct an inspection of the cultivator's registered premises and proposed premises within 30 days of receiving the application and before approving the application. (f) A marijuana business that has not been issued a license before July 1, 2025, must be initially licensed at a tier 2 canopy license or lower. (2) The department is authorized to create additional tiers as necessary. (3) The department may adopt rules: (a) for inspection of proposed indoor cultivation facilities under subsection (1); (b) for investigating owners or applicants for a determination of financial interest; and (c) in consultation with the department of agriculture and based on well-supported science, to require licensees to adopt practices consistent with the prevention, introduction, and spread of insects, diseases, and other plant pests into Montana. (4) Initial licensure and annual fees for these licensees are: (a) \$1,000 for a cultivator with a micro tier canopy license; (b) \$2,500 for a cultivator with a tier 1 canopy license; (c) \$5,000 for a cultivator with a tier 2 canopy license; (d) \$7,500 for a cultivator with a tier 3 canopy license; (e) \$10,000 for a cultivator with a tier 4 canopy license; (f) \$13,000 for a cultivator with a tier 5 canopy license; (g) \$15,000 for a cultivator with a tier 6 canopy license; (h) \$17,500 for a cultivator with a tier 7 canopy license; (i) \$20,000 for a cultivator with a tier 8 canopy license; (j) \$23,000 for a cultivator with a tier 9 canopy license; (k) \$27,000 for a cultivator with a tier 10 canopy license; (l) \$32,000 for a cultivator with a tier 11 canopy license; and (m) \$37,000 for a cultivator with a tier 12 canopy license. (5) The fee required under this part may be imposed based only on the tier of licensure and may not be applied separately to each indoor cultivation facility used for cultivation under the licensure level. (6) A former medical marijuana licensee who engaged in outdoor cultivation before November 3, 2020, may continue to engage in outdoor cultivation. History: En. Sec. 4, Ch. 576, L. 2021; amd. Sec. 4, Ch. 743, L. 2023, Sec. 10, Ch. 743, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-224. Licensing of dispensaries

16-12-224. Licensing of dispensaries. (1) Except as provided in 16-12-201(2), an applicant for a dispensary license shall demonstrate that the local government approval provisions in 16-12-301 have been satisfied in the jurisdiction where each proposed dispensary is located if the proposed dispensary would be located in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election. (2) When evaluating an initial or renewal application, the department shall evaluate each proposed dispensary for compliance with the provisions of 16-12-207 and 16-12-210. (3) An adult-use dispensary licensee may operate at a shared location with a medical marijuana dispensary if the adult-use dispensary and medical marijuana dispensary are owned by the same person. (4) A medical marijuana dispensary is authorized to sell exclusively to registered cardholders marijuana, marijuana products, and live marijuana plants. (5) An adult-use dispensary is authorized to sell marijuana, marijuana products, and live marijuana plants to consumers or registered cardholders. (6) (a) The department shall charge a dispensary license fee for an initial application and at each renewal. (b) The dispensary license fee is \$5,000 for the first location that a licensee operates as an adult-use dispensary or a medical marijuana dispensary. The dispensary license fee increases cumulatively by \$5,000 for each additional location under the same license. (7) The department may adopt rules: (a) for inspection of proposed dispensaries; (b) for investigating owners or applicants for a determination of financial interest; and (c) establishing or limiting the THC content of the marijuana or marijuana products that may be sold at an adult-use dispensary or medical marijuana dispensary. (8) (a) Marijuana and marijuana products sold at a dispensary are regulated and sold on the basis of the concentration of THC in the products and not by weight. (b) Except as provided in subsection (8)(d), for purposes of this chapter, a single package is

limited to: (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive THC of marijuana flower may not exceed 35%. (ii) for a marijuana product sold as a capsule, no more than 100 milligrams of THC per capsule and no more than 800 milligrams of THC per package. (iii) for a marijuana product sold as a tincture, no more than 800 milligrams of THC; (iv) for a marijuana product sold as an edible or a food product, no more than 100 milligrams of THC. A single serving of an edible marijuana product may not exceed 10 milligrams of THC. (v) for a marijuana product sold as a topical product, a concentration of no more than 6% THC and no more than 800 milligrams of THC per package; (vi) for a marijuana product sold as a suppository or transdermal patch, no more than 100 milligrams of THC per suppository or transdermal patch and no more than 800 milligrams of THC per package; and (vii) for any other marijuana product, no more than 800 milligrams of THC. (c) There may be a deviation of 10% above or below the allowed amount under subsection (8)(b)(iv). (d) A dispensary may sell marijuana or marijuana products having higher THC potency levels than described in subsection (8) to registered cardholders. (9) A licensee or employee is prohibited from conducting a transaction that would result in a consumer or registered cardholder exceeding the personal possession amounts set forth in 16-12-106 and 16-12-515. History: En. Sec. 5, Ch. 576, L. 2021; amd. Sec. 2, Ch. 714, L. 2023; amd. Sec. 5, Ch. 743, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-225. Combined-use marijuana licensing -- requirements

16-12-225. Combined-use marijuana licensing -- requirements. (1) The department may issue a total of eight combined-use marijuana licenses to entities that are: (a) a federally recognized tribe located in the state; or (b) a business entity that is majority-owned by a federally recognized tribe located in the state. (2) A combined-use marijuana license consists of one cultivator license and one dispensary license allowing for the operation of a dispensary. (3) Initial licensure and annual fees for a combined-use license is \$7,500. (4) A combined-use marijuana licensee shall operate its cultivation and dispensary facilities on land that is located in a county that has satisfied the local government approval provisions in 16-12-301 if the majority of voters in the county voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election. (5) An applicant under this section must satisfy all licensing requirements under this chapter and is subject to all fees and taxes associated with the cultivation and sale of marijuana or marijuana products provided for in this chapter. (6) A license granted under this section must be operated in compliance with all requirements imposed under this chapter. (7) After a tribe or a majority-owned business of that tribe is licensed under this section, that tribe or another majority-owned business of that tribe may not obtain another combined-use license until the prior license is relinquished, lapses, or is revoked by the department. History: En. Sec. 6, Ch. 576, L. 2021; amd. Sec. 21, Ch. 712, L. 2023; amd. Sec. 6, Ch. 743, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 2. Licensing and Regulation 16-12-226. Marijuana worker permit -- requirements

16-12-226. Marijuana worker permit -- requirements. (1) A marijuana worker permit is required for an employee who performs work for or on behalf of a marijuana business if the individual participates in any aspect of the marijuana business. (2) A marijuana business may not allow an employee to perform any work at the licensed premises until it has verified that the employee has obtained a valid marijuana worker permit issued in accordance with this chapter. (3) An applicant for a marijuana worker permit shall submit: (a) an application on a form prescribed by the department with information including the applicant's: (i) name; (ii) mailing address; (iii) date of birth; (iv) signature; and (v) response to conviction history questions requested by the department; (b) a copy of a driver's license or identification card issued by one of the fifty states in the United States or a passport; (c) annual proof of having passed training that includes identification, prevention, and reporting for human trafficking, rules and regulations for legal sales of marijuana in Montana, and any other training required by the department; and (d) a fee established by the department. (4) (a) Except as provided in subsection (4)(b), an application that does not contain the elements set forth in subsection (3) is incomplete. (b) The department may review an application prior to receiving the fee but may not issue a permit until the fee is received. (5) The department shall deny an initial or renewal application if the applicant: (a) is not 18 years of age or older; (b) has had a marijuana license or worker permit revoked for a violation of this chapter or any rule adopted under this chapter within 2 years of the date of the application; (c) has violated any provision of this chapter; or (d) makes a false statement to the department. (6) An employee of a licensee shall carry the employee's worker permit at all times when performing work on behalf of a marijuana business. (7) A person who holds a marijuana worker permit shall notify the person's employer in writing within 10 days of: (a) a conviction for a felony; (b) the issuance of any citation for violating a marijuana law imposed under this chapter or the marijuana laws of any other state; or (c) the issuance of any citation for selling or dispensing alcohol or tobacco products to a minor. History: En. Sec. 7, Ch. 576, L. 2021; amd. Sec. 22, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 3. Local Government and Law Enforcement Authority 16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees

16-12-301. Local government authority to regulate -- opt-in requirement in certain counties -- exemption for existing licensees. (1) (a) Except as provided in subsection (1)(b), a marijuana business may not operate in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election until: (i) the category or categories of license that the marijuana business seeks has or have been approved by the local jurisdiction where the marijuana business intends to

operate as provided in subsection (3) or (4); and (ii) the business is licensed by the department pursuant to this chapter. (b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary may operate in its existing premises in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6). (c) A former medical marijuana licensee that intends to apply for licensure as a cultivator, manufacturer, adult-use dispensary, or testing laboratory may operate in compliance with rules adopted by the department pursuant to 16-12-201(2) notwithstanding a local jurisdiction's failure to take action pursuant to subsections (3) through (6), provided that the former marijuana licensee has remained in good standing with the department. (d) For the purpose of this section, the marijuana business categories that must be approved by a local jurisdiction under subsections (3) through (6) in a county in which the majority of voters voted against approval of Initiative Measure No. 190 in the November 3, 2020, general election before a business may operate are: (i) cultivator; (ii) manufacturer; (iii) medical marijuana dispensary, except as provided in subsection (1)(b); (iv) adult-use dispensary; (v) combined-use marijuana licensee; (vi) testing laboratory; and (vii) marijuana transporter facility. (e) Marijuana businesses located in counties in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election are not subject to the local government approval process under subsections (3) through (6).

(2) (a) To protect the public health, safety, or welfare, a local government may by ordinance or otherwise regulate a marijuana business that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of licensed premises, including but not limited to indoor cultivation facilities, dispensaries, manufacturing facilities, and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government. (b) A former medical marijuana licensee that does not apply for licensure as an adult-use dispensary is exempt from complying with any local governmental regulations that are adopted under this subsection after July 1, 2021, until its first license renewal date occurring after January 1, 2022, or the expiration of any grace period granted by the locality, whichever is later. (3) An election regarding whether to approve any or all of the marijuana business categories listed in subsection (1)(d) to be located within a local jurisdiction may be requested by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137 by: (a) the qualified electors of a county; or (b) the qualified electors of a municipality. (4) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed in accordance with Title 13, chapter 1, part 4. (b) An election pursuant to this section may be held in conjunction with a regular election of the governing body, general election, or a regular local or special election. (5) If the qualified electors of a county vote to approve a type of marijuana business to be located in the jurisdiction, the governing body shall enter the approval into the records of the local government and notify the department of the election results. (6) (a) If an election is held pursuant to this section in a county that contains within its limits a municipality of more than 5,000 persons according to the most recent federal decennial census: (i) it is not necessary for the registered qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of whether to prohibit a category of marijuana business from being located in the municipality; and (ii) the county shall conduct the election in a manner that separates the votes in the municipality from those in the remaining parts of the county. (b) If a majority of the qualified electors in the county, including the qualified electors in the municipality, vote to approve a category of marijuana business to be located in the county, the county may allow that category of marijuana business to operate in the county. (c) (i) If a majority of the qualified electors in the municipality vote to approve a category of marijuana business to be located in the municipality, the municipality may allow that type of marijuana business to operate in the municipality. (ii) If a majority of the qualified electors in the municipality vote to prohibit a category of marijuana business from being located in the municipality, the municipality may not allow that type of marijuana business to operate in the municipality. (d) Nothing contained in this subsection (6) prevents any municipality from having a separate election under the terms of this section. (7) (a) A county or municipality that has voted to approve a category of marijuana business to be located in the jurisdiction or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election may vote to prohibit the previously approved or allowed operations within the jurisdiction. (b) A vote overturning the approval of a category of marijuana business or prohibiting the previously permitted operation of marijuana businesses is effective on the 90th day after the local election is held. (8) A local government may not prohibit the transportation of marijuana within or through its jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this chapter. History: En. Sec. 18, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 59, Ch. 576, L. 2021; amd. Sec. 23, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 3. Local Government and Law Enforcement Authority 16-12-302. Fraudulent representation -- penalties

16-12-302. Fraudulent representation -- penalties. (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law enforcement official that the individual is: (a) a cultivator, manufacturer, adult-use dispensary, medical marijuana dispensary, testing laboratory, or marijuana transporter or has a marijuana worker permit is guilty of a civil fine not to exceed \$1,000; or (b) a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both. (2) An individual convicted under this section may not be licensed under this chapter. (3) A physician who purposely and knowingly misrepresents any information required under 16-12-509 is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a fine not to exceed \$1,000, or both. History: En. Sec. 21, I.M. No. 190, approved Nov. 3, 2020; amd. Sec. 60, Ch. 576, L. 2021; amd. Sec. 24, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and

TaxationPart 3. Local Government and Law Enforcement Authority16-12-303. Law enforcement authority

16-12-303. Law enforcement authority.Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a person or individual with a license. History: En. Sec. 22, I.M. No. 190, approved Nov. 3, 2020.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 12. Marijuana Regulation and TaxationPart 3. Local Government and Law Enforcement Authority16-12-304. Forfeiture

16-12-304. Forfeiture.(1) Marijuana, paraphernalia relating to marijuana, or other property seized by a law enforcement official from a person claiming the protections of this chapter in connection with the cultivation, manufacture, possession, transportation, distribution, or use of marijuana must be returned to the person immediately upon a determination that the person is in compliance with the provisions of this chapter. (2) A law enforcement agency in possession of mature marijuana plants or seedlings seized as evidence is not responsible for the care and maintenance of the plants or seedlings. History: En. Sec. 23, I.M. No. 190, approved Nov. 3, 2020.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 12. Marijuana Regulation and TaxationPart 3. Local Government and Law Enforcement Authority16-12-305. Enforcement -- ordinances -- investigations -- injunctions -- violation

16-12-305. Enforcement -- ordinances -- investigations -- injunctions -- violation.(1) A local government may, by ordinance or otherwise, impose regulations regarding products under 16-12-117(1) and (3). (2) The department of agriculture, the department of justice, the department of public health and human services, local sheriff departments, municipal police departments, a county attorney's office, and the department of revenue may inspect any business to investigate unlawful activity under 16-12-117(1). (3) (a) If an investigation results in reasonable cause to believe that a violation of 16-12-117 occurred, the investigating agency may issue a cease and desist order to be served pursuant to Rule 4, M.R.Civ.P. The order is effective upon service. Proof of service constitutes notice to the person of the existence and contents of the order. (b) The investigating agency may assess a penalty of not more than \$1,000 per day for each day a cease and desist order issued under this section is violated. Fifty percent of the penalty must be deposited into the healing and ending addiction through recovery and treatment account under 16-12-122, and the remainder must be deposited in the marijuana state special revenue account under 16-12-111. (4) (a) The investigating agency may institute and maintain in the name of the state an action for injunction or another civil remedy in district court to enforce a cease and desist order under this section. Proof of inadequacy of a legal remedy or proof of substantial or irreparable damage from continued violation is not required. It is sufficient to charge that the person engaged in the unlawful conduct subject to 16-12-117 on a certain day in a certain county without averring further or more particular facts concerning the violation. (b) The department is entitled to its costs, including the costs of investigation and attorney fees, incurred in seeking a district court order under this section. (c) A person who knowingly or purposely violates a district court injunction under this section is guilty of a felony and subject to the penalties set forth in 46-18-213. (5) An officer, agent, partner, or member of a business entity who knowingly and personally participates in a violation of this section is subject to the penalties prescribed in this section. (6) The remedies provided for in this section are in addition to and do not limit the remedies and actions otherwise permitted or required by law. (7) A violation of 16-12-117(1) may be enforced under: (a) criminal distribution of dangerous drugs as defined in 45-9-101; (b) criminal possession of dangerous drugs as defined in 45-9-102; or (c) criminal production or manufacture of dangerous drugs as defined in 45-9-110. History: En. Sec. 2, Ch. 746, L. 2023.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 12. Marijuana Regulation and TaxationPart 3. Local Government and Law Enforcement Authority16-12-306. through 16-12-308 reserved

16-12-306 through 16-12-308 reserved.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 12. Marijuana Regulation and TaxationPart 3. Local Government and Law Enforcement Authority16-12-309. Local government taxing authority -- specific delegation

16-12-309. Local government taxing authority -- specific delegation.As required by 7-1-112, 16-12-309 through 16-12-312, and 16-12-317 specifically delegate to the qualified electors of a county the power to authorize their county to impose a local-option marijuana excise tax within the corporate boundary of the county. History: En. Sec. 94, Ch. 576, L. 2021.

2024 Montana Code AnnotatedTitle 16. Alcohol, Tobacco, and MarijuanaChapter 12. Marijuana Regulation and TaxationPart 3. Local Government and Law Enforcement Authority16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax

16-12-310. Limit on local-option marijuana excise tax rate -- goods subject to tax.(1) The rate of the local-option marijuana excise tax must be established by the election petition or resolution provided for in 16-12-311, and the rate may not exceed 3%. (2) The local-option marijuana excise tax is a tax on the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary within a county. (3) If a county imposes a local-option marijuana excise tax: (a) 50% of the

resulting tax revenue must be retained by the county; (b) 45% of the resulting tax revenue must be apportioned to the municipalities on the basis of the ratio of the population of each city or town to the population of municipalities within the county; and (c) the remaining 5% of the resulting tax revenue must be retained by the department to defray costs associated with administering 16-12-309 through 16-12-312 and 16-12-317. The funds retained by the department under this subsection (3)(c) must be deposited into the marijuana state special revenue account established under 16-12-111. (4) For the purposes of this section, "tax revenue" means the combined taxes collected under any local-option marijuana excise tax collected on retail sales within the county. History: En. Sec. 95, Ch. 576, L. 2021; amd. Sec. 25, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 3. Local Government and Law Enforcement Authority 16-12-311. Local government excise tax-- election required -- procedure -- notice

16-12-311. Local government excise tax-- election required -- procedure -- notice. (1) A county that has permitted an adult-use dispensary or medical marijuana dispensary to operate within its borders pursuant to 16-12-301 or a county in which the majority of voters voted to approve Initiative Measure No. 190 in the November 3, 2020, general election, may not impose or, except as provided in this section, amend or repeal a local-option marijuana excise tax unless the local-option marijuana excise tax question has been approved by a majority of the qualified electors voting on the question. (2) The local-option marijuana excise tax question may be presented to the qualified electors of a county by a petition of the electors as provided in 7-5-131, 7-5-132, 7-5-134, 7-5-135, and 7-5-137 or by a resolution of the governing body of the county. (3) The petition or resolution referring the taxing question must state: (a) the rate of the tax, which may not exceed 3% of the retail value of all marijuana and marijuana products sold at an adult-use dispensary or medical marijuana dispensary; (b) the date when the tax becomes effective, which may not be earlier than 90 days after the election; and (c) the purposes that may be funded by the tax revenue. (4) On receipt of an adequate petition, the county's governing body shall hold an election in accordance with Title 13, chapter 1, part 5. (5) Notice of the election must be given as provided in 13-1-108 and include the information listed in subsection (3) of this section. (6) The question of the imposition of a local-option marijuana excise tax may not be placed before the qualified electors more than once in any fiscal year. History: En. Sec. 96, Ch. 576, L. 2021; amd. Sec. 26, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 3. Local Government and Law Enforcement Authority 16-12-312. Tax administration

16-12-312. Tax administration. (1) Not less than 90 days prior to the date that the local-option marijuana excise tax becomes effective, the county shall notify the department of the results of the election and coordinate with the department to facilitate the administration and collection of the local-option marijuana excise taxes. (2) The department shall establish by rule: (a) the times that taxes collected by businesses are to be remitted to the department; (b) the office or employee of the department responsible for receiving and accounting for the local-option marijuana excise tax receipts; (c) the office or employee of the department responsible for enforcing the collection of local-option marijuana excise taxes and the methods and procedures to be used in enforcing the collection of local-option marijuana excise taxes due; and (d) the penalties for failure to report taxes due, failure to remit taxes due, and violations of the administrative ordinance. The penalties may include: (i) criminal penalties not to exceed a fine of \$1,000 or 6 months' imprisonment, or both; (ii) civil penalties if the department prevails in a suit for the collection of local-option marijuana excise taxes, not to exceed 50% of the local-option marijuana excise taxes found due plus the costs and attorney fees incurred by the department in the action; (iii) revocation of an adult-use dispensary license or medical marijuana dispensary license held by the offender; and (iv) any other penalties that may be applicable for violation of an ordinance. (3) The department's rules may also include: (a) further clarification and specificity in the categories of goods that are subject to the local-option marijuana excise tax; (b) authorization for business administration and prepayment discounts. The discount authorization may allow each vendor and commercial establishment to withhold up to 5% of the local-option marijuana excise taxes collected to defray their costs for the administration of the tax collection. (c) other administrative details necessary for the efficient and effective administration of the tax. (4) A county and the department may exchange information collected under the provisions of this chapter that is necessary to implement and administer a local-option marijuana excise tax or the tax collected under Title 15, chapter 64, part 1. History: En. Sec. 97, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 3. Local Government and Law Enforcement Authority 16-12-313. through 16-12-316 reserved

16-12-313 through 16-12-316 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 3. Local Government and Law Enforcement Authority 16-12-317. Use of local-option marijuana excise tax revenue

16-12-317. Use of local-option marijuana excise tax revenue. Unless otherwise restricted, a county or municipality may appropriate and expend revenue derived from a local-option marijuana excise tax for any activity, undertaking, or administrative service that the municipality is authorized by law to perform, including costs resulting from the imposition of the tax or due to administrative

burdens imposed on the municipality as a result of licensing or regulatory requirements imposed in this chapter. History: En. Sec. 98, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-501. Purpose

16-12-501. Purpose. The purpose of this part is to: (1) provide a regulatory system for providing marijuana for the use of individuals with debilitating medical conditions, including posttraumatic stress disorder, in order to alleviate the symptoms of the debilitating medical condition; (2) allow for the limited cultivation, manufacture, delivery, and possession of marijuana as permitted by this chapter; (3) allow persons to assist registered cardholders with the cultivation of marijuana and manufacture of marijuana products permitted by this chapter. (4) provide for a registry of individuals with debilitating medical conditions entitled to purchase marijuana and marijuana products at the tax rate specified in 15-64-102; and (5) provide the process for obtaining a registry identification card. History: En. Sec. 9, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-502. Definitions

16-12-502. Definitions. As used in this part, the following definitions apply: (1) "Referral physician" means an individual who: (a) is licensed under Title 37, chapter 3; and (b) is the physician to whom a patient's treating physician has referred the patient for physical examination and medical assessment. (2) "Standard of care" means, at a minimum, the following activities when undertaken in person or through the use of telemedicine by a patient's treating physician or referral physician if the treating physician or referral physician is providing written certification for a patient with a debilitating medical condition: (a) obtaining the patient's medical history; (b) performing a relevant and necessary physical examination; (c) reviewing prior treatment and treatment response for the debilitating medical condition; (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the debilitating medical condition; (e) discussing with the patient and ensuring that the patient understands the advantages, disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment; (f) monitoring the response to treatment and possible adverse effects; and (g) creating and maintaining patient records that remain with the physician. (3) "Telemedicine" has the meaning provided in 37-3-102. (4) "Treating physician" means an individual who: (a) is licensed under Title 37, chapter 3; and (b) has a bona fide professional relationship with the individual applying to be a registered cardholder. (5) "Written certification" means a statement signed by a treating physician or referral physician that meets the requirements of 16-12-509 and is provided in a manner that meets the standard of care. History: En. Sec. 10, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-503. Medical marijuana registry -- department responsibilities -- issuance of cards -- confidentiality

16-12-503. Medical marijuana registry -- department responsibilities -- issuance of cards -- confidentiality. (1) The department shall establish and maintain a registry of persons who receive registry identification cards under this part. (2) The department shall issue registry identification cards to Montana residents who have debilitating medical conditions and who submit applications meeting the requirements of this part. (3) (a) Registry identification cards issued pursuant to this part must: (i) be laminated and produced on a material capable of lasting for the duration of the time period for which the card is valid; (ii) state the name, address, and date of birth of the registered cardholder; (iii) indicate whether the cardholder is obtaining marijuana and marijuana products through the system of licensed cultivators, manufacturers, or dispensaries; (iv) state the date of issuance and the expiration date of the registry identification card; (v) contain a unique identification number; and (vi) contain other information that the department may specify by rule. (b) Except as provided in subsection (3)(c), in addition to complying with subsection (3)(a), registry identification cards issued pursuant to this part must: (i) include a picture of the registered cardholder; and (ii) be capable of being used to track registered cardholder purchases. (c) (i) The department shall issue a temporary registry identification card on receipt of an application. The cards are valid for 60 days and are exempt from the requirements of subsection (3)(b). Printing of the temporary registry identification cards is exempt from the provisions of Title 18, chapter 7. (ii) A card may be issued before an applicant's payment of the fee has cleared. The department shall cancel the temporary registry identification card after 60 days and may not issue a permanent registry identification card until the fee is paid. (4) (a) The department shall review the information contained in an application or renewal submitted pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the application or renewal and all related application materials. (b) If the department fails to act on a completed application within 30 days of receipt, the department shall refund the fee paid by an applicant for a registry identification card. (c) Applications that are not processed within 30 days of receipt remain active until the department takes final action. (d) The department shall issue a registry identification card within 5 days of approving an application or renewal. (5) Review of a rejection of an application or renewal may be conducted as a contested case hearing pursuant to the provisions of the Montana Administrative Procedure Act. (6) Registry identification cards expire 1 year after the date of issuance unless a physician has provided a written certification stating that a card is valid for a shorter period of time. (7) (a) A registered cardholder shall notify the department of any change in the cardholder's name, address, or physician or a change in the status of the cardholder's debilitating medical condition within 10 days of the change. (b) If a change occurs and is not reported to the department, the registry identification card is void. (8) The department shall maintain a confidential list of individuals to whom the department has issued registry identification cards. Individual names

and other identifying information on the list must be confidential and is not subject to disclosure, except to: (a) authorized employees of the department as necessary to perform the official duties of the department; (b) authorized employees of state or local government agencies, including law enforcement agencies, only as necessary to verify that an individual is a lawful possessor of a registry identification card; (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure; and (d) another person or entity when the information pertains to a cardholder who has given written consent to the release and has specified: (i) the type of information to be released; and (ii) the person or entity to whom it may be released. History: En. Sec. 11, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-504. through 16-12-507 reserved

16-12-504 through 16-12-507 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-508. Individuals with debilitating medical conditions -- requirements -- minors -- limitations

16-12-508. Individuals with debilitating medical conditions -- requirements -- minors -- limitations. (1) Except as provided in subsections (2) through (5), the department shall issue a registry identification card to an individual with a debilitating medical condition who submits the following, in accordance with department rules: (a) an application on a form prescribed by the department; (b) an application fee or a renewal fee; (c) the individual's name, street address, and date of birth; (d) proof of Montana residency; (e) a statement, on a form prescribed by the department, that the individual will not divert to any other individual the marijuana or marijuana products that the individual cultivates, manufactures, or obtains through the system of licensed providers for the individual's debilitating medical condition; (f) the name of the individual's treating physician or referral physician and the street address and telephone number of the physician's office; (g) the street address where the individual is cultivating marijuana or manufacturing marijuana products if the individual is cultivating marijuana or manufacturing marijuana products for the individual's own use; and (h) the written certification and accompanying statements from the individual's treating physician or referral physician as required pursuant to 16-12-509. (2) The department shall issue a registry identification card to a minor if the materials required under subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health care decisions: (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is submitting an application as the minor's legal guardian with responsibility for health care decisions; and (b) signs and submits a written statement that: (i) the minor's treating physician or referral physician has explained to the minor and to the minor's custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of the use of marijuana; (ii) indicates whether the minor's custodial parent or legal guardian will be obtaining marijuana or marijuana products for the minor through the system of licensed dispensaries provided for in this chapter; and (iii) the minor's custodial parent or legal guardian with responsibility for health care decisions: (A) consents to the use of marijuana by the minor; (B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of marijuana by the minor; and (C) agrees that the minor will use only marijuana products intended for use by a means other than smoking and will not smoke marijuana; (c) if the parent or guardian will be serving as the minor's cultivator, undergoes background checks in accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and may not obtain a license under this chapter if the parent or legal guardian does not meet the requirements set forth in this chapter. (d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana purchased for the minor's use in a marijuana product. (3) A parent serving as a minor's cultivator shall submit fingerprints to facilitate a fingerprint and background check by the department of justice and federal bureau of investigation upon the minor's initial application for a registry identification card and every 5 years after that. The department shall conduct a name-based background check in years when a fingerprint background check is not required. (4) An application for a registry identification card for a minor must be accompanied by the written certification and accompanying statements required pursuant to 16-12-509 from a second physician in addition to the minor's treating physician or referral physician unless the minor's treating physician or referral physician is an oncologist, neurologist, or epileptologist. (5) An individual may not be a registered cardholder if the individual is in the custody of or under the supervision of the department of corrections or a youth court. History: En. Sec. 12, Ch. 576, L. 2021; amd. Sec. 27, Ch. 712, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-509. Written certification -- accompanying statements

16-12-509. Written certification -- accompanying statements. (1) The written certification provided by a physician must be made on a form prescribed by the department and signed and dated by the physician. The written certification must: (a) include the physician's name, license number, and office address and telephone number on file with the board of medical examiners and the physician's business e-mail address, if any; and (b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is providing written certification. (2) A treating physician or referral physician who is providing written certification for a patient shall provide a statement initialed by the physician that must: (a) confirm that the physician is: (i) the patient's treating physician and that the patient has been under the physician's ongoing medical care as part of a bona fide professional relationship with the patient; or (ii) the patient's referral physician; (b) confirm that the patient suffers from a

debilitating medical condition; (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to which it is debilitating; (d) confirm that the physician has assumed primary responsibility for providing management and routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of telemedicine, that included a personal review of any medical records maintained by other physicians and that may have included the patient's reaction and response to conventional medical therapies; (e) describe the medications, procedures, and other medical options used to treat the condition; (f) confirm that the physician has reviewed all prescription and nonprescription medications and supplements used by the patient and has considered the potential drug interaction with marijuana; (g) state that the physician has a reasonable degree of certainty that the patient's debilitating medical condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit from the use of marijuana; (h) confirm that the physician has explained the potential risks and benefits of the use of marijuana to the patient; (i) list restrictions on the patient's activities due to the use of marijuana; (j) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1 year; (k) state that the physician will: (i) continue to serve as the patient's treating physician or referral physician; and (ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment; and (l) contain an attestation that the information provided in the written certification and accompanying statements is true and correct. (3) A physician who is the second physician recommending marijuana for use by a minor shall submit: (a) a statement initialed by the physician that the physician conducted a comprehensive review of the minor's medical records as maintained by the treating physician or referral physician; (b) a statement that in the physician's professional opinion, the potential benefits of the use of marijuana would likely outweigh the health risks for the minor; and (c) an attestation that the information provided in the written certification and accompanying statements is true and correct. (4) A physician who is providing written certification through the use of telemedicine: (a) shall comply with the administrative rules adopted for telemedicine by the board of medical examiners provided for in 2-15-1731; and (b) may not use an audio-only visit unless the physician has first established a physician-patient relationship through an in-person encounter. (5) If the written certification states that marijuana should be used for less than 1 year, the department shall issue a registry identification card that is valid for the period specified in the written certification. (6) The department shall provide the board of medical examiners with the name of any physician who provides a written certification for 39 or more patients within any given calendar year. The board of medical examiners shall review the physician's practices in order to determine whether the practices meet the standard of care. The physician whose practices are under review shall pay the costs of the board's review activities. History: En. Sec. 13, Ch. 576, L. 2021; amd. Sec. 7, Ch. 743, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-510. through 16-12-512 reserved

16-12-510 through 16-12-512 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-513. Registry identification card to be exhibited on demand -- photo identification required

16-12-513. Registry identification card to be exhibited on demand -- photo identification required. (1) A registered cardholder shall keep the individual's registry identification card in the individual's immediate possession at all times. The registry identification card and a valid photo identification must be displayed upon demand of a law enforcement officer, justice of the peace, or city or municipal judge. (2) The department shall ensure that law enforcement officers have access to accurate and up-to-date information on persons registered under this part. (3) Beginning on January 1, 2022, a registered cardholder may request, at their next annual renewal, that the department include on his or her registry identification card the name of up to two individuals who are authorized to acquire and deliver marijuana or marijuana products to the cardholder from a licensed dispensary. Any individual so identified must be at least 21 years of age, possess the registry identification card at all relevant times, and otherwise comply with the daily possession limits set forth in this chapter and rules adopted by the department. History: En. Sec. 14, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-514. Health care facility procedures for patients with marijuana for use

16-12-514. Health care facility procedures for patients with marijuana for use. (1) (a) A health care facility as defined in 50-5-101 shall take the following measures when a patient who is a registered cardholder has marijuana in the patient's possession upon admission to the health care facility: (i) require the patient to remove the marijuana from the premises before the patient is admitted if the patient is able to do so; or (ii) make a reasonable effort to contact the patient's cultivator, manufacturer, or medical marijuana dispensary, court-appointed guardian, or individual with a power of attorney, if any. (b) If a patient is unable to remove the marijuana or the health care facility is unable to contact an individual as provided in subsection (1)(a), the facility shall contact the local law enforcement agency having jurisdiction in the area where the facility is located. (2) A cultivator, manufacturer, or medical marijuana dispensary, court-appointed guardian, or individual with a power of attorney, if any, contacted by a health care facility shall remove the marijuana and deliver it to the patient's residence. (3) A law enforcement agency contacted by a health care facility shall respond by removing and destroying the marijuana. (4) A health care facility may not be charged for costs related to removal of the marijuana from the facility's premises. History: En. Sec. 15, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-515. Legal protections -- allowable amounts

16-12-515. Legal protections -- allowable amounts. (1) (a) A registered cardholder who has elected to obtain marijuana and marijuana products through the system of licensed cultivators, manufacturers, or dispensaries may: (i) possess up to 1 ounce of usable marijuana; and (ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than 1 ounce of usable marijuana a day. (b) (i) A registered cardholder may petition the department for an exception to the monthly limit on purchases. The request must be accompanied by a confirmation from the physician who signed the cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an amount exceeding the monthly limit. (ii) If the department approves an exception to the limit, the approval must establish the monthly amount of usable marijuana that the cardholder may purchase and the limit must be entered into the seed-to-sale tracking system. (2) Except as provided in 16-12-108 and subject to the provisions of subsection (7) of this section, an individual who possesses a registry identification card issued pursuant to this part may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a professional licensing board or the department of labor and industry, solely because: (a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed under this section; or (b) the registered cardholder acquires or uses marijuana. (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the department of labor and industry, solely for providing written certification for a patient with a debilitating medical condition. (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a professional licensing board or the department of labor and industry if: (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or (b) a physician violates the standard of care or other requirements of this part. (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana products as permitted under this part. (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana in excess of the amounts otherwise provided in this chapter and is not a registered cardholder. (6) Possession of or application for a registry identification card does not alone constitute probable cause to search the person or individual or the property of the person or individual or otherwise subject the person or individual or property of the person or individual possessing or applying for the card to inspection by any governmental agency, including a law enforcement agency. (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an individual unless the individual has obtained a registry identification card prior to an arrest or the filing of a criminal charge. It is not a defense to a criminal charge that an individual obtains a registry identification card after an arrest or the filing of a criminal charge. (8) (a) A registered cardholder is presumed to be engaged in the use of marijuana as allowed by this part if the person: (i) is in possession of a valid registry identification card; and (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this part. (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition and exceeded the allowable amount of marijuana otherwise provided for in this part. History: En. Sec. 16, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-516. through 16-12-519 reserved

16-12-516 through 16-12-519 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-520. Prohibitions on physician affiliation with licensees -- sanctions

16-12-520. Prohibitions on physician affiliation with licensees -- sanctions. (1) (a) A physician who provides written certifications may not: (i) accept or solicit anything of value, including monetary remuneration, from a person licensed under this chapter; (ii) offer a discount or any other thing of value to a patient who uses or agrees to use a person licensed under this chapter; or (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a licensed premises or a testing laboratory. (b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to a person licensed under this chapter if the physician charges the individual the same fee that the physician charges other patients for providing a similar level of medical care. (2) A person licensed under this chapter may not: (a) arrange for a physician to conduct a physical examination or review of medical records required under this part, either in the physician's office or at another location; or (b) pay all or a portion of the costs for an individual to be seen by a physician for the purposes of obtaining a written certification. (3) If the department has cause to believe that a physician has violated this section, has violated a provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review pursuant to 37-1-308. (4) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of medical examiners finds that a physician has violated this section, the board shall restrict the physician's authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the department of the sanction. (5) If the board of medical examiners believes a physician's practices may harm the public health, safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the use of marijuana for a debilitating medical

condition. (6) (a) If the department has reason to believe a person licensed under this chapter has violated this section, the department shall refer the matter to the law enforcement entity and county attorney having jurisdiction where the person licensed under this chapter is doing business. (b) If a person licensed under this chapter is found to have violated the provisions of this section, the department shall revoke the person's license. A person whose license has been revoked for a violation of this section is prohibited from reapplying for licensure under this chapter. (7) (a) A law enforcement entity or county attorney who investigates a suspected violation of this section shall report the results of the investigation to the department. (b) The department may receive the results of this investigation even if the information constitutes confidential criminal justice information as defined in 44-5-103. History: En. Sec. 17, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-521. and 16-12-522 reserved

16-12-521 and 16-12-522 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-523. Unlawful conduct by cardholders -- penalties

16-12-523. Unlawful conduct by cardholders -- penalties. (1) The department shall revoke and may not reissue the registry identification card of an individual who: (a) is convicted of a drug offense; or (b) allows another individual to be in possession of the individual's: (i) registry identification card, except as provided for in 16-12-513; or (ii) mature marijuana plants, seedlings, usable marijuana, or marijuana products. (2) If no other penalty is specified under this part, a registered cardholder who violates this part is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to the provisions of Title 45. (3) Review of a department action imposing a fine, suspension, or revocation under this section must be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act. History: En. Sec. 18, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-525. Confidentiality of registry information -- penalty

16-12-525. Confidentiality of registry information -- penalty. (1) Except as provided in 37-3-203, a person, including an employee or official of the department, commits the offense of disclosure of confidential information related to registry information if the person knowingly or purposely discloses confidential information in violation of this part. (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both. History: En. Sec. 20, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-526. Law enforcement authority

16-12-526. Law enforcement authority. Nothing in this chapter may be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to an individual with a registry identification card. History: En. Sec. 21, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-527. through 16-12-531 reserved

16-12-527 through 16-12-531 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 12. Marijuana Regulation and Taxation Part 5. Medical Marijuana 16-12-533. Rulemaking authority -- fees

16-12-533. Rulemaking authority -- fees. The department may adopt rules to implement this part as authorized in this section to specify: (1) the manner in which the department will consider applications for registry identification cards for individuals with debilitating medical conditions and renewal of registry identification cards; (2) the acceptable forms of proof of Montana residency; (3) notice and contested case hearing procedures for fines or registry identification card revocation, suspension, or modification; (4) the procedures for obtaining fingerprints for the fingerprint and background check required under 16-12-508; (5) the amount of usable marijuana that a registered cardholder who has elected not to use the system of licensees provided for under this chapter may possess; and (6) the fees for cardholders. The annual cardholder license fee may not be less than \$20. History: En. Sec. 23, Ch. 576, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-101. Establishment and closure of agency liquor stores -- agency franchise agreement -- kinds and prices of liquor

16-2-101. Establishment and closure of agency liquor stores -- agency franchise agreement -- kinds and prices of liquor. (1) The department shall enter into agency franchise agreements to operate agency liquor stores as the department finds feasible for the wholesale and retail sale of liquor. (2) (a) The department may from time to time fix the posted prices at which the various classes,

varieties, and brands of liquor may be sold, and the posted prices must be the same at all agency liquor stores. (b) (i) The department shall supply from the state liquor warehouse to agency liquor stores the various classes, varieties, and brands of liquor for resale at the state posted price to persons who hold liquor licenses and to all other persons at the retail price established by the agent. (ii) (A) According to the ordering and delivery schedule set by the department, an agency liquor store may place a liquor order with the department at its state liquor warehouse in the manner to be established by the department. (B) The agency liquor store's purchase price is the department's posted price less the agency liquor store's commission rate. The commission rates constitute the only compensation the department provides to agency liquor stores and reflect that agency liquor stores sell at retail and wholesale and must provide the discount in 16-2-201. (C) All liquor purchased from the state liquor warehouse by an agency liquor store must be paid for within 60 days of the date on which the department invoices the liquor to the agency liquor store. (c) An agency liquor store may sell table wine at retail for off-premises consumption. (3) Agency liquor stores may not be located in or adjacent to grocery stores in communities with populations over 3,000. (4) (a) Agency liquor stores must receive an annual commission rate based on the total posted price of liquor purchased in the previous calendar year, as follows: (i) 16% commission for stores that purchased not more than \$250,000; (ii) 15.5% commission for stores that purchased more than \$250,000 but not more than \$500,000; (iii) 15% commission for stores that purchased more than \$500,000 but not more than \$720,000; (iv) 14.5% commission for stores that purchased more than \$720,000 but not more than \$950,000; (v) 14% commission for stores that purchased more than \$950,000 but not more than \$1.525 million; (vi) 13.5% commission for stores that purchased more than \$1.525 million but not more than \$1.85 million; (vii) 13% commission for stores that purchased more than \$1.85 million but not more than \$2.25 million; (viii) 12.75% commission for stores that purchased more than \$2.25 million but not more than \$3.25 million; (ix) 12.5% commission for stores that purchased more than \$3.25 million but not more than \$7 million; or (x) 12.15% commission for stores that purchased more than \$7 million. (b) For commissions determined under subsection (4)(a), the department shall by February 1 of each year: (i) calculate purchases based on all liquor invoiced to the agency liquor store during the previous calendar year; (ii) notify agency liquor stores of their commission rate to be applied for the period beginning February 1 and ending January 31; and (iii) adjust the dollar values for purchase amounts under subsection (4)(a) based on the consumer price index for the prior calendar year and notify all agency liquor stores of the adjustment. (c) New stores must receive a commission established by competitive bidding, which is guaranteed for 3 calendar years, after which time the agency liquor store's commission is subject to subsection (4)(a). (5) An agency franchise agreement must: (a) be effective for a 10-year period, renewable for additional 10-year periods, if the requirements of the agency franchise agreement have been satisfactorily performed; (b) require the agent to maintain comprehensive general liability insurance and liquor liability insurance throughout the term of the agency franchise agreement in an amount established by the department of administration. The insurance policy must: (i) declare the department as an additional insured; and (ii) hold the state harmless and agree to defend and indemnify the state in a cause of action arising from or in connection with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement. (c) provide that upon termination by the department for cause or upon mutual termination, the agent is liable for any outstanding liquor purchase invoices. If payment is not made within the appropriate time, the department may immediately repossess all liquor inventory, wherever located. (d) specify the reasonable service and space requirements that the agent will provide throughout the term of the agency franchise agreement. (6) The liability insurance requirement may be reviewed every 3 years at the request of either the agent or the department. If the agent concurs, the department may adjust the requirements to be effective during the remaining term of the agency franchise agreement if the adjustments adequately protect the state from risks associated with the agent's negligent acts or activities in the execution and performance of the agency franchise agreement. The amount of liability insurance coverage may not be less than the minimum requirements of the department of administration. (7) (a) The department may terminate an agency franchise agreement if the agent has not satisfactorily performed the requirements of the agency franchise agreement because the agent: (i) charges retail prices that are less than the department's posted price for liquor, sells liquor to persons who hold liquor licenses at less than the posted price, or sells liquor at case discounts greater than the discount provided for in 16-2-201 to persons who hold liquor licenses; (ii) fails to maintain sufficient liability insurance; (iii) has not maintained a quantity and variety of product available for sale commensurate with demand, delivery cycle, repayment schedule, mixed case shipments from the department, and the ability to purchase special orders; (iv) at an agency liquor store located 35 miles or more from the nearest agency liquor store, has operated the agency liquor store in a manner that makes the premises unsanitary or inaccessible for the purpose of making purchases of liquor; or (v) fails to comply with the express terms of the agency franchise agreement. (b) The department shall give an agent 30 days' notice of its intent to terminate the agency franchise agreement for cause and specify the unmet requirements. The agent may contest the termination and request a hearing within 30 days of the date of notice. If a hearing is requested, the department shall suspend its termination order until after a final decision has been made pursuant to the Montana Administrative Procedure Act. (c) In the case of failure to make timely payments to the department for liquor purchased, the department may terminate the agency franchise agreement and immediately repossess any liquor purchased and in the possession of the agent. If an agency franchise agreement is terminated, the agent may contest the termination and request a hearing within 30 days of the department's repossession of the liquor. The agency liquor store shall remain closed until a final decision has been reached following a hearing held pursuant to the Montana Administrative Procedure Act. (8) An agency franchise agreement may be terminated upon mutual agreement by the agent and the department. (9) An agent may assign an agency franchise agreement to a person who, upon approval of the department, is named agent in the agency franchise agreement, with the rights, privileges, and responsibilities of the original agent for the remaining term of the agency franchise agreement. The agent shall notify the department of an intent to assign the agency franchise agreement 60 days before the intended effective date of the assignment. The department may not unreasonably withhold approval of an

assignment request. (10) A person or entity may not hold an ownership interest in more than one agency liquor store. (11) The department shall maintain sufficient inventory in the state warehouse in order to meet a monthly service level of at least 97%. History: En. Sec. 10, Ch. 105, L. 1933; re-en. Sec. 2815.69, R.C.M. 1935; amd. Sec. 4, Ch. 30, L. 1937; amd. Sec. 1, Ch. 237, L. 1947; amd. Sec. 1, Ch. 162, L. 1949; amd. Sec. 1, Ch. 62, L. 1971; Sec. 4-114, R.C.M. 1947; amd. and redes. 4-2-101 by Sec. 7, Ch. 387, L. 1975; R.C.M. 1947, 4-2-101(part); amd. Sec. 1, Ch. 157, L. 1979; amd. Sec. 1, Ch. 2, Sp. L. March 1986; amd. Sec. 9, Ch. 68, L. 1987; amd. Sec. 1, Ch. 648, L. 1987; amd. Sec. 2, Ch. 228, L. 1993; amd. Sec. 20, Ch. 530, L. 1995; amd. Sec. 89, Ch. 42, L. 1997; amd. Sec. 1, Ch. 508, L. 2001; amd. Sec. 15, Ch. 44, L. 2007; amd. Sec. 1, Ch. 391, L. 2009; amd. Sec. 2, Ch. 362, L. 2015; amd. Sec. 2, Ch. 61, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-103. Duplicate invoices of sales required

16-2-103. Duplicate invoices of sales required. (1) An agency liquor store shall, on each sale of liquor to any licensee, issue a duplicate invoice of the liquor purchased, as provided by the department, a copy of which must be delivered to the licensee and one copy retained at the store. (2) The invoice must show the date of purchase, the name of the employee making the sale, the quantity of each kind of liquor purchased, the price paid for the liquor, the name of the licensee, and the number of the license, with any other information that may be required by the department. (3) The licensee shall keep and retain the duplicate invoice of all purchases made from an agency liquor store, which must at all times be subject to inspection by the duly authorized officers, agents, and employees of the department. History: En. Sec. 16, Ch. 84, L. 1937; Sec. 4-418, R.C.M. 1947; amd. and redes. 4-2-205 by Sec. 95, Ch. 387, L. 1975; R.C.M. 1947, 4-2-205; amd. Sec. 10, Ch. 68, L. 1987; amd. Sec. 90, Ch. 42, L. 1997; amd. Sec. 3, Ch. 61, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-104. Hours

16-2-104. Hours. Agency liquor stores may remain open during the period between 8 a.m. and 2 a.m. Subject to local ordinances or department requirements relating to operating hours, a store may be open or closed at the store's discretion. History: (1) En. Sec. 10, Ch. 105, L. 1933; re-en. Sec. 2815.69, R.C.M. 1935; amd. Sec. 4, Ch. 30, L. 1937; amd. Sec. 1, Ch. 237, L. 1947; amd. Sec. 1, Ch. 162, L. 1949; amd. Sec. 1, Ch. 62, L. 1971; Sec. 4-114, R.C.M. 1947; amd. and redes. 4-2-101 by Sec. 7, Ch. 387, L. 1975; Sec. 4-2-101, R.C.M. 1947; (2) En. Sec. 16, Ch. 105, L. 1933; re-en. Sec. 2815.75, R.C.M. 1935; amd. Sec. 5, Ch. 30, L. 1937; amd. Sec. 2, Ch. 62, L. 1971; Sec. 4-121, R.C.M. 1947; amd. and redes. 4-2-104 by Sec. 11, Ch. 387, L. 1975; Sec. 4-2-104, R.C.M. 1947; R.C.M. 1947, 4-2-101(part), 4-2-104; amd. Sec. 11, Ch. 68, L. 1987; amd. Sec. 21, Ch. 530, L. 1995; amd. Sec. 4, Ch. 61, L. 2023; amd. Sec. 1, Ch. 635, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-105. Place and time of selling liquor

16-2-105. Place and time of selling liquor. A liquor store agent and a person acting as an employee of or in any capacity for any agent may not sell liquor in any other place or at any other time or otherwise than as authorized by this code and the rules implementing this code. History: En. Sec. 47, Ch. 105, L. 1933; re-en. Sec. 2815.106, R.C.M. 1935; Sec. 4-152, R.C.M. 1947; amd. and redes. 4-2-105 by Sec. 17, Ch. 387, L. 1975; R.C.M. 1947, 4-2-105; amd. Sec. 22, Ch. 530, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-106. Sales by agent

16-2-106. Sales by agent. A liquor store agent may sell to any person any liquor and table wine that the person is entitled to purchase in conformity with the provisions of this code and the rules implementing this code. An agent may, under the terms and conditions that the agent establishes, deliver liquor and table wine purchased from the agent's agency liquor store. An agent may sell liquor through curbside pickup in original packaging. History: En. Sec. 12, Ch. 105, L. 1933; re-en. Sec. 2815.71, R.C.M. 1935; amd. Sec. 4, Ch. 154, L. 1965; amd. Sec. 1, Ch. 162, L. 1969; Sec. 4-116, R.C.M. 1947; amd. and redes. 4-2-106 by Sec. 8, Ch. 387, L. 1975; R.C.M. 1947, 4-2-106; amd. Sec. 12, Ch. 68, L. 1987; amd. Sec. 23, Ch. 530, L. 1995; amd. Sec. 3, Ch. 194, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-107. No open alcoholic beverage container or alcoholic beverage consumption on premises of agency store

16-2-107. No open alcoholic beverage container or alcoholic beverage consumption on premises of agency store. An agent and the agent's employees in an agency store may not allow any alcoholic beverage container to be opened on the premises of an agency liquor store or allow any alcoholic beverage to be consumed on the premises of an agency liquor store, nor may any person open an alcoholic beverage container or consume any alcoholic beverage in an agency liquor store. History: En. Sec. 15, Ch. 105, L. 1933; re-en. Sec. 2815.74, R.C.M. 1935; Sec. 4-120, R.C.M. 1947; amd. and redes. 4-2-107 by Sec. 10, Ch. 387, L. 1975; R.C.M. 1947, 4-2-107; amd. Sec. 2, Ch. 47, L. 1983; amd. Sec. 13, Ch. 68, L. 1987; amd. Sec. 24, Ch. 530, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-108. Disposition of money received

16-2-108. Disposition of money received.(1) The department may purchase liquor from money deposited to its account in the enterprise fund. The department shall pay from its account in the enterprise fund its administrative expenses associated with the sale of liquor, subject to the limits imposed by legislative appropriation. An obligation created or incurred by the department may not be a debt or claim against the state of Montana but must be payable by the department solely from funds derived from the operation of state liquor sales. The department shall pay into the state treasury to the credit of the enterprise fund the receipts from the sale of liquor and all taxes collected by it. Taxes and the net proceeds from the operation of state liquor sales must be transferred to the general fund. (2) All liquor license fees and permit fees collected by the department must be deposited into the department's liquor enterprise fund. (3) The department shall pay from its account in the liquor enterprise fund: (a) expenses associated with administering liquor licensing and fee collection; and (b) expenses associated with investigations pursuant to its agreement with the department of justice. (4) The net proceeds of the liquor enterprise fund must be transferred to the general fund. History: En. Sec. 94, Ch. 105, L. 1933; re-en. Sec. 2815.154, R.C.M. 1935; amd. Sec. 1, Ch. 54, L. 1939; amd. Sec. 211, Ch. 147, L. 1963; Sec. 4-229, R.C.M. 1947; amd. and redes. 4-1-406 by Sec. 41, Ch. 387, L. 1975; amd. Sec. 1, Ch. 398, L. 1977; R.C.M. 1947, 4-1-406; amd. Sec. 3, Ch. 277, L. 1983; amd. Sec. 14, Ch. 68, L. 1987; amd. Sec. 1, Ch. 225, L. 1989; amd. Sec. 25, Ch. 530, L. 1995; amd. Sec. 2, Ch. 448, L. 2001.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-109. Number and location of agency liquor stores

16-2-109. Number and location of agency liquor stores.(1) (a) In a community with a population of 12,000 or less, there may be one agency liquor store. In communities with populations greater than 12,000, there may be one agency liquor store for the first 12,000 inhabitants and one additional agency liquor store within increments of population of 40,000 inhabitants above 12,000 inhabitants. In determining population, the department shall use the same methods used for determining increases in the retail license quota system as provided in 16-4-201. (b) In communities that are eligible for more than one agency liquor store, an agency liquor store established after April 25, 1995, may not be located within a 1-mile radius of any other agency liquor store in the community. (2) An agency liquor store established after April 25, 1995, may not be located in a community that is closer than 35 miles to another community in which an agency liquor store is presently located, except in the circumstance when the most recent population estimates show a 25% growth in population or a growth of 1,000 inhabitants within a 2-year period, whichever is greater, and when this population increase is reasonably expected to continue for at least 5 years. History: En. Sec. 9, Ch. 530, L. 1995; amd. Sec. 22, Ch. 7, L. 2001.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-110. State lien on liquor in agency liquor stores

16-2-110. State lien on liquor in agency liquor stores.The state has a first lien with an absolute first priority to secure any outstanding amounts due the state for liquor purchased on any inventory, including any after-acquired inventory in the possession of an agent or on the premises of an agency liquor store, to secure payment for the existing inventory. The state has the right to physically recover any inventory from an agency liquor store and impose fees to recoup the cost of the recovery for any failure to timely make payments. History: En. Sec. 10, Ch. 530, L. 1995; amd. Sec. 3, Ch. 635, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 1. Operation of Stores 16-2-111. Seven-day credit limitation

16-2-111. Seven-day credit limitation.(1) A sale or delivery of liquor or table wine may not be made to a retail licensee from an agency liquor store unless cash is paid within 7 days after the delivery of the liquor or table wine. (2) An agency liquor store may not extend more than 7 days' credit for the sold or delivered liquor or table wine to a retail licensee, and a retail licensee may not accept or receive delivery of the liquor or table wine without agreement to pay in cash for the liquor or table wine within 7 days after the delivery. (3) A correctly dated check that is honored on presentation is considered cash for the purposes of this section. (4) Any extension or acceptance of credit in violation of this section is considered rendering or receiving of financial assistance. The licenses of any retail licensees that violate this section must be suspended or revoked, and the franchise agreement of any agency liquor store involved in a violation of this section must be terminated, as determined by the department in its discretion. History: En. Sec. 2, Ch. 635, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 2. Price of Liquor 16-2-201. Reduction for quantity sales of liquor

16-2-201. Reduction for quantity sales of liquor.A reduction of 8% of the posted price of liquor sold at an agency liquor store must be made for sales of liquor to a licensee purchasing liquor in unbroken case lots. This reduction is limited to liquor designated by the department as regular product as defined by administrative rule. No other reduction below the posted price may be made for sales of liquor. History: En. Sec. 1, Ch. 185, L. 1943; amd. Sec. 1, Ch. 334, L. 1975; Sec. 4-117, R.C.M. 1947; amd. and redes. 4-2-201 by Sec. 9, Ch. 387, L. 1975; R.C.M. 1947, 4-2-201; amd. Sec. 26, Ch. 530, L. 1995; amd. Sec. 1, Ch. 12, L. 2013; amd. Sec. 2, Ch. 622, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 2. Price of

Liquor 16-2-203. Sales to licensees

16-2-203. Sales to licensees. Agency liquor stores may sell to licensees licensed under this code all kinds of liquor at the posted price. All sales must be paid for at the time of sale or made as provided in 16-2-111. History: En. Sec. 14, Ch. 84, L. 1937; Sec. 4-416, R.C.M. 1947; amd. and redes. 4-2-204 by Sec. 93, Ch. 387, L. 1975; amd. Sec. 3, Ch. 496, L. 1977; R.C.M. 1947, 4-2-204(part); amd. Sec. 10, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 15, Ch. 68, L. 1987; amd. Sec. 11, Ch. 19, L. 2011; amd. Sec. 1, Ch. 28, L. 2011; amd. Sec. 5, Ch. 61, L. 2023; amd. Sec. 6, Ch. 635, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 2. Price of Liquor 16-2-204. through 16-2-210 reserved

16-2-204 through 16-2-210 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 2. Price of Liquor 16-2-211. State liquor markup reduction -- Montana-produced ingredients

16-2-211. State liquor markup reduction -- Montana-produced ingredients. (1) Based upon the percentage of Montana-produced ingredients that are used in producing a liquor, the department shall reduce the liquor markup charged by the department in determining the wholesale price of the liquor. To qualify for a reduced markup, the liquor must have been manufactured, distilled, rectified, bottled, or processed by a distillery that produces 25,000 proof gallons or less of liquor nationwide annually. The reduction in the markup must be determined as follows: (2) For the purposes of this section, the liquor markup is the standard markup added to the department's base case price used in determining the wholesale price of liquor for products other than fortified wine or sacramental wine and does not include the reduced markup that results from the department's reduced prices for products designated for closeout or inventory reduction. The reduced markup must be applied to the standard liquor markup minus associated agency liquor store commissions and discount rate costs pursuant to 16-2-101 and costs of operating the central liquor warehouse and must be determined by the department on a yearly basis. (3) (a) The percent of Montana-produced ingredients is determined as a percentage of the total applicable dry and wet weights of all the fermentable and flavor ingredients used in the production of the liquor as provided by rule adopted by the department. (b) For the purposes of this section, a Montana-produced ingredient is an agricultural product, either processed or unprocessed, that in its unprocessed state was grown in Montana or, if it is a processed ingredient, that was processed in Montana from unprocessed agricultural products that were grown in Montana. Water is not an ingredient. History: En. Sec. 1, Ch. 345, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 2. Liquor Stores Part 3. Sale of Table Wine 16-2-301. Retail selling price on table wine

16-2-301. Retail selling price on table wine. The retail selling price at which table wine is sold at an agency liquor store is as determined by the agent. History: En. Sec. 9, Ch. 699, L. 1979; amd. Sec. 1, Ch. 629, L. 1987; amd. Sec. 27, Ch. 530, L. 1995; amd. Sec. 3, Ch. 399, L. 1997; amd. Sec. 9, Ch. 76, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 1. Official Controls 16-3-101. Alcoholic beverage transactions -- only in accordance with code

16-3-101. Alcoholic beverage transactions -- only in accordance with code. (1) A person who manufactures, imports, distributes, wholesales, or sells alcoholic beverages or the person's agent may not give or sell to any person within the state any alcoholic beverage except as may be permitted by and in accordance with the provisions of this code. (2) (a) Except as otherwise provided by this code, a person or the person's agent may not ship, transport, or consign or cause to be shipped, transported, or consigned: (i) any alcoholic beverage to any person in this state; or (ii) any liquor except to the state liquor warehouse. (b) The prohibition in subsection (2)(a) includes alcoholic beverages ordered or purchased by telephone, computer, or other device. History: En. Sec. 46, Ch. 105, L. 1933; re-en. Sec. 2815.105, R.C.M. 1935; Sec. 4-151, R.C.M. 1947; redes. 4-3-101 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-101; amd. Sec. 2, Ch. 19, L. 1985; amd. Sec. 17, Ch. 68, L. 1987; amd. Sec. 3, Ch. 543, L. 2001; amd. Sec. 1, Ch. 591, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 1. Official Controls 16-3-103. Unlawful sales solicitation or advertising -- exceptions

16-3-103. Unlawful sales solicitation or advertising -- exceptions. (1) A person within the state may not: (a) canvass for, receive, take, or solicit orders for the purchase or sale of any liquor or act as agent or intermediary for the sale or purchase of any liquor or be represented as an agent or intermediary unless permitted to do so under rules that are promulgated by the department to govern the activities; (b) canvass for or solicit orders for the purchase or sale of any beer except in the case of beer proposed to be sold to beer licensees duly authorized to sell beer under the provisions of this code; (c) exhibit, publish, or display or permit to be exhibited, published, or displayed any form of advertisement or any other announcement, publication, or price list of or concerning liquor or where or from whom the same may be had, obtained, or purchased unless permitted to do so by the rules of the department and then only in accordance with the rules. (2) This section does not apply to: (a) the department, any act of the department, any agency liquor store; (b) the sale and serving of beer and table wine in the grandstand and bleacher area of a county fairground or public

sports arena under a special permit issued pursuant to 16-4-301 or a catering endorsement issued pursuant to 16-4-111 or 16-4-204; or (c) the sale of alcohol at a sporting event conducted at a Montana university as provided in 16-4-112. History: En. Sec. 65, Ch. 105, L. 1933; re-en. Sec. 2815.124, R.C.M. 1935; amd. Sec. 1, Ch. 140, L. 1974; amd. Sec. 1, Ch. 274, L. 1975; Sec. 4-170, R.C.M. 1947; redes. 4-3-103 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-103; amd. Sec. 1, Ch. 134, L. 1985; amd. Sec. 1, Ch. 180, L. 1987; amd. Sec. 3, Ch. 599, L. 1993; amd. Sec. 28, Ch. 530, L. 1995; amd. Sec. 2, Ch. 395, L. 2021; amd. Sec. 2, Ch. 591, L. 2023; amd. Sec. 1, Ch. 645, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 1. Official Controls 16-3-104. Common carriers to purchase beer from brewer, beer importer, or wholesaler

16-3-104. Common carriers to purchase beer from brewer, beer importer, or wholesaler. The operator of any common carrier or its employees may not sell or dispose of any beer except beer that has been lawfully acquired or purchased from a licensed brewer, beer importer, or wholesaler. History: En. Sec. 37, Ch. 106, L. 1933; re-en. Sec. 2815.41, R.C.M. 1935; Sec. 4-338, R.C.M. 1947; amd. and redes. 4-3-104 by Sec. 67, Ch. 387, L. 1975; R.C.M. 1947, 4-3-104; amd. Sec. 3, Ch. 19, L. 1985; amd. Sec. 3, Ch. 591, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 1. Official Controls 16-3-105. Restrictions on alcoholic beverages in hotels

16-3-105. Restrictions on alcoholic beverages in hotels. Except in the case of alcoholic beverages kept or consumed in premises for which a license has been granted under the law and that form a part of a hotel, a person may not: (1) keep or consume alcoholic beverages in any part of a hotel other than a private guest room; (2) keep or have any alcoholic beverage in any room in a hotel unless the person is a bona fide guest of the hotel and is registered in the office of the hotel as an occupant of that room. History: En. Sec. 64, Ch. 105, L. 1933; re-en. Sec. 2815.123, R.C.M. 1935; amd. Sec. 1, Ch. 152, L. 1974; Sec. 4-169, R.C.M. 1947; redes. 4-3-105 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-105; amd. Sec. 18, Ch. 68, L. 1987; amd. Sec. 188, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 1. Official Controls 16-3-106. Conveyance of alcoholic beverages -- opening alcoholic beverages during transit forbidden

16-3-106. Conveyance of alcoholic beverages -- opening alcoholic beverages during transit forbidden. (1) It is lawful to carry or convey alcoholic beverages to any place to which the alcoholic beverages may be lawfully delivered under this code and the rules of the department. (2) It is unlawful to: (a) open, break, or allow to be opened or broken any package or vessel containing an alcoholic beverage; or (b) drink or use or allow to be drunk or used any alcoholic beverage while it is being carried or conveyed. History: En. Sec. 17, Ch. 105, L. 1933; re-en. Sec. 2815.76, R.C.M. 1935; Sec. 4-122, R.C.M. 1947; amd. and redes. 4-2-103 by Sec. 12, Ch. 387, L. 1975; R.C.M. 1947, 4-2-103; amd. Sec. 19, Ch. 68, L. 1987; amd. Sec. 29, Ch. 530, L. 1995; amd. Sec. 4, Ch. 591, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 1. Official Controls 16-3-107. Resident representatives required

16-3-107. Resident representatives required. (1) For the purposes of this section, "vendor" means an individual or a partnership, association, or corporation that sells liquor to the department. (2) A vendor who desires to promote the sale of the vendor's product in the state shall employ at least one representative and, except as provided in subsection (3), may employ four additional representatives to promote the sale of the vendor's product. A representative employed under this section must be a resident of the state or become a resident after employment. A representative may not be under the age of 21. The department may determine further registration requirements by rule. (3) A vendor may employ an unlimited number of representatives if the representative is a direct employee, an owner, or an officer of the distillery and is not employed through an independent contractor. History: En. Sec. 1, Ch. 293, L. 1987; amd. Sec. 1, Ch. 372, L. 2003; amd. Sec. 1, Ch. 264, L. 2015.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-201. Possession, manufacture, importation, or disposal of beer in manner other than prescribed unlawful -- personal brewing

16-3-201. Possession, manufacture, importation, or disposal of beer in manner other than prescribed unlawful -- personal brewing. (1) It is unlawful to manufacture, import, sell or dispose of, or possess for the purpose of sale beer of any kind or character of an alcoholic content greater than authorized or other than in the manner permitted by this code. (2) This code does not prohibit the manufacture of beer, for personal or family use and not intended for sale, that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer, for personal or family use, on premises other than those of the person brewing the beer. History: En. Sec. 5, Ch. 106, L. 1933; re-en. Sec. 2815.14, R.C.M. 1935; Sec. 4-309, R.C.M. 1947; amd. and redes. 4-3-201 by Sec. 49, Ch. 387, L. 1975; R.C.M. 1947, 4-3-201; amd. Sec. 4, Ch. 19, L. 1985; amd. Sec. 2, Ch. 546, L. 1997.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-202. Beer sale by department prohibited

16-3-202. Beer sale by department prohibited. The sale of beer by the department is hereby prohibited. History: En. Sec. 4, Ch. 106, L. 1933; re-en. Sec. 2815.13, R.C.M. 1935; amd. Sec. 1, Ch. 89, L. 1937; amd. Sec. 1, Ch. 186, L. 1947; Sec. 4-308, R.C.M. 1947; amd. and redes. 4-3-202 by Sec. 48, Ch. 387, L. 1975; R.C.M. 1947, 4-3-202.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-203. through 16-3-210 reserved

16-3-203 through 16-3-210 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-211. Monthly report of brewer, beer importer, or retailer -- inspection of books and premises

16-3-211. Monthly report of brewer, beer importer, or retailer -- inspection of books and premises. (1) Every brewer and every beer importer licensed or registered to do business in this state shall, on or before the 15th day of each month, as prescribed by the department, make an exact return to the department of the amount of beer manufactured or imported by the brewer or importer, the amount sold by the brewer or importer in the previous month, and the inventory of the brewer or importer. The department may make an examination of any brewer's or beer importer's books and of the brewer's or importer's premises and otherwise check the accuracy of any return or check the alcoholic content of beer manufactured or imported by the brewer or importer. (2) Every retailer licensed to do business in this state shall, on or before the 15th day of each month, as prescribed by the department, make an exact return to the department of the amount of beer purchased in the previous month directly from any brewery not located in the state of Montana. History: En. Sec. 7, Ch. 106, L. 1933; re-en. Sec. 2815.16, R.C.M. 1935; Sec. 4-311, R.C.M. 1947; amd. and redes. 4-3-203 by Sec. 51, Ch. 387, L. 1975; R.C.M. 1947, 4-3-203; amd. Sec. 5, Ch. 19, L. 1985; amd. Sec. 1, Ch. 516, L. 2007; amd. Sec. 1, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-212. Brewers' or beer importers' sales to wholesalers lawful

16-3-212. Brewers' or beer importers' sales to wholesalers lawful. A licensed or registered brewer may sell or deliver beer manufactured by the brewer to any licensed wholesaler. A licensed or registered beer importer may sell or deliver beer imported by the importer to any licensed wholesaler. History: En. Sec. 9, Ch. 106, L. 1933; amd. Sec. 3, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.18, R.C.M. 1935; Sec. 4-313, R.C.M. 1947; amd. and redes. 4-3-204 by Sec. 52, Ch. 387, L. 1975; R.C.M. 1947, 4-3-204; amd. Sec. 6, Ch. 19, L. 1985; amd. Sec. 189, Ch. 56, L. 2009; amd. Sec. 2, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions -- brewer collaboration

16-3-213. Brewers or beer importers not to retail beer -- small brewery exceptions -- brewer collaboration. (1) Except as provided for small breweries in subsection (2) and except as provided in 16-4-401(9), it is unlawful for any brewer or breweries or beer importer to have or own any permit to sell or retail beer at any place or premises. It is the intention of this section to prohibit brewers and beer importers from engaging in the retail sale of beer. This section does not prohibit breweries from selling and delivering beer manufactured by them, in original packages, at either wholesale or retail. (2) (a) For the purposes of this section, a "small brewery" is a brewery that has an annual nationwide production of not less than 200 gallons or more than 60,000 barrels, including: (i) the production of all affiliated manufacturers; and (ii) beer purchased from any other beer producer to be sold by the brewery. (b) A small brewery may, at one location for each brewery license and at no more than three locations including affiliated manufacturers, provide samples of beer that were brewed and fermented on the premises in a sample room located on the licensed premises, subject to subsection (4). The samples may be provided with or without charge between the hours of 10 a.m. and 8 p.m. No more than 48 ounces of malt beverage may be sold or given to each individual customer during a business day for consumption on the premises or in prepared servings through curbside pickup, provided that the 48-ounce limit may not in any way limit a small brewery's sales as provided in 16-3-214(1)(a)(iii). No more than 2,000 barrels may be provided annually for on-premises sample room consumption, including all affiliated manufacturers. (3) For the purposes of this section, "affiliated manufacturer" means a manufacturer of beer: (a) that one or more members of the manufacturing entity have more than a majority share interest in or that controls directly or indirectly another beer manufacturing entity; (b) for which the business operations conducted between or among entities are interrelated or interdependent to the extent that the net income of one entity cannot reasonably be determined without reference to operations of the other entity; or (c) of which the brand names, products, recipes, merchandise, trade name, trademarks, labels, or logos are identical or nearly identical. (4) A small brewery may serve in its sample room beer not brewed and fermented on the premises if: (a) the beer is brewed in collaboration with another brewery, including multiple breweries; (b) all brewers were actively involved in the brewing of the beer. For the purposes of this subsection (4)(b), the term "actively involved" means that all brewers were present for the brewing process. (c) no more than six distinct collaboration beers, brewed and fermented at another brewery, may be served in a calendar year; (d) the amount of beer that a brewer serves under this section, for any one type of distinct

collaboration beer, does not exceed an equal proportion of the beer produced based on the number of participating breweries or seven barrels, whichever is less; and (e) all brewers report to the department: (i) that the brewers will collaborate as provided in this subsection (4) prior to the collaboration; and (ii) sales from the collaboration for tax reporting. (5) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9), beer that is manufactured and sold at the colocated premises is not subject to the limitations imposed by this section. Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes. History: En. Sec. 11, Ch. 106, L. 1933; re-en. Sec. 2815.20, R.C.M. 1935; Sec. 4-315, R.C.M. 1947; redes. 4-3-205 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-205; amd. Sec. 7, Ch. 19, L. 1985; amd. Sec. 1, Ch. 149, L. 1985; amd. Sec. 1, Ch. 116, L. 1999; amd. Sec. 2, Ch. 271, L. 2017; amd. Sec. 4, Ch. 194, L. 2021; amd. Sec. 1, Ch. 443, L. 2023; amd. Sec. 1, Ch. 601, L. 2023; amd. Sec. 3, Ch. 622, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-214. Beer sales by brewers -- sample room exception

16-3-214. Beer sales by brewers -- sample room exception. (1) Subject to the limitations and restrictions contained in this code, a brewer who manufactures less than 60,000 barrels of beer a year, upon payment of the annual license fee imposed by 16-4-501 and upon presenting satisfactory evidence to the department as required by 16-4-101, must be licensed by the department, in accordance with the provisions of this code and rules prescribed by the department, to: (a) sell and deliver beer from its storage depot or brewery to: (i) a wholesaler; (ii) licensed retailers if the brewer uses the brewer's own equipment, trucks, and employees to deliver the beer and if: (A) individual deliveries, other than draught beer, are limited to the case equivalent of 8 barrels a day to each licensed retailer; and (B) the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year; or (iii) the public, including curbside pickup between 8 a.m. and 2 a.m. in original packaging or growlers; (b) provide its own products for consumption on its licensed premises without charge or, if it is a small brewery, provide its own products or collaboration products at a sample room as provided in 16-3-213; or (c) do any one or more of the acts of sale and delivery of beer as provided in this code. (2) A brewery may not use a common carrier for delivery of the brewery's product to the public or to licensed retailers. (3) A brewery may import or purchase, upon terms and conditions the department may require, necessary flavors and other nonbeverage ingredients containing alcohol for blending or manufacturing purposes. (4) An additional license fee may not be imposed on a brewery providing its own products on its licensed premises for consumption on the premises. (5) This section does not prohibit a licensed or registered brewer from shipping and selling beer directly to a wholesaler in this state under the provisions of 16-3-230. (6) For a licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9), beer that is manufactured and sold at the colocated premises does not count towards the 10,000-barrel self-distribution limit imposed by subsection (1)(a)(ii)(B). Beer manufactured and sold at the colocated premises does count toward production levels for tax purposes. History: En. Sec. 13, Ch. 106, L. 1933; amd. Sec. 4, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.22, R.C.M. 1935; amd. Sec. 4, Ch. 166, L. 1951; amd. Sec. 1, Ch. 135, L. 1959; amd. Sec. 1, Ch. 296, L. 1969; amd. Sec. 1, Ch. 421, L. 1971; Sec. 4-317, R.C.M. 1947; amd. and redes. 4-3-206 by Sec. 53, Ch. 387, L. 1975; R.C.M. 1947, 4-3-206; amd. Sec. 2, Ch. 149, L. 1985; amd. Sec. 1, Ch. 721, L. 1991; amd. Sec. 1, Ch. 122, L. 1993; amd. Sec. 2, Ch. 116, L. 1999; amd. Sec. 4, Ch. 543, L. 2001; amd. Sec. 2, Ch. 516, L. 2007; amd. Sec. 3, Ch. 277, L. 2011; amd. Sec. 5, Ch. 194, L. 2021; amd. Sec. 2, Ch. 443, L. 2023; amd. Sec. 2, Ch. 601, L. 2023; amd. Sec. 3, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-215. and 16-3-216 reserved

16-3-215 and 16-3-216 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-217. Purposes

16-3-217. Purposes. The legislature finds and declares that the purposes of 16-3-218 through 16-3-226 are to assure continued interbrand competition in malt beverage sales through competing independent wholesalers and to assure breweries the ability to protect the reputations of their products through quality control arrangements. History: En. Sec. 1, Ch. 61, L. 1987.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-218. "Distribute" defined

16-3-218. "Distribute" defined. As used in 16-3-219 and 16-3-220, "distribute" means to deliver table wine to an agency liquor store or to deliver beer or table wine to a retailer's premises licensed to sell beer, table wine, or sacramental wine as well as an alternate alcoholic beverage storage facility as allowed in 16-4-213(8). History: En. Sec. 3, Ch. 61, L. 1987; amd. Sec. 3, Ch. 115, L. 2013; amd. Sec. 1, Ch. 568, L. 2021; amd. Sec. 3, Ch. 138, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-219. Dock sales restricted -- exceptions

16-3-219. Dock sales restricted -- exceptions. (1) Except as provided in subsections (2) through (4), beer may not be delivered to a licensed retailer at any location other than the retailer's licensed premises. (2) An all-beverages licensee may personally or through an employee obtain from any wholesaler's warehouse any quantity of beer as the all-beverages licensee and wholesaler may agree to

buy and sell. (3) Retailers other than an all-beverages licensee may personally or through an employee obtain from the wholesaler's warehouse any quantity of beer that the retailer and wholesaler may agree to buy and sell only within the territory of the wholesaler in which the retailer is located. (4) When a beer wholesaler's trucks and equipment are incapable of delivering beer to a retail licensee's premises due to the unique physical location of the retail licensee's premises, examples of which are premises located on an island or atop a mountain, the beer wholesaler and retail licensee may seek prior department approval for an alternative delivery arrangement on a form provided by the department. If the department approves the alternative delivery arrangement request, the department shall provide the beer wholesaler and the retail licensee a written summary of the conditions of the approved delivery arrangement. Failure to comply with the approved alternative delivery arrangement may subject the beer wholesaler or retail licensee to administrative action. History: En. Sec. 4, Ch. 61, L. 1987; amd. Sec. 1, Ch. 501, L. 2007; amd. Sec. 6, Ch. 194, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-220. Wholesalers' service obligations -- applicability

16-3-220. Wholesalers' service obligations -- applicability. (1) A wholesaler appointed to distribute a brand of beer within a territory specified by agreement pursuant to 16-3-222 shall call on and offer that brand to at least 75% of the retailers within that territory at least every 3 weeks. However, if the brand of beer for which the wholesaler is appointed is a product of a brewer or beer importer whose products are not generally available, the wholesaler shall, at least every 3 weeks, call on and offer that brand to as many retailers within that territory as is reasonably possible given the amount of that brand that is available to the wholesaler. (2) If a retailer's account with a wholesaler is current as required under 16-3-243, the wholesaler may not refuse to sell the retailer any generally available brand of beer for which the wholesaler has been appointed for the territory in which the retailer is located. The wholesaler shall offer to deliver the beer to the retailer at least every 3 weeks. (3) For the purposes of this section, a brewer or beer importer's products are not generally available if: (a) all of the brands of a brewer or beer importer shipped to a wholesaler during the most recent calendar quarter total less than 600 barrels; (b) all of the brands of a brewer or beer importer shipped into the state total less than 1,200 barrels in each of the 2 consecutive preceding calendar quarters; and (c) all of the brands produced by the brewer at all of its facilities total less than 150,000 barrels per year. (4) This section applies to all beer distribution agreements entered into, assigned, or amended after July 1, 1986. It does not apply to a distribution agreement for a named brand entered into before July 1, 1986, but does not prohibit a brewer who is a party to an agreement from requiring the appointed wholesaler to fulfill similar service obligations in the territory. History: En. Sec. 5, Ch. 61, L. 1987; amd. Sec. 1, Ch. 139, L. 1995; amd. Sec. 91, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-221. Illegal acts by brewers or beer importers

16-3-221. Illegal acts by brewers or beer importers. (1) It is unlawful for any brewer or beer importer or any officer, agent, or representative of any brewer or beer importer to: (a) coerce, attempt to coerce, or persuade any person licensed to sell beer at wholesale to enter into any agreement or to take any action that would violate or tend to violate any of the laws of this state or any rules promulgated by the department; (b) sell its products in the state without a written contract, which conforms to the provisions of 16-3-221 through 16-3-226, with each appointed licensed wholesale distributor; (c) designate or allow more than one wholesale distributor to sell or distribute a specific brand of the brewer's or beer importer's products to retail licensees in the same area, provided that nothing in this part prohibits the brewer or beer importer from designating more than one wholesale distributor to sell or distribute different brands of the same manufacturer to retail licensees in the same area; (d) fix or maintain the price at which a wholesale distributor resells the brewer's or beer importer's products. Without limitation, it is a violation of this section if: (i) after a wholesale distributor has exceeded a resale price increase recommended by a brewer or beer importer, the brewer or beer importer raises the price that it charges the wholesale distributor for those products within 60 days; (ii) after a wholesale distributor has exceeded a resale price increase recommended by a brewer or beer importer, the brewer or beer importer raises the price that it charges the wholesale distributor in an amount proportionately larger than the amount that it raised the wholesale distributor's prices initially when compared to the increase in the resale price that it recommended to the wholesale distributor; or (iii) the brewer or beer importer links or ties its participation in promotional discounts to the wholesale distributor's compliance with any recommended resale price. (e) cancel, terminate, discontinue, or fail to renew, except for just cause and in accordance with the current terms and standards established by the brewer or beer importer then equally applicable to all wholesalers, any agreement or contract, written or oral, or the franchise of any wholesaler existing on January 1, 1974, or entered into after that date to sell beer manufactured by the brewer or imported by the beer importer. A brewer or beer importer may, notwithstanding the preceding sentence, make reasonable classifications among wholesalers. If a brewer or beer importer cancels or terminates a wholesaler's franchise, the brewer or beer importer has the burden of proving that the classification was reasonable and not arbitrary. The provisions of 16-3-221 through 16-3-226 must be a part of any franchise, contract, agreement, or understanding, whether written or oral, between any wholesaler of beer licensed to do business in this state and any manufacturer or beer importer doing business with the licensed wholesaler just as though the provisions had been specifically agreed upon between the wholesaler and the manufacturer or beer importer. A wholesaler of beer licensed to conduct business in the state may not waive any of the protections or agree to any provision contrary to 16-3-221 through 16-3-226 by any conduct, including but not limited to the signing of any contract or agreement with terms contrary to those provisions. (2) (a) Just cause as used in subsection (1)(e) means that the wholesaler failed to comply with the reasonable requirements placed on the wholesaler by the brewer or beer importer as a part of

any written franchise, contract, or agreement between the parties. (b) The sale or purchase or other restructuring of the brewer or beer importer by a successor in the manufacturing tier of the beer industry does not constitute just cause as that term is used in subsection (1)(e). (c) For the purposes of this subsection (2), a successor means a person or entity who replaces a brewer or beer importer with regard to the right to manufacture, sell, distribute, or import a brand or brands of beer regardless of the character or form of the succession. A successor is obligated to all of the terms and conditions of any franchise, contract, agreement, or understanding, whether written or oral, in effect on the date of succession. A successor has the right to contractually require its wholesalers to comply with operational standards of performance if the standards are uniformly established for all of the successor's wholesalers and conform to the requirements of this section. History: En. 4-317.2 by Sec. 1, Ch. 322, L. 1974; Sec. 4-317.2, R.C.M. 1947; redes. 4-3-207 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-207; amd. Sec. 8, Ch. 19, L. 1985; amd. Sec. 1, Ch. 409, L. 1995; amd. Sec. 1, Ch. 130, L. 1997; amd. Sec. 2, Ch. 181, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-222. Mandatory provisions of brewer-wholesaler or beer importer-wholesaler contracts, agreements, and franchises

16-3-222. Mandatory provisions of brewer-wholesaler or beer importer-wholesaler contracts, agreements, and franchises. All contracts, agreements, or franchises between a brewer and a wholesaler or a beer importer and a wholesaler must specifically set forth or contain the following: (1) that the brewer or beer importer or any officer, agent, or representative of any brewer or beer importer and the wholesaler involved mutually shall determine the size or extent of the area in which the wholesaler may sell or distribute the products of the brewer or beer importer to the retail licensees. The territory must be the territory agreed upon between the wholesaler and brewer or the wholesaler and beer importer and may not be changed without the mutual consent of both the wholesaler and brewer or the wholesaler and beer importer. (2) the agreed-upon brands of the brewer or beer importer to be sold by the wholesaler; (3) that the brewer or beer importer recognizes that the wholesaler is free to manage the wholesaler's business in the manner that the wholesaler considers best and that this prerogative vests in the wholesaler the exclusive right to establish selling prices, to select the brands that the wholesaler wishes to handle, and to determine the effort and resources that the wholesaler will exert to develop and promote the sale of the brewer's or beer importer's products handled by the wholesaler; (4) a procedure for the review of alleged wholesaler deficiencies asserted by the brewer or beer importer to constitute just cause as provided in 16-3-221, including the submission in writing to the wholesaler by the brewer or beer importer of the deficiencies, if the deficiencies are susceptible of correction and if the wholesaler desires to correct the deficiencies, and that a reasonable period of time must be given the wholesaler for rectification of the deficiencies prior to any notice of intent to terminate; (5) a termination clause providing that the brewer or beer importer shall deliver, in writing, to the wholesaler a 60-day notice of intent to terminate the agreement, contract, or franchise; (6) that all agreements between a brewer and a wholesaler are interpreted and governed by the laws of Montana and that those laws must be liberally construed to effectuate the remedial purpose of the protections of the beer franchise law contained in 16-3-221 through 16-3-226; (7) that in any dispute resulting in litigation between a brewer or a beer importer and a wholesaler, the litigation must occur in a Montana court, either federal or state, unless that forum would create an unreasonable burden on any party, as determined by the court in which the litigation is commenced; (8) that all agreements between a brewer or a beer importer and a wholesaler must recognize the constitutional right to a jury trial as set forth in Article II, section 26, of the Montana constitution. History: En. 4-317.3 by Sec. 2, Ch. 322, L. 1974; Sec. 4-317.3, R.C.M. 1947; redes. 4-3-208 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-208; amd. Sec. 9, Ch. 19, L. 1985; amd. Sec. 1, Ch. 194, L. 1999; amd. Sec. 3, Ch. 181, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-223. Transfer of wholesaler's interest in business

16-3-223. Transfer of wholesaler's interest in business. A wholesaler may sell or transfer the business or an interest in the business to any person or to one or more members of the wholesaler's family or heirs or legatees, whether the wholesaler operates as an individual, a partnership, or corporation. However, the consent of the brewer or beer importer in writing is required for the transferee to continue as a wholesaler of the brewer or beer importer. The consent must consider the personal, financial, and managerial responsibilities and capabilities of the transferee, and the consent may not unreasonably be withheld. History: En. 4-317.4 by Sec. 3, Ch. 322, L. 1974; Sec. 4-317.4, R.C.M. 1947; redes. 4-3-209 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-209; amd. Sec. 10, Ch. 19, L. 1985; amd. Sec. 190, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-224. Contractual or franchise relationship -- existence by actions

16-3-224. Contractual or franchise relationship -- existence by actions. The doing or accomplishing of any of the following acts constitutes prima facie evidence of a contractual or franchise relationship between a licensed wholesaler and a brewer or beer importer within the contemplation of 16-3-221 through 16-3-226: (1) the shipment, preparation for shipment, or acceptance of any order by any brewer or beer importer or its agent for any beer to a licensed wholesaler within this state; (2) the payment by any licensed wholesaler within this state or the acceptance of payment by any brewer or beer importer or its agent for the shipment of an order of beer intended for sale within this state. History: En. 4-317.5 by Sec. 4, Ch. 322, L. 1974; Sec. 4-317.5, R.C.M. 1947; redes. 4-3-210 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-210; amd. Sec. 11, Ch. 19, L. 1985.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-225. Injunction to prevent franchise cancellation

16-3-225. Injunction to prevent franchise cancellation. Any court of competent jurisdiction may enjoin the cancellation or termination of a franchise or agreement between a wholesaler and a brewer or between a wholesaler and a beer importer at the instance of a wholesaler who is or would be adversely affected by the cancellation or termination. In granting an injunction, the court shall provide that the brewer or beer importer shall not supply the customers or territory of the wholesaler who is servicing the territory or customers through other distributors or means while the injunction is in effect. History: En. 4-317.6 by Sec. 5, Ch. 322, L. 1974; Sec. 4-317.6, R.C.M. 1947; redes. 4-3-211 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-211; amd. Sec. 12, Ch. 19, L. 1985.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-226. Brewer-wholesaler or beer importer-wholesaler agreements filed with department

16-3-226. Brewer-wholesaler or beer importer-wholesaler agreements filed with department. Within 60 days after April 18, 2023, or within 60 days after entering into a new agreement, an exact copy of all agreements, contracts, or franchises between a brewer or beer importer and a wholesaler must be filed by the wholesaler with the department as a public document and must be available to any of the parties to a dispute. The department, upon the instigation of any action in a court of record, shall file an exact certified copy of the agreement with the court for the court's consideration in determining any matter before it. Any contracts, agreements, or franchises not on record with the department may not be considered by any court as having any force or effect. The wholesaler shall notify the brewer or beer importer of the filing of the agreement with the department. History: En. 4-317.7 by Sec. 6, Ch. 322, L. 1974; Sec. 4-317.7, R.C.M. 1947; amd. and redes. 4-3-212 by Sec. 55, Ch. 387, L. 1975; R.C.M. 1947, 4-3-212; amd. Sec. 13, Ch. 19, L. 1985; amd. Sec. 1, Ch. 118, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-227. through 16-3-229 reserved

16-3-227 through 16-3-229 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-230. Beer required to be shipped to wholesaler

16-3-230. Beer required to be shipped to wholesaler. Except as provided in 16-3-214 and 16-4-901, all beer that is to be distributed in Montana must be sold and shipped to a licensed wholesaler and unloaded into the wholesaler's warehouse or subwarehouse in Montana. A brewer or beer importer shall maintain records of all beer, including the name or kind received, on hand, and sold. The records may at any time be inspected by a representative of the department. The wholesaler shall distribute the beer from the warehouse or subwarehouse and shall keep records at the wholesaler's licensed premises of all beer, including the name or kind received, on hand, sold, and distributed. The records may be inspected by a representative of the department at any time. History: En. Sec. 14, Ch. 106, L. 1933; amd. Sec. 5, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.23, R.C.M. 1935; amd. Sec. 1, Ch. 246, L. 1947; amd. Sec. 5, Ch. 166, L. 1951; amd. Sec. 1, Ch. 222, L. 1965; Sec. 4-318, R.C.M. 1947; amd. and redes. 4-4-103 by Sec. 56, Ch. 387, L. 1975; R.C.M. 1947, 4-4-103(part); amd. Sec. 2, Ch. 178, L. 1983; amd. Sec. 14, Ch. 19, L. 1985; amd. Sec. 1, Ch. 192, L. 1999; amd. Sec. 5, Ch. 591, L. 2023; amd. Sec. 4, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-231. Monthly report of wholesaler

16-3-231. Monthly report of wholesaler. Every wholesaler licensed to do business in this state shall, on or before the 15th day of each month, in the manner and form prescribed by the department, make an exact return to the department of the amount of beer manufactured in this state sold and delivered by the wholesaler and also of the amount of beer manufactured in places outside of the state sold and delivered by the wholesaler during the previous month and of the wholesaler's inventory. The department may at any time make an examination of the wholesaler's books and premises and otherwise check the accuracy of the return or check the alcoholic content of beer on hand. History: En. Sec. 15, Ch. 106, L. 1933; re-en. Sec. 2815.24, R.C.M. 1935; Sec. 4-319, R.C.M. 1947; amd. and redes. 4-3-213 by Sec. 57, Ch. 387, L. 1975; R.C.M. 1947, 4-3-213; amd. Sec. 191, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-232. Beer sales by wholesaler

16-3-232. Beer sales by wholesaler. A wholesaler may sell and deliver beer purchased or acquired by the wholesaler to a wholesaler, retailer, or common carrier licensed under this code. History: En. Sec. 17, Ch. 106, L. 1933; amd. Sec. 6, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.26, R.C.M. 1935; Sec. 4-321, R.C.M. 1947; amd. and redes. 4-3-214 by Sec. 59, Ch. 387, L. 1975; R.C.M. 1947, 4-3-214; amd. Sec. 192, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part

2. Regulation of Brewers, Beer Importers, and Beer Wholesalers**16-3-233. Sales to public by wholesaler unlawful**

16-3-233. Sales to public by wholesaler unlawful. Except as provided in 16-3-316, a wholesaler may not give, sell, deliver, or distribute any beer purchased or acquired by the wholesaler to the public. History: En. Sec. 18, Ch. 106, L. 1933; amd. Sec. 7, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.27, R.C.M. 1935; amd. Sec. 1, Ch. 274, L. 1973; Sec. 4-322, R.C.M. 1947; reded. 4-3-215 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-215; amd. Sec. 193, Ch. 56, L. 2009; amd. Sec. 6, Ch. 591, L. 2023.

2024 Montana Code Annotated**Title 16. Alcohol, Tobacco, and Marijuana****Chapter 3. Control of Liquor, Beer, and Wine****Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers****16-3-234. Consumption of beer on wholesalers' premises unlawful**

16-3-234. Consumption of beer on wholesalers' premises unlawful. It shall be unlawful for any wholesaler to sell, serve, or give away any beer to be consumed on such wholesaler's premises. History: En. Sec. 19, Ch. 106, L. 1933; re-en. Sec. 2815.28, R.C.M. 1935; Sec. 4-323, R.C.M. 1947; reded. 4-3-216 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-216.

2024 Montana Code Annotated**Title 16. Alcohol, Tobacco, and Marijuana****Chapter 3. Control of Liquor, Beer, and Wine****Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers****16-3-235. Carriers' reports of beer transported**

16-3-235. Carriers' reports of beer transported. Every railroad and every motor carrier transporting beer manufactured out of this state from points without this state and delivering the same to points within this state shall, if requested by the department, on or before the 15th day of each month, make an exact return to the department of the amount of such beer so transported and delivered by such railroad or motor carrier during the previous month and shall state in such return the name and address of the consignor, the name and address of the consignee, the date of delivery, and the amount delivered. A carrier shall retain for 30 months all pertinent and relevant records necessary for the preparation of this report and any other information the department may require. History: En. Sec. 4, Ch. 220, L. 1939; Sec. 4-326, R.C.M. 1947; amd. and reded. 4-3-218 by Sec. 61, Ch. 387, L. 1975; R.C.M. 1947, 4-3-218; amd. Sec. 1, Ch. 207, L. 1991.

2024 Montana Code Annotated**Title 16. Alcohol, Tobacco, and Marijuana****Chapter 3. Control of Liquor, Beer, and Wine****Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers****16-3-236. through 16-3-240 reserved**

16-3-236 through 16-3-240 reserved.

2024 Montana Code Annotated**Title 16. Alcohol, Tobacco, and Marijuana****Chapter 3. Control of Liquor, Beer, and Wine****Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers****16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer importers, and wholesalers unlawful -- exceptions**

16-3-241. Furnishing of fixtures or interior advertising matter to retailers by brewers, beer importers, and wholesalers unlawful -- exceptions. (1) (a) Except as provided in subsection (3), it is unlawful for any brewer, beer importer, or wholesaler to lease, furnish, give, or pay for any premises, furniture, fixtures, equipment, or any other advertising matter or any other property to a retail licensee, used or to be used in the dispensation of beer in and about the interior of the place of business of the licensed retailer, or to furnish, give, or pay for any repairs, improvements, or painting on or within the premises. (b) It is lawful for a brewer, beer importer, or wholesaler to furnish, give, or loan to a retail licensee: (i) bottle openers, can openers, trays, tap handles, menus, apparel, coasters, glassware, cups, napkins, or other functional advertising matter that does not exceed \$300 in value in any 1 calendar year to any one retail establishment for display use within the interior of the retail establishment; (ii) not more than six illuminated or electrical signs, neon signs, lamps, or lighted clocks for each brand of beer in any 1 calendar year to any one retailer for display use within the interior of the retailer's place of business. These signs, displays, lamps, or lighted clocks may bear the name, brand name, trade name, trademark, or other designation indicating the name of the manufacturer of beer and the place of manufacture. Any beer advertised must be available for sale on the retailer's premises at the time the displays are used unless the displays are the property of the retailer or, if supplied by a brewer, beer importer, or wholesaler, a display has been in the retailer's possession for more than 9 months. (iii) permanent or temporary advertising matter of a decorative nature, excluding items described in subsection (1)(b)(ii) but including nonelectric clocks, mirrors, banners, flags, and pennants; and (iv) maintenance or repair services on draft beer equipment to keep it sanitary and in good working condition. (2) A wholesaler may furnish portable equipment used for the temporary cooling, handling, and dispensing of beer to a special permittee or a retailer for use: (a) in catering an event that is off the permittee's or retailer's regular premises; or (b) up to three times a year, on a retailer's regular premises, for a period not to exceed 72 hours. (3) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9) is not subject to the limitations of subsection (1)(a) for the licensed brewery's retail-licensed premises. History: En. Sec. 18, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.51, R.C.M. 1935; amd. Sec. 10, Ch. 166, L. 1951; amd. Sec. 1, Ch. 51, L. 1955; amd. Sec. 1, Ch. 110, L. 1959; amd. Sec. 1, Ch. 49, L. 1967; Sec. 4-349, R.C.M. 1947; amd. and reded. 4-3-219 by Sec. 74, Ch. 387, L. 1975; R.C.M. 1947, 4-3-219; amd. Sec. 1, Ch. 568, L. 1981; amd. Sec. 15, Ch. 19, L. 1985; amd. Sec. 1, Ch. 229, L. 1985; amd. Sec. 1, Ch. 247, L. 2005; amd. Sec. 3, Ch. 601, L. 2023.

2024 Montana Code Annotated**Title 16. Alcohol, Tobacco, and Marijuana****Chapter 3. Control of Liquor, Beer, and Wine****Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers****16-3-242. Financial interest in retailers prohibited**

16-3-242. Financial interest in retailers prohibited.(1) A brewer, beer importer, or wholesaler may not advance or loan money to or furnish money for or pay for or on behalf of any retailer any license or tax that may be required to be paid for any retailer. A brewer, beer importer, or wholesaler may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. A brewer, beer importer, or wholesaler is considered to have a financial interest within the meaning of this section if: (a) the brewer, beer importer, or wholesaler owns or holds any interest in or a lien or mortgage against the retailer or the retailer's premises; (b) the brewer, beer importer, or wholesaler is under any contract with a retailer concerning future purchases or the sale of merchandise by one from or to the other; or (c) any retailer holds an interest, as a stockholder or otherwise, in the business of the wholesaler. (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9) is not subject to the limitations of this section for the licensed brewery's retail-licensed premises History: En. 4-3-220 by Sec. 75, Ch. 387, L. 1975; R.C.M. 1947, 4-3-220; amd. Sec. 16, Ch. 19, L. 1985; amd. Sec. 194, Ch. 56, L. 2009; amd. Sec. 4, Ch. 601, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-243. Seven-day credit limitation

16-3-243. Seven-day credit limitation.(1) A brewer, beer importer, or beer wholesaler may not sell or deliver beer unless a retail licensee pays within 7 days of the delivery and may not extend more than 7 days' credit for payment for the beer to the retail licensee. (2) A retail licensee shall pay a brewer, beer importer, or beer wholesaler in full for beer within 7 days from the date of delivery and may not accept more than 7 days' credit from a brewer, beer importer, or beer wholesaler. Failure to pay in full within 7 days from the date of delivery is considered an impermissible acceptance of credit. (3) Any extension or acceptance of credit in violation of this section is considered rendering or receiving of financial assistance. Brewers, beer importers, beer wholesalers, and retail licensees who violate this section are subject to the penalty provisions of 16-4-406. History: En. 4-3-221 by Sec. 76, Ch. 387, L. 1975; R.C.M. 1947, 4-3-221; amd. Sec. 17, Ch. 19, L. 1985; amd. Sec. 7, Ch. 591, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 2. Regulation of Brewers, Beer Importers, and Beer Wholesalers 16-3-244. Beer advertising limitations

16-3-244. Beer advertising limitations.(1) Except as provided in subsection (2), it is lawful to advertise beer, as defined and regulated, subject to the restrictions on brewers and beer importers contained in 16-3-241 and subject to the following restrictions on retailers. A retail licensee may not display or permit to be displayed on the exterior portion or surface of the retailer's place of business, whether any of the premises are owned or leased by the retailer, any sign, poster, or advertisement bearing the name, brand name, trade name, trademark, or other designation indicating the manufacturer, brewer, beer importer, wholesaler, or place of manufacture of any beer, unless it is on a marquee, board, or other space used for temporary advertisements and is not displayed for more than 10 days per display period. (2) A licensed brewery holding complete ownership of a retail license pursuant to 16-4-401(9) is not subject to the restrictions in subsection (1) at any of the brewery's licensed premises for products manufactured by the licensed brewery. History: En. Sec. 11, Ch. 166, L. 1951; Sec. 4-358, R.C.M. 1947; amd. and redes. 4-3-222 by Sec. 77, Ch. 387, L. 1975; R.C.M. 1947, 4-3-222; amd. Sec. 18, Ch. 19, L. 1985; amd. Sec. 1, Ch. 223, L. 1985; amd. Sec. 3, Ch. 197, L. 2009; amd. Sec. 1, Ch. 34, L. 2023; amd. Sec. 5, Ch. 601, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age

16-3-301. Unlawful purchases, transfers, sales, or deliveries -- presumption of legal age.(1) Except as allowed in 16-4-213(8), it is unlawful for a licensed retailer to: (a) purchase or acquire beer or wine from anyone except a brewery, winery, or wholesaler licensed under the provisions of this code; (b) purchase or acquire table wine from anyone except a liquor store agent or winery or table wine distributor licensed under the provisions of this code; (c) purchase or acquire wine from anyone except a liquor store agent or winery; (d) transport alcoholic beverages from one licensed premises or other facility to any other licensed premises owned by the licensee; or (e) purchase or acquire liquor from anyone except an agency liquor store. (2) It is unlawful for a licensed distributor or wholesaler to purchase beer, table wine, or wine from anyone except a brewery, winery, or wholesaler licensed or registered under this code. (3) It is unlawful for a liquor store agent to purchase table wine or sacramental wine from anyone except a table wine distributor licensed under this code. (4) It is unlawful for any licensee, a licensee's employee, or any other person to sell, deliver, or give away or cause or permit to be sold, delivered, or given away any alcoholic beverage to: (a) any person under 21 years of age; or (b) any person actually, apparently, or obviously intoxicated. (5) Any person under 21 years of age or any other person who knowingly misrepresents the person's qualifications for the purpose of obtaining an alcoholic beverage from the licensee is equally guilty with the licensee and, on conviction, is subject to the penalty provided in 45-5-624. However, nothing in this section may be construed as authorizing or permitting the sale of an alcoholic beverage to any person in violation of any federal law. (6) All licensees shall display in a prominent place in their premises a placard, issued by the department, stating fully the consequences for violations of the provisions of this code by persons under 21 years of age. (7) For purposes of 45-5-623 and this title, the establishment of the following facts by a person making a sale of alcoholic beverages to a person under the legal age constitutes prima facie evidence of innocence and a defense to a prosecution for sale of alcoholic beverages to a person under the legal age: (a) the purchaser falsely represented and supported with documentary evidence that an ordinary and prudent person would accept that the purchaser was of legal age to purchase alcoholic beverages; (b) the appearance of the purchaser was such that an ordinary and prudent person would believe the purchaser to be of legal age to purchase alcoholic beverages; and (c) the sale was

made in good faith and in reasonable reliance on the representation and appearance of the purchaser that the purchaser was of legal age to purchase alcoholic beverages. (8) A licensed retailer may purchase beer and table wine from a licensed in-state retailer and transport the purchased beer and table wine to the licensed retailer's premises. The department may penalize retailers purchasing beer and table wine from out-of-state retailers subject to this code. Purchases under this subsection are limited to a maximum of 6 gallons a day. (See compiler's comments for contingent termination of certain text.) History: (1), (2)En. Sec. 31, Ch. 106, L. 1933; amd. Sec. 11, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.33, R.C.M. 1935; amd. Sec. 7, Ch. 166, L. 1951; amd. Sec. 2, Ch. 240, L. 1971; amd. Sec. 3, Ch. 94, L. 1973; Sec. 4-330, R.C.M. 1947; amd. and redes. 4-3-301 by Sec. 64, Ch. 387, L. 1975; Sec. 4-3-301, R.C.M. 1947; (3)En. Sec. 11, Ch. 84, L. 1937; amd. Sec. 3, Ch. 221, L. 1939; amd. Sec. 1, Ch. 71, L. 1953; amd. Sec. 4, Ch. 240, L. 1971; amd. Sec. 5, Ch. 94, L. 1973; Sec. 4-413, R.C.M. 1947; amd. and redes. 4-3-306 by Sec. 91, Ch. 387, L. 1975; Sec. 4-3-306, R.C.M. 1947; (4)En. Sec. 38, Ch. 84, L. 1937; amd. Sec. 2, Ch. 226, L. 1947; amd. Sec. 1, Ch. 161, L. 1951; amd. Sec. 5, Ch. 240, L. 1971; amd. Sec. 6, Ch. 94, L. 1973; Sec. 4-439, R.C.M. 1947; amd. and redes. 4-6-404 by Sec. 104, Ch. 387, L. 1975; Sec. 4-6-404, R.C.M. 1947; R.C.M. 1947, 4-3-301, 4-3-306, 4-6-404(part); amd. Sec. 1, Ch. 186, L. 1979; amd. Sec. 2, Ch. 61, L. 1987; amd. Sec. 1, Ch. 217, L. 1987; (6)En. Sec. 2, Ch. 233, L. 1993; amd. Sec. 1, Ch. 498, L. 2001; amd. Sec. 2, Ch. 501, L. 2007; amd. Sec. 3, Ch. 516, L. 2007; amd. Sec. 2, Ch. 568, L. 2021; amd. Sec. 8, Ch. 591, L. 2023; amd. Sec. 2, Ch. 728, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-302. Sale by retailer for consumption on premises

16-3-302. Sale by retailer for consumption on premises. (1) It is lawful for a licensed retailer to sell and serve beer, either on draft or in containers, to the public to be consumed on the premises of the retailer. (2) It is lawful for a licensee who has an all-beverages license that the licensee uses at a golf course to sell alcoholic beverages and for a licensee who has a golf course beer and wine license issued under 16-4-109 to sell beer and wine: (a) in the building or other structural premises constituting the clubhouse or primary indoor recreational quarters of the golf course; (b) upon department approval and submission of a fee, in an additional building or other structure, one per 9 holes of the golf course, that is designed to serve golfers during the course of play; and (c) at any place within the boundaries of the golf course, from a portable satellite vehicle or other movable satellite device that is moved from place to place. (3) It is lawful to consume alcoholic beverages sold as provided in subsection (2) at any place within the boundaries of the golf course, whether inside or outside of a building or other structure. (4) (a) It is lawful for a licensee who has an all-beverages license or a resort area all-beverages license to sell alcoholic beverages: (i) in the building or other structural premises constituting the primary indoor lodging quarters of a hotel or other short-term lodging facility; (ii) if the licensee's premises include a swimming pool, in a permanent, licensed alcohol service structure in the swimming pool area separate from the main licensed premises; (iii) if the licensee's premises include a ski hill, in up to two permanent, licensed alcohol service structures separate from the main licensed premises within the exterior boundaries of the same premises that are owned, leased, or otherwise under the control of and operated by the same property owner, licensee, and if applicable, concessionaire; (iv) if the licensee's premises include a golf course, the premises in addition to the main licensed premises may include: (A) the building or alcohol service structure constituting the clubhouse or primary recreational quarters of the golf course that is separate from the main licensed premises; and (B) the outdoor area within the boundaries of the golf course. (b) Buildings or structural premises allowed under this subsection (4) may be separate from the building comprising the main licensed premises but must otherwise meet the premises suitability requirements of 16-3-311. The licensee shall pay an application fee of \$100 for each area allowed under this subsection (4). (5) (a) It is lawful for a licensee who has an all-beverages license or has a retail license issued under 16-4-105 to sell and serve alcoholic beverages for which the licensee is licensed at a guest ranch as defined in 16-1-106. The guest ranch must be owned by the licensee or by a concessionaire with which the licensee has a concession agreement under 16-4-418. For a license operated at a guest ranch, alcoholic beverages may be served anytime within the outdoor portions of the licensed premises and in one permanent building at any time during the hours allowed under 16-3-304. (b) An applicant or licensee desiring to operate a license as described in this subsection (5) shall submit to the department a premises floorplan that describes the premises as a guest ranch and depicts both the indoor and outdoor portions of the premises. The floorplan must be submitted to the department as part of a license application or as part of a premises alteration request as described in 16-3-311(2). (c) A license operated at a guest ranch is subject to the requirements that are applicable to retail licenses generally, including the premises suitability provisions of 16-3-311, except that: (i) the premises may include any number of temporary, mobile, or partial structures, including but not limited to tents, teepees, yurts, picnic shelters, recreational vehicles, wagons, trailers, or any other structures that are not permanent buildings, provided that all temporary, mobile, or partial structures may not be used for alcohol storage purposes unless approved by the department, and may only be used for alcohol service and consumption if they remain within the licensee's approved outdoor premises area; (ii) the premises may include any outdoor areas in which the licensee or concessionaire has possessory interest, which may be demonstrated by property ownership records, a lease agreement, a concession agreement, or other evidence of possessory interest acceptable to the department; (iii) the premises may be separated by roadways, waterways, natural barriers, or fence lines if the premises are otherwise contiguous; (iv) a perimeter barrier is not required if the property line is otherwise marked; and (v) the premises may be identified on the license by legal description rather than by building address. (d) For the purposes of this subsection (5), the term "permanent building" means a fixed, nonmobile structure with floor-to-ceiling exterior walls, a full roof, electrical wiring, and plumbing fixtures. History: En. Sec. 29, Ch. 106, L. 1933; re-en. Sec. 2815.31, R.C.M. 1935; Sec. 4-328, R.C.M. 1947; amd. and redes. 4-3-302 by Sec. 63, Ch. 387, L. 1975; R.C.M. 1947, 4-3-302; amd. Sec. 1, Ch. 646, L. 1987; amd. Sec. 195, Ch. 56, L. 2009; amd. Sec. 4, Ch. 622, L. 2023; amd. Sec. 8, Ch. 728, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-303. Sale of beer by retailer for consumption off premises

16-3-303. Sale of beer by retailer for consumption off premises. It is lawful for an on-premises retailer to sell or furnish beer to the public in its original package, in prepared servings, or in growlers, and the beer must be taken away from the premises of the retailer for consumption off the premises of the retailer. Growlers may not be filled in advance of sale and may be furnished by the consumer. History: En. Sec. 30, Ch. 106, L. 1933; amd. Sec. 10, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.32, R.C.M. 1935; amd. Sec. 1, Ch. 177, L. 1961; Sec. 4-329, R.C.M. 1947; redes. 4-3-303 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-3-303; amd. Sec. 2, Ch. 77, L. 2011; amd. Sec. 7, Ch. 194, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-304. Closing hours for licensed retail establishments

16-3-304. Closing hours for licensed retail establishments. Except as provided in 16-3-305, all licensed establishments wherein alcoholic beverages are sold, offered for sale, or given away at retail shall be closed each day between 2 a.m. and 8 a.m.; provided, however, that when any municipal incorporation has by ordinance further restricted the hours of sale of alcoholic beverages, then the sale of alcoholic beverages is prohibited within the limits of any such city or town during the time such sale is prohibited by this code and in addition thereto during the hours that it is prohibited by such ordinance. During such hours all persons except the alcoholic beverage licensee and employees of such licensed establishment shall be excluded from the licensed premises. History: En. Sec. 1, Ch. 161, L. 1943; amd. Sec. 1, Ch. 162, L. 1959; amd. Sec. 1, Ch. 242, L. 1973; Sec. 4-303, R.C.M. 1947; amd. and redes. 4-3-304 by Sec. 46, Ch. 387, L. 1975; R.C.M. 1947, 4-3-304; amd. Sec. 1, Ch. 347, L. 1985.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-305. Sale of alcoholic beverages during closed hours unlawful -- lawful business need not be closed

16-3-305. Sale of alcoholic beverages during closed hours unlawful -- lawful business need not be closed. During the hours when the licensed establishments where alcoholic beverages are sold at retail are required by this code to be closed, it shall be unlawful to sell, offer for sale, give away, consume, or allow the consumption of alcoholic beverages. When an establishment licensed to sell alcoholic beverages is operated in conjunction with a hotel, restaurant, bus depot, railway terminal, grocery store, pharmacy, or other lawful business other than that of the sale of alcoholic beverages, then such other lawful business need not be closed. History: En. Sec. 3, Ch. 161, L. 1943; Sec. 4-304, R.C.M. 1947; amd. and redes. 4-3-305 by Sec. 47, Ch. 387, L. 1975; R.C.M. 1947, 4-3-305; amd. Sec. 2, Ch. 347, L. 1985.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-306. Proximity to churches and schools restricted

16-3-306. Proximity to churches and schools restricted. (1) Except as provided in subsections (2) through (4), a retail license may not be issued pursuant to this code to any business or enterprise whose premises are within 600 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school other than a commercially operated or postsecondary school. This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises. This section is a limitation on the department's licensing authority. (2) The department may renew a license, approve the transfer of ownership of a license, or allow the current licensee to apply for a new license type for any establishment located in violation of this section if the licensee does not relocate an entrance any closer than the existing entrances and if the establishment: (a) was located on the site before the place of worship or school opened; or (b) was located in a bona fide hotel, restaurant, or fraternal organization building at the site since January 1, 1937. (3) Subsection (1) does not apply to licenses for the sale of beer, table wine, or both in the original package for off-premises consumption. (4) Subsection (1) does not apply within the applicable jurisdiction of a local government that has supplanted the provisions of subsection (1) as provided in 16-3-309. History: En. Sec. 13, Ch. 84, L. 1937; Sec. 4-415, R.C.M. 1947; amd. and redes. 4-4-107 by Sec. 92, Ch. 387, L. 1975; R.C.M. 1947, 4-4-107; amd. Sec. 1, Ch. 152, L. 1981; amd. Sec. 1, Ch. 662, L. 1983; amd. Sec. 196, Ch. 56, L. 2009; amd. Sec. 9, Ch. 591, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-307. Sale of liquor at less than posted price unlawful

16-3-307. Sale of liquor at less than posted price unlawful. Except as provided in 16-2-201, it is unlawful for a licensee under the provisions of this code to resell liquor purchased by the licensee from an agency liquor store for a sum less than the posted price established by the department. History: En. Sec. 19, Ch. 84, L. 1937; Sec. 4-421, R.C.M. 1947; amd. and redes. 4-3-307 by Sec. 98, Ch. 387, L. 1975; R.C.M. 1947, 4-3-307; amd. Sec. 30, Ch. 530, L. 1995; amd. Sec. 2, Ch. 12, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-308. Refilling of liquor bottles prohibited

16-3-308. Refilling of liquor bottles prohibited. (1) A person who sells or offers liquor for sale, or an agent or employee of the

person, may not: (a) place in any liquor bottle any liquor other than that contained in the bottle at the time of bottling by an alcoholic beverage manufacturer; (b) possess any liquor bottle in which any liquor has been placed in violation of subsection (1)(a); (c) by the addition of any substance to any liquor bottle, in any manner alter or increase any portion of the original contents contained in the bottle at the time of bottling by an alcoholic beverage manufacturer; or (d) possess any liquor bottle of which any portion of its contents has been altered or increased in violation of subsection (1)(c). (2) This section does not prohibit any reuse of liquor bottles that is permitted under laws or regulations of the federal government. History: En. 4-3-308 by Sec. 117, Ch. 387, L. 1975; R.C.M. 1947, 4-3-308; amd. Sec. 10, Ch. 591, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-309. Sales prohibited by ordinance

16-3-309. Sales prohibited by ordinance. (1) An incorporated city may enact an ordinance defining certain areas in its incorporated limits where alcoholic beverages may or may not be sold. (2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where alcoholic beverages may or may not be sold. (3) In enacting such an ordinance or resolution, the county or city may provide that the provisions of 16-3-306(1) do not apply within the jurisdictional area of the ordinance or resolution. If a county or city has supplanted the provisions of 16-3-306(1), upon request of the department the governing body of the county or city must certify to the department whether or not the person or individual identified in the request may lawfully sell alcoholic beverages under the terms of the ordinance or resolution. The department is bound by the determination set forth in the certification. (4) No county or incorporated city may by ordinance restrict the number of licenses that the department may issue. History: En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; R.C.M. 1947, 4-4-201(part); amd. Sec. 2, Ch. 662, L. 1983.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-310. Lapse of license for nonuse -- approved nonuse

16-3-310. Lapse of license for nonuse -- approved nonuse. (1) Any retail license issued pursuant to this code (including any retail license to sell beer and table wine for off-premises consumption) not actually used in a going establishment for 90 days must automatically lapse if the licensee does not notify the department within the 90-day time period. On determining the fact of nonuse for this period, the department shall cancel the license of record and no portion of the fee paid for it may be refundable. (2) The provisions of this section do not apply to the license of any licensee whose premises are operated on a seasonal basis, provided the licensee has secured written authority from the department to close and has licensed premises for a specified period of greater than 90 days' duration. (3) If the licensee notifies the department within the 90 days of nonuse, the department shall grant approved nonuse for up to 1 year. The department may extend the nonuse period if the licensee provides evidence that the delay in use is for reasons outside the licensee's control or that the licensee is progressing on a department-approved alteration. History: En. 4-4-203 by Sec. 80, Ch. 387, L. 1975; R.C.M. 1947, 4-4-203; amd. Sec. 20, Ch. 68, L. 1987; amd. Sec. 1, Ch. 35, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-311. Suitable premises for licensed retail establishments

16-3-311. Suitable premises for licensed retail establishments. (1) (a) A licensed retailer may use a part of a building as premises licensed for on-premises consumption of alcoholic beverages, except as otherwise allowed in 16-3-302(4). The licensed retailer must demonstrate that it has adequate control over all alcoholic beverages to prevent self-service, service to underage persons, and service to persons who are actually or apparently intoxicated. Except as provided in subsections (8), (10), and (11), the premises must be separated from the rest of the building by permanent walls but may have inside access to the rest of the building at all times even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which the alcoholic beverages are served. A licensee may lease the kitchen or another specified area to allow another business entity to operate a business within its premises without permanent floor-to-ceiling walls and without a concession agreement if the other business does not take orders for, serve, or deliver alcohol and has a separate point of sale system. If the premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. (b) A resort retail all-beverages licensee, a retail all-beverages licensee, or an on-premises consumption beer and wine licensee within the boundaries of a resort area may also utilize up to three alternate alcoholic beverage storage facilities as allowed in 16-4-213(8). (2) A licensee may alter the approved floorplan of the premises. The alteration must be consistent with the requirements of subsection (1)(a). A licensee shall provide a copy of the revised floorplan with the proposed alteration for the licensed premises to the department within 7 days of beginning the alteration. Department approval may not be unreasonably withheld. If the completed alteration differs from the approved alteration due to modifications required for approval by other state or local government entities, such as compliance with fire or building codes, the department must be notified, but preapproval is not required for these modifications. An alteration for the purposes of this section is any structural change in a premises that does not increase the square footage of the existing approved premises. An alteration that increases the square footage of the existing approved premises must be approved by the department prior to beginning the alteration. A cosmetic change, such as

painting, carpeting, or other interior decorating, is not considered an alteration under this section. If the alteration does not require the licensee to obtain a building permit, then the inspections by local government agencies may not be required for department approval. (3) The interior portion of the licensed premises must be a continuous area that is under the control of the licensee and not interrupted by any area in which the licensee does not have adequate control and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators. (4) The premises may include one or more exterior patios or decks as long as sufficient physical safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and impedes foot traffic. (5) Premises suitability does not include a minimum number of seats. (6) A licensed retailer may apply to the department to have a noncontiguous storage area that is under the control of the licensed retailer approved for onsite alcoholic beverage storage separate from its service area as long as the licensed retailer demonstrates that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. The application fee is \$100. On department approval, an on-premises consumption retailer's keg storage and beer lines running into the licensed premises may be in a noncontiguous storage area provided that the licensee is able to maintain control and adequate safeguards are in place to prevent public access. (7) A licensed retailer operating within a hotel or similar short-term lodging facility may apply to the department to allow for the delivery of alcoholic beverages to guests of accommodation units, and the prestocking of alcoholic beverages in accommodation units is allowed for the accommodation units within the property as long as the purchaser's age is verified and there are adequate safeguards in place to prevent underage service. The application fee is \$100. (8) An on-premises consumption retailer may be located adjacent to a brewery or winery if the licensees are able to maintain control of their respective premises through adequate physical separation. (9) (a) For the purposes of this section, "adequate physical separation" means: (i) the premises of the retailer and the premises of the brewery or winery are secured after business hours from each other and from any other business, including but not limited to prohibiting a customer from accessing a brewery sample room and purchasing alcohol after the brewery tasting room hours of operation as specified in 16-3-213(2)(b); and (ii) the separation may include doors, gates, or windows that may be left open during business hours. (b) The term does not require permanent floor-to-ceiling walls. (10) For colocated premises authorized in 16-4-401(9), there are no physical separation requirements applied by this code but the licensee shall follow any federal requirements. (11) A public airport all-beverages licensee, licensed pursuant to 16-4-208, or the Yellowstone airport beer and wine licensee, licensed pursuant to 16-4-304, may use the airport terminal or part of the terminal as premises licensed for the on-premises consumption of alcoholic beverages without regard to other businesses or uses in the terminal. The airport licensee must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access. History: En. Sec. 1, Ch. 203, L. 1993; amd. Sec. 1, Ch. 161, L. 2021; amd. Sec. 3, Ch. 568, L. 2021; amd. Sec. 1, Ch. 21, L. 2023; amd. Sec. 6, Ch. 601, L. 2023; amd. Sec. 12, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-312. Curbside pickup

16-3-312. Curbside pickup. (1) Licensed entities and agency liquor stores provided under subsection (3) may offer curbside pickup. (2) Curbside pickup constitutes the sale of alcoholic beverages in original packaging, prepared servings, or growlers that was ordered online, through the phone, or in person, including but not limited to ordering through a drive-through window, for pickup from the licensee or agency liquor store during normal business hours and within 300 feet of the licensed premises or agency liquor stores, including a drive-through window. Curbside pickup is intended for consumption somewhere other than the pickup location. It is not intended for delivery to residences or other businesses, including but not limited to restaurants or hotels. (3) This only applies to licenses issued under 16-3-213, 16-3-214, 16-3-411, 16-4-105, 16-4-110, 16-4-115, 16-4-201, 16-4-209, 16-4-213, 16-4-312, and 16-4-420, and agency liquor stores under 16-2-101. History: En. Sec. 1, Ch. 194, L. 2021; amd. Sec. 1, Ch. 103, L. 2023; amd. Sec. 1, Ch. 359, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-313. Periodic government or tribal-issued identification data destruction

16-3-313. Periodic government or tribal-issued identification data destruction. (1) A business that scans a person's government or tribal-issued identification to determine the person's age solely for the sale of age-restricted items: (a) shall use data or metadata from the scan only to determine the person's age; (b) may not transfer or sell that data or metadata to another party; and (c) shall permanently delete any data or metadata from the scan within 180 days. (2) Nothing in this section may be construed to limit the collection and preservation of information required by federal law for the sale of ephedrine or pseudoephedrine. History: En. Sec. 1, Ch. 264, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-314. and 16-3-315 reserved

16-3-314 and 16-3-315 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-316. Fundraising events for nonprofit and tax-exempt organizations

16-3-316. Fundraising events for nonprofit and tax-exempt organizations. (1) A nonprofit organization governed under Title 35, chapter 2, or an organization designated as tax-exempt under the provisions of section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended, may raffle or auction alcoholic beverages at fundraising events. Any alcoholic beverage raffled or auctioned must be given by the organization to the raffle or auction winner sealed in its original package. (2) If the fundraising event is held on the premises of a business licensed under this code or on premises for which a permit has been issued under this code, the alcoholic beverage may not be consumed on the premises. An alcoholic beverage that is on a licensee's premises solely for a fundraising event under this section does not constitute a violation by the licensee of 16-3-301(1)(a) or 16-6-303. (3) A nonprofit or tax-exempt organization may hold no more than four events per calendar year at which alcoholic beverages are raffled or auctioned. The duration of each event must be announced at the time any raffle tickets are sold or auction bids are received. Raffles and auctions held pursuant to this section must be to directly support bona fide charitable, nonprofit, or tax-exempt activities. (4) An alcoholic beverage for raffle or auction must be: (a) acquired, whether by purchase or donation, by the organization from a retailer or manufacturer licensed under the provisions of this code; (b) acquired, whether by purchase at not less than the posted price or by donation, by the organization from an agency liquor store; or (c) received by the organization as a donation at no cost to the organization from any other person except one licensed as a wholesaler or distributor under this code. (5) No proceeds from the raffle or auction of alcoholic beverages may go to anyone who provided the alcoholic beverages to the organization for the raffle or auction. (6) For a raffle or auction described in subsection (1), raffle tickets may not be sold to, and auction bids may not be solicited or received from, any person under 21 years of age. The organization raffling or auctioning alcoholic beverages may not sell, deliver, or give away any alcoholic beverage to a person under 21 years of age or to any person actually, apparently, or obviously intoxicated. (7) As used in this section: (a) "auction" means the sale of an item or items, which may include alcoholic beverages, whereby the item for sale is sold to the highest bidder at the bid price. An auctioned item or items may have a reserve price. (b) "raffle" means an event in which a nonprofit or tax-exempt organization sells tickets and each ticket gives the purchaser of the ticket the chance to win a prize, which may include alcoholic beverages, with the winner determined by a random drawing. History: En. Sec. 2, Ch. 86, L. 2011; amd. Sec. 11, Ch. 591, L. 2023; amd. Sec. 5, Ch. 622, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-317. through 16-3-320 reserved

16-3-317 through 16-3-320 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-321. Keg identification tag

16-3-321. Keg identification tag. (1) A licensee may not sell a keg of beer unless an identification tag is attached to the keg by the licensee. (2) An identification tag must consist of paper, plastic, metal, or durable material that is not easily damaged or destroyed. An identification tag may be attached to a keg at the time of sale with a nylon tie or cording, wire tie or other metal attachment device, or other durable means of tying or attaching the tag to the keg. (3) The identification information contained on the tag must include: (a) the licensee's name, address, and telephone number; and (b) a prominently visible warning that intentional removal or defacement of the tag is a criminal offense. (4) A retailer that accepts the return of a keg that does not have an identification tag attached shall obtain the information required in 16-3-322 on the original purchaser, to the extent possible, and obtain the same information on the person returning the keg. This information must be kept on file with the retailer for not less than 45 days from the date of return. (5) A person, other than the licensee, the wholesaler of malt beverages, or a law enforcement officer, may not intentionally remove identification placed on a keg in compliance with this section. (6) For the purposes of 16-3-321 through 16-3-324, the following definitions apply: (a) "Keg" means a brewery-sealed, single container that contains not less than 7 gallons of beer. (b) "Licensee" means a person who is licensed under Title 16, chapter 4, and who sells kegs to a consumer. (7) The department shall develop and make available the identification tags required by this section. History: En. Sec. 1, Ch. 441, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-322. Recordkeeping

16-3-322. Recordkeeping. (1) A licensee, at the time of the sale of a keg, shall record the following: (a) the purchaser's name, address, and date of birth and the number of the purchaser's driver's license, state-issued or military identification card, tribal identification card, or valid United States or foreign passport; (b) the date of purchase; (c) the name of the clerk making the sale; and (d) the purchaser's signature and date of purchase. (2) The licensee shall maintain the record for not less than 45 days after the date of the sale. (3) A licensee who maintains the records required by this section shall make the records available during regular business hours for inspection by law enforcement pursuant to 16-3-323. History: En. Sec. 2, Ch. 441, L. 2005; amd. Sec. 16, Ch. 44, L. 2007; amd. Sec. 1, Ch. 180, L. 2007.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-323. Enforcement

16-3-323. Enforcement.(1) A law enforcement officer may not request information on file about the original purchaser of a keg unless in connection with a violation of 16-6-305, 45-5-623, or 45-5-624(4). The officer shall return any recovered keg to the licensee and verify the information on file about the original purchaser. (2) The deposit on the keg and any related deposit to the licensee must be forfeited by the original purchaser. History: En. Sec. 3, Ch. 441, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 3. Retail Sales Restrictions 16-3-324. Violations

16-3-324. Violations.(1) A person who knowingly fails to attach a keg tag as provided in 16-3-321 is guilty of a misdemeanor and shall be fined an amount not to exceed \$100. (2) A person may not remove, deface, or damage the identification on a keg purposely to make it unreadable. A person convicted of purposely removing, defacing, or damaging a tag shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for not more than 6 months, or both. History: En. Sec. 4, Ch. 441, L. 2005; amd. Sec. 17, Ch. 44, L. 2007.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-401. Short title -- public policy -- purpose

16-3-401. Short title -- public policy -- purpose.(1) This part may be cited as the "Wine Distribution Act". (2) The public policy of the state of Montana is to maintain a system to provide for, regulate, and control the acquisition, importation, and distribution of table wine. (3) This part governs wineries, table wine distributors, and wine retailers. (4) This code does not prohibit the manufacture of wine, for personal or family use and not intended for sale, that meets the exemptions of 26 U.S.C. 5042(a)(2) and regulations implementing that section, including the making of wine, for personal or family use, on premises other than those of the person making the wine. History: En. Sec. 1, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 1, Ch. 699, L. 1979; amd. Sec. 21, Ch. 68, L. 1987; amd. Sec. 9, Ch. 314, L. 1991; amd. Sec. 31, Ch. 530, L. 1995; amd. Sec. 3, Ch. 501, L. 2007; amd. Sec. 12, Ch. 591, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-402. Importation of wine -- records

16-3-402. Importation of wine -- records.(1) Except as provided in 16-3-411, 16-4-313, and Title 16, chapter 4, part 11, all table wine manufactured outside of Montana and shipped into Montana must be consigned to and shipped to a licensed table wine distributor and be unloaded by the distributor into the distributor's warehouse in Montana or subwarehouse in Montana. The distributor shall distribute the table wine from the warehouse or subwarehouse. (2) The distributor shall keep records at the distributor's principal place of business of all table wine, including the name or kind received, on hand, sold, and distributed. The records may at all times be inspected by the department. (3) Table wine that has been shipped into Montana in violation of this code must be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of intoxicating liquor. History: En. Sec. 4, I.M. 81, app. Nov. 7, 1978; amd. Sec. 3, Ch. 699, L. 1979; amd. Sec. 32, Ch. 530, L. 1995; amd. Sec. 4, Ch. 501, L. 2007; amd. Sec. 4, Ch. 115, L. 2013; amd. Sec. 5, Ch. 184, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-403. To whom table wine distributor may sell

16-3-403. To whom table wine distributor may sell.(1) A table wine distributor may sell and deliver table wine purchased or acquired by the distributor to: (a) another table wine distributor, retailer, or common carrier that holds a license issued by the department of revenue; and (b) an agency liquor store. (2) It is unlawful for any table wine distributor to sell, deliver, or give away any table wine to be consumed on the distributor's premises or to give, sell, deliver, or distribute any table wine purchased or acquired by the distributor to the public. History: En. Sec. 5, I.M. 81, app. Nov. 7, 1978; amd. Sec. 4, Ch. 699, L. 1979; amd. Sec. 3, Ch. 629, L. 1987; amd. Sec. 33, Ch. 530, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-404. Monthly report of table wine distributor and retailer

16-3-404. Monthly report of table wine distributor and retailer.(1) Each licensed table wine distributor shall, on or before the 15th day of each month, make an exact return to the department of revenue reporting the amount of table wine purchased or acquired by the distributor during the previous month, the amount of table wine sold and delivered by the distributor during the previous month, and the amount of inventory on hand in the manner and form prescribed by the department. The department has the right at any time to make an examination of the table wine distributor's books and premises and otherwise check the accuracy of the return or check the alcoholic content of table wine that the distributor may have on hand. (2) Each wine retailer licensed to do business in this state shall, on or before the 15th day of each month, in the manner and form prescribed by the department, make a return to the department reporting the amount of wine purchased directly from any out-of-state winery in the previous month. History: En. Sec. 6, I.M. 81, app. Nov. 7, 1978; amd. Sec. 5, Ch. 501, L. 2007.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-405. Carriers' reports of table wine transported

16-3-405. Carriers' reports of table wine transported. Every railroad, motor carrier, and airline transporting table wine manufactured out of this state from points outside this state and delivering to points within this state shall, if requested by the department, on or before the fifteenth day of each month, make an exact return to the department of revenue of the amount of such table wine so transported and delivered by such railroad, motor carrier, or airline during the previous month, and shall state in such return the name and address of the consignor and consignee, the date of delivery, and the amount delivered. A carrier shall retain for 30 months all pertinent and relevant records necessary for the preparation of this report and any other information the department may require. History: En. Sec. 7, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 2, Ch. 207, L. 1991.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-406. Financial interest in retailers prohibited

16-3-406. Financial interest in retailers prohibited. (1) A winery or table wine distributor may not advance or loan money to, or furnish money for, or pay for or on behalf of any retailer any license or tax that may be required to be paid by any retailer, and a winery or table wine distributor may not be financially interested, either directly or indirectly, in the conduct or operation of the business of a retailer. (2) A winery or table wine distributor is considered to have a financial interest if: (a) the winery or table wine distributor owns or holds any interest in or a lien or mortgage against the retailer or the retailer's premises; or (b) the winery or table wine distributor is under any contract with a retailer concerning future purchases or the sale of merchandise by one from or to the other; or (c) the table wine distributor extends more than 7 days' credit to a retail licensee or furnishes to any retail licensee any furniture, fixtures, or equipment to be used in the dispensation or sale of table wine; or (d) any retailer holds an interest as a stockholder, or otherwise, in the business of the table wine distributor. History: En. Sec. 8, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 197, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-407. through 16-3-410 reserved

16-3-407 through 16-3-410 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-411. Winery

16-3-411. Winery. (1) A winery located in Montana and licensed pursuant to 16-4-107 may: (a) import in bulk, bottle, produce, blend, store, transport, or export wine it produces; (b) sell table wine it produces at wholesale to table wine distributors or liquor store agents; (c) sell wine it produces at retail at the winery directly to the consumer for consumption on or off the premises; (d) provide, without charge, wine it produces for consumption at the winery; (e) purchase from the department or its licensees brandy or other distilled spirits for fortifying wine it produces; (f) obtain no more than 12 special event permits under 16-4-301; (g) perform those operations and cellar treatments that are permitted for bonded winery premises under applicable regulations of the United States department of the treasury; (h) sell wine at the winery to a licensed retailer who presents the retailer's license or a photocopy of the license; (i) obtain a direct shipment endorsement to ship table wine as provided in Title 16, chapter 4, part 11, directly to an individual in Montana who is at least 21 years of age; or (j) offer wine in its original packaging, prepared servings, or growlers for curbside pickup between 8 a.m. and 2 a.m. (2) (a) Except as provided in 16-4-401(9)(d), a winery licensed pursuant to 16-4-107 may sell and deliver wine produced by the winery directly to licensed retailers or liquor store agents if the winery: (i) uses the winery's own equipment, trucks, and employees to deliver the wine and the wine delivered pursuant to this subsection (2)(a)(i) does not exceed 4,500 9-liter cases a year; (ii) contracts with a licensed table wine distributor to ship and deliver the winery's wine to the retailer or liquor store agent; or (iii) contracts with a common carrier to ship and deliver the winery's wine to the retailer or liquor store agent and: (A) the wine shipped and delivered by common carrier is shipped directly from the producer's winery or bonded warehouse; (B) individual shipments delivered by common carrier are limited to three cases a day for each licensed retailer or liquor store agent; and (C) the shipments delivered by common carrier do not exceed 4,500 9-liter cases a year. (b) If a winery uses a common carrier for delivery of the wine to licensed table wine distributors, retailers, and liquor store agents, the shipment must be: (i) in boxes that are marked with the words: "Wine Shipment From Montana-Licensed Winery to Montana Licensee"; (ii) delivered to the premises of a licensed table wine distributor, licensed retailer, or liquor store agent; and (iii) signed for by the wine distributor, retailer, or liquor store agent, or by its employee or agent. (c) In addition to any records required to be maintained under 16-4-107, a winery that distributes wine within the state under this subsection (2) shall maintain records of all sales and shipments. The winery shall, pursuant to 16-1-411, electronically file a report, in the manner and form prescribed by the department, reporting the amount of wine or hard cider, or both, that it shipped in the state during the preceding period, including the names and addresses of consignees, retailers, or liquor store agents, and other information that the department may determine to be necessary to ensure that distribution of wine or hard cider, or both, within this state conforms to the requirements of this code. (3) (a) A winery that is located in Montana and licensed to manufacture wine may be licensed by the department to own, lease, maintain, and operate anywhere in the state a storage depot for receiving, handling, and storing wine in addition to distributing and selling wine from the storage depot, subject to this code. (b) To be licensed for a storage depot, a winery shall pay an annual license fee as provided in 16-4-501 for each storage depot operated by the winery, in addition to all other fees and taxes required to be paid by the winery, and must meet all applicable suitability requirements. History: En. Sec. 1, Ch. 566, L. 1987; amd. Sec. 34, Ch. 530, L. 1995; amd. Sec. 1, Ch. 163, L. 2001; amd. Sec. 6, Ch. 501, L. 2007; amd. Sec. 6, Ch. 184, L. 2013; amd. Sec. 2, Ch. 29, L. 2019; amd. Sec. 8, Ch. 194, L. 2021;

amd. Sec. 1, Ch. 55, L. 2023; amd. Sec. 13, Ch. 591, L. 2023; amd. Sec. 7, Ch. 601, L. 2023; amd. Sec. 6, Ch. 622, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-412. through 16-3-414 reserved

16-3-412 through 16-3-414 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-415. Definitions

16-3-415. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply: (1) "Agreement of distributorship" means a contract, agreement, commercial relationship, license, or other arrangement for a definite or an indefinite period of time between a supplier and a table wine distributor that provides for the sale of table wine by the supplier to the table wine distributor. (2) "Good cause" means failure by a table wine distributor to comply with reasonable business requirements imposed, or sought to be imposed, by a supplier under the terms of an agreement of distributorship if the requirements are imposed on other similarly situated distributors either by the terms of their agreements or in the manner of their enforcement by the supplier. (3) "Person" means a natural person, corporation, partnership, trust, agency, or other entity and includes individual officers, directors, or other persons in active control of the activities of the entity. (4) "Supplier" means a winery or an importer of table wines that enters into or is a party to an agreement of distributorship with a table wine distributor. History: En. Sec. 1, Ch. 314, L. 1991.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-416. Table wine distributor provisions

16-3-416. Table wine distributor provisions. (1) A supplier or table wine distributor must have a written agreement of distributorship that provides for purchase of the supplier's products from the supplier by the table wine distributor. (2) An agreement of distributorship must provide that: (a) a supplier shall notify a table wine distributor in writing at least 60 days prior to termination of an agreement of distributorship unless a termination without notice is permitted as provided in 16-3-417. The written notice must state the reasons for termination. Notice of termination is void if within 60 days of the notice, the table wine distributor rectifies the deficiency stated as the reason for termination and if the deficiency was not stated as reason for termination in a notice previously voided under the provisions of this subsection. (b) a supplier may not unreasonably withhold or delay approval of a sale or transfer of the ownership, management, or control of a table wine distributorship. However, a table wine distributor shall give a supplier no less than 60 days' prior written notice of any material change in ownership, management, or control. (3) Within 60 days after entering into an agreement of distributorship, the table wine distributor shall advise the department of the agreement by filing a copy of the agreement that must include the sales area or areas designated for the table wine distributor. The table wine distributor shall notify the supplier of the filing of the agreement with the department. (4) If a supplier terminates an agreement of distributorship under the provisions of subsection (2)(a), the table wine distributor subject to the termination is entitled to compensation for the laid-in cost of inventory. In the event of any termination of the agreement by the supplier other than termination for good cause or for any reason set forth in 16-3-417(3), the distributor is entitled to compensation for the laid-in cost of inventory and to liquidated damages based on the sales of the brand or brands involved, as may be provided in the agreement. If the supplier and the distributor are unable to agree on the amount of liquidated damages, the amount of liquidated damages must be determined by an arbitrator appointed under subsection (5) of this section. (5) If undertaken in good faith by a supplier, a supplier may terminate an agreement of distributorship for a legitimate business reason not within the definition of good cause if an arbitrator appointed by the department finds, after hearing the supplier and the table wine distributor, that the termination is in the best interest of the table wine brand concerned. Arbitration under this section must be conducted under the provisions of Title 27, chapter 5. (6) All agreements of distributorship are interpreted and governed by the laws of Montana. (7) In any dispute resulting in litigation between a supplier and a distributor, the litigation must occur in a Montana court, federal or state, unless that forum would create an unreasonable burden on any party, as determined by the court in which the litigation is commenced. (8) Agreements between a supplier and a distributor must recognize the constitutional right to a jury trial as set forth in Article II, section 26, of the Montana constitution. (9) A provision in an agreement of distributorship that is inconsistent with the requirements of this section is void. History: En. Sec. 3, Ch. 314, L. 1991; amd. Sec. 1, Ch. 226, L. 1995; amd. Sec. 2, Ch. 194, L. 1999; amd. Sec. 2, Ch. 118, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-417. Supplier provisions

16-3-417. Supplier provisions. (1) An agreement of distributorship must provide that a table wine distributor shall: (a) maintain the financial and competitive capability to efficiently and effectively distribute a supplier's products; (b) maintain the quality and integrity of a supplier's products in a manner set forth by the supplier; (c) exert the table wine distributor's best efforts to sell the supplier's wines; (d) merchandise the products in retail stores as agreed between the table wine distributor and the supplier; and (e) give a supplier not less than 60 days' written notice of the table wine distributor's intent to terminate an agreement of distributorship. (2) As provided in 16-3-416, a supplier may terminate an agreement of distributorship based on a deficiency or other good cause by giving 60 days' prior written notice to the table wine distributor. (3) A supplier may terminate an agreement of distributorship immediately and without notice if the reason for the termination is insolvency, assignment for the benefit of creditors, bankruptcy,

or revocation or suspension for more than 14 days of a license to operate that is required by the state or the federal government. History: En. Sec. 4, Ch. 314, L. 1991.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-418. Dual appointments -- equal support -- alternate supplier -- dock sales

16-3-418. Dual appointments -- equal support -- alternate supplier -- dock sales. (1) (a) A supplier may appoint one or more table wine distributors to distribute its table wines in a specified territory. If the supplier appoints two or more table wine distributors to sell its table wines in the same or overlapping territories, the supplier shall offer the same prices, delivery, terms, and promotional support to each table wine distributor. (b) A supplier may not appoint more than one table wine distributor to distribute its hard cider in a specified territory. (c) For the purposes of this subsection (1), "table wine" has the meaning assigned in 16-1-106, but does not include hard cider. (2) (a) Except as provided in subsections (2)(b) through (2)(d), table wine may not be delivered to a licensed retailer or liquor store agent at any location other than the retailer's licensed premises or agency liquor store. (b) An all-beverages licensee may personally or through an employee obtain from any distributor's warehouse any quantity of table wine that the all-beverages licensee and distributor may agree to buy and sell. (c) Liquor store agents or retailers other than all-beverages licensees may personally or through an employee obtain from the distributor's warehouse any quantity of table wine as the agent or retailer and distributor may agree to buy and sell only within the territory of the distributor in which the agent's liquor store or retailer is located. (d) When a table wine distributor's trucks and equipment are incapable of delivering table wine to a retail licensee's premises due to the unique physical location of the retail licensee's premises, examples of which are premises located on an island or atop a mountain, the table wine distributor and retail licensee may seek prior department approval for an alternative delivery arrangement on a form provided by the department. If the department approves the alternative delivery arrangement request, the department shall provide the table wine distributor and the retail licensee a written summary of the conditions of the approved delivery arrangement. Failure to comply with the approved alternative delivery arrangement may subject the table wine distributor or retail licensee to administrative action. History: En. Sec. 5, Ch. 314, L. 1991; amd. Sec. 4, Ch. 399, L. 1997; amd. Sec. 2, Ch. 163, L. 2001; amd. Sec. 7, Ch. 501, L. 2007; amd. Sec. 9, Ch. 194, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-419. Suppliers' prohibitions

16-3-419. Suppliers' prohibitions. A supplier may not: (1) coerce, induce, or attempt to coerce or induce a table wine distributor to engage in an illegal act or course of conduct; (2) require a table wine distributor to accept delivery of a product or other item or commodity that was not ordered by the wine distributor; (3) fix or maintain the price at which a distributor shall resell table wine. History: En. Sec. 2, Ch. 314, L. 1991; amd. Sec. 2, Ch. 226, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-420. Applicability

16-3-420. Applicability. Within 60 days after April 18, 2023, or within 60 days after the execution of a new agreement by the parties, whichever is later, an agreement of distributorship must be reduced to writing and an exact copy of the agreement must be filed by the table wine distributor with the department as a public document and must be available to any of the parties to a dispute. Upon filing with the department, the agreement becomes subject to the provisions of 16-1-106, 16-3-401, and 16-3-415 through 16-3-421. History: En. Sec. 6, Ch. 314, L. 1991; amd. Sec. 3, Ch. 118, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 3. Control of Liquor, Beer, and Wine Part 4. Sale of Table Wine 16-3-421. Injunction

16-3-421. Injunction. A person injured by a violation of this part may bring a civil action in a court of competent jurisdiction to enjoin further violations in addition to other remedies provided by law. History: En. Sec. 7, Ch. 314, L. 1991.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant

16-4-101. Applications for sale, import, or manufacture of beer -- qualifications of applicant. (1) Except as provided in subsection (4), any person desiring to manufacture, distribute, import, or sell beer under the provisions of this code shall first apply to the department for a license to do so and pay with the application fee prescribed. The department shall require of the applicant satisfactory evidence that the applicant is suitable for carrying on the operations of a license. (2) On being satisfied, from the application or otherwise, that the applicant is qualified, the department shall issue a license to the person, and the license must at all times be prominently displayed at the licensed premises. (3) If the department finds that the applicant is not qualified, a license may not be granted and the license fee must be returned. (4) A brewery that is not located in the state or a beer importer that holds the appropriate license from the United States department of the treasury that desires to distribute its beer within this state through licensed beer wholesalers shall apply to the department for registration on forms to be prepared and furnished by the department. (5) A brewery or beer importer may not ship beer into this state until the registration is granted by the department. The registration may be canceled or suspended by the department upon a finding after notice and hearing that the registrant has not complied with the

terms of its registration. History: En. Sec. 6, Ch. 106, L. 1933; re-en. Sec. 2815.15, R.C.M. 1935; Sec. 4-310, R.C.M. 1947; amd. and redes. 4-4-101 by Sec. 50, Ch. 387, L. 1975; R.C.M. 1947, 4-4-101; amd. Sec. 19, Ch. 19, L. 1985; amd. Sec. 1, Ch. 97, L. 2023; amd. Sec. 7, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-102. Right of breweries to maintain and operate storage depots -- annual licenses

16-4-102. Right of breweries to maintain and operate storage depots -- annual licenses. A brewery that is located in Montana and licensed to manufacture beer, upon payment to the department of an annual license fee as provided in 16-4-501 for each storage depot operated by the brewery, in addition to all other fees and taxes required to be paid by the brewery, may own, lease, maintain, and operate anywhere in the state a storage depot for receiving, handling, and storing beer and for distributing and selling beer, subject to this code. History: En. Sec. 6, Ch. 166, L. 1951; Sec. 4-317.1, R.C.M. 1947; amd. and redes. 4-4-102 by Sec. 54, Ch. 387, L. 1975; R.C.M. 1947, 4-4-102; amd. Sec. 3, Ch. 178, L. 1983; amd. Sec. 2, Ch. 55, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-104. Beer retailer's license -- application and issuance -- check of alcoholic content by department

16-4-104. Beer retailer's license -- application and issuance -- check of alcoholic content by department. (1) Any person desiring to possess and have beer for the purpose of retail sale under the provisions of this code shall first apply to the department for a license to do so and submit with the application the license fee. (2) On being satisfied, from the application or otherwise, that the applicant is qualified, the department shall issue a license to the person. The license must at all times be prominently displayed at the licensed premises. (3) If the department finds that the applicant is not qualified, a license may not be granted and the license fee must be returned by the department. (4) The department may, at any time, examine the books of account and the premises of any licensed retailer and otherwise check the retailer's methods of conducting business and the alcoholic content of the beer kept for sale. (5) A person may not sell beer at retail without a valid license issued under this code. History: En. Sec. 28, Ch. 106, L. 1933; amd. Sec. 9, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.30, R.C.M. 1935; Sec. 4-327, R.C.M. 1947; amd. and redes. 4-4-104 by Sec. 62, Ch. 387, L. 1975; R.C.M. 1947, 4-4-104; amd. Sec. 198, Ch. 56, L. 2009; amd. Sec. 3, Ch. 97, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-105. Limit on retail beer and wine licenses -- limitation on use of license -- exceptions -- competitive bidding -- rulemaking

16-4-105. Limit on retail beer and wine licenses -- limitation on use of license -- exceptions -- competitive bidding -- rulemaking. (1) Except as provided in 16-4-109, 16-4-110, 16-4-115, 16-4-420, and chapter 4, part 3, of this title, a license to sell beer and wine at retail, in accordance with the provisions of this code and the rules of the department, may be issued to any person or business entity that is approved by the department, subject to the following exceptions: (a) The number of retail beer and wine licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of the cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows: (i) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than one retail beer and wine license; (ii) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities or towns, one retail beer and wine license for every 500 inhabitants; (iii) in incorporated cities of more than 2,000 inhabitants and within 5 miles of the corporate limits of the cities, four retail beer and wine licenses for the first 2,000 inhabitants, two additional retail beer and wine licenses for the next 2,000 inhabitants or major fraction of 2,000 inhabitants, and one additional retail beer and wine license for each additional 2,000 inhabitants. (b) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail beer and wine licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of an incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than: (i) the county boundary within which the incorporated city or incorporated town is located; or (ii) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section. (c) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. (ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following: (A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas. (B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries. (C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area

boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas. (d) Retail beer and wine licenses of issue on March 7, 1947, and retail beer and wine licenses issued under 16-4-110 that are in excess of the limitations in this section are renewable, but new licenses may not be issued in violation of the limitations. (e) The limitations do not prevent the issuance of a nontransferable and nonassignable retail beer and wine license to an enlisted persons', noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985, or to a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5 years or more prior to January 1, 1949, and is applying for a license at the same location that it has occupied for the last 5 years. A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same location requirement. (f) The number of retail beer and wine licenses that the department may issue for use at premises situated outside of any incorporated city or incorporated town and outside of the area within 5 miles of the corporate limits or for use at premises situated within any unincorporated area must be determined by the department in its discretion, except that a retail beer and wine license may not be issued for any premises so situated unless the department determines that the issuance of the license is required by public convenience and necessity pursuant to 16-4-203. Subsection (8) does not apply to licenses issued under this subsection (1)(f). The owner of the license whose premises are situated outside of an incorporated city or incorporated town may offer gambling, regardless of when the license was issued, if the owner and premises qualify under Title 23, chapter 5, part 3, 5, or 6. (2) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (1)(c) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017. (3) A license issued under subsection (1)(f) that becomes located within 5 miles of an incorporated city or town because of annexation may not be transferred to another location within the city quota area any sooner than 5 years from the date of the annexation. (4) When the department determines that a quota area is eligible for a new retail beer and wine license under subsection (1) or (2), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license. (5) When more than one new retail beer and wine license is subject to the competitive bidding process in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license. (6) (a) A person holding a retail beer and wine license may sell beer and wine for consumption on or off the premises. (b) A person holding a retail beer and wine license may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food. (c) A person licensed under this subsection (6) may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection (6)(c) authorizes a licensee to consume, sell, serve, or give away liquor. (7) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers. (8) Except as provided in subsection (1)(f), a license issued pursuant to this section after October 1, 1997, must have a conspicuous notice that the license may not be used for premises where gambling is conducted. (9) An applicant for a license issued through a competitive bidding process in 16-4-430 shall pay a new license fee equal to the annual fee as provided in 16-4-501 and in subsequent years pay the annual fee for the license as provided in 16-4-501. (10) The department may adopt rules to implement this section. History: En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; R.C.M. 1947, 4-4-201(1), (3), (4); amd. Sec. 12, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 1, Ch. 25, L. 1981; amd. Sec. 1, Ch. 86, L. 1981; amd. Sec. 2, Ch. 519, L. 1981; amd. Sec. 1, Ch. 50, L. 1983; amd. Sec. 2, Ch. 595, L. 1983; amd. Sec. 3, Ch. 731, L. 1985; amd. Sec. 2, Ch. 228, L. 1995; amd. Sec. 35, Ch. 530, L. 1995; amd. Sec. 6, Ch. 465, L. 1997; amd. Sec. 1, Ch. 528, L. 1997; amd. Sec. 23, Ch. 7, L. 2001; amd. Sec. 1, Ch. 267, L. 2005; amd. Sec. 1, Ch. 263, L. 2017; amd. Secs. 1, 2, Ch. 5, Sp. L. November 2017; amd. Sec. 2, Ch. 342, L. 2019; amd. Sec. 10, Ch. 194, L. 2021; amd. Sec. 1, Ch. 451, L. 2021; amd. Sec. 1, Ch. 56, L. 2023; amd. Sec. 1, Ch. 60, L. 2023; amd. Sec. 1, Ch. 93, L. 2023; amd. Sec. 8, Ch. 601, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-106. Beer and table wine license transfers

16-4-106. Beer and table wine license transfers. A transfer of any brewer's, beer wholesaler's, table wine distributor's, beer retailer's, or table wine retailer's license may be made on application to the department with the consent of the department, provided that the transferee qualifies under this code. History: En. Sec. 45, Ch. 106, L. 1933; amd. Sec. 15, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.44, R.C.M. 1935; amd. Sec. 2, Ch. 246, L. 1947; amd. Sec. 1, Ch. 122, L. 1963; Sec. 4-341, R.C.M. 1947; amd. and redes. 4-4-401 by Sec. 68, Ch. 387, L. 1975; amd. Sec. 10, Ch. 496, L. 1977; R.C.M. 1947, 4-4-401(1)(b); amd. Sec. 13, I.M. No. 81, app. Nov. 7, 1978.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-107. Winery license -- winery and importer registration

16-4-107. Winery license -- winery and importer registration.(1) (a) Wine, other than for personal consumption in conformity with federal exemptions from holding a basic permit as a bonded winery, may be manufactured or directly distributed to retailers within the state only by a licensed winery, and table wine may be shipped directly by a winery with a direct shipment endorsement as provided in 16-4-1101 to an individual in Montana who is at least 21 years of age. An application for a winery license must be accompanied by a fee of \$400, which constitutes the first annual license fee, and a licensee shall in each succeeding year pay an annual fee as provided in 16-4-501. Winery licensees located in Montana must hold the appropriate basic permit required by the United States department of the treasury and be qualified for a license in accordance with the provisions of 16-4-401(2). Winery licensees located in another state must hold the appropriate basic permit required by the United States department of the treasury and the appropriate license to manufacture wine from the state in which the winery is located and shall provide all other information required by the department. (b) A winery located in Montana that is licensed to do business in the state shall, each quarter and in the manner and form prescribed by the department, report to the department the amount of wine manufactured or imported by the winery in the previous quarter and the winery's inventory. The department may at any time examine a winery's books. (2) (a) A winery that is not located in the state or an importer of table wines that holds the appropriate license from the United States department of the treasury and that desires to distribute its table wines within this state through licensed table wine distributors shall apply to the department for registration on forms to be prepared and furnished by the department. (b) Each winery shall furnish the department with a copy of each container label currently used by the winery on its products imported into Montana. The department shall require the winery or importer to agree to furnish monthly and other reports concerning quantities and prices of table wine that it ships into the state, names and addresses of consignees, and any other information that the department may determine to be necessary to ensure that importation and distribution of table wines within this state conform to the requirements of this code. (c) A winery or importer of table wines may not ship table wines into this state until the registration is granted by the department. The registration may be canceled or suspended by the department upon a finding after notice and hearing that the registrant has not complied with the terms of its registration. (3) A winery that is not located in Montana, that holds the appropriate license from the United States department of the treasury, that is not already registered with the department, and that desires to sell and ship table wine directly to individuals in Montana who are at least 21 years of age shall apply to the department for registration pursuant to subsection (2) and for a direct shipment endorsement pursuant to 16-4-1101. History: En. Sec. 3, I.M. No. 81, app. Nov. 7, 1978; amd. Sec. 70, Ch. 575, L. 1981; amd. Sec. 3, Ch. 163, L. 2001; amd. Sec. 8, Ch. 501, L. 2007; amd. Sec. 7, Ch. 184, L. 2013; amd. Sec. 8, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-109. Golf course beer and wine license

16-4-109. Golf course beer and wine license.(1) On application, the department shall issue a retail beer and wine license, to be known as a golf course beer and wine license, for use at a golf course. The application must be made by the person or entity that owns and operates the golf course. (2) The department shall issue a golf course beer and wine license to a qualified applicant regardless of the number of beer and wine licenses already issued within the beer and wine license quota area in which the golf course is situated. A license issued pursuant to this section is nontransferable. (3) If the owner of the golf course is not the state, a unit of the university system, or a local government, the owner must be approved by the department as provided in this chapter for the issuance of retail beer and wine licenses and: (a) the golf course must consist of at least 9 holes and 2,500 lineal yards; (b) the golf course must be either within the limits of an incorporated city or town or within 5 miles of the limits of an incorporated city or town; (c) the applicant for a license under this section may not have held a retail beer and wine or all-beverages license within 12 months of the date of application; and (d) the applicant, except for a golf course under a governing body incorporated under section 501(c)(3) of the Internal Revenue Code, shall pay an initial application fee as provided in 16-4-501. (4) If the owner of the golf course is the state, a unit of the university system, or a local government, the department may approve the application if an owner-designated individual who provides general oversight of the alcoholic beverage operations meets the requirements of 16-4-401(2)(a)(i) through (2)(a)(iii). (5) (a) Except as provided in subsection (5)(c), a golf course beer and wine license and all retail beer and wine sales under the license are subject to all statutes and rules governing a retail beer and wine license. (b) If the owner of the golf course is not the state, a unit of the university system, or a local government: (i) retail beer and wine sales may be made only during the time of the year that the golf course is open for business, and sales on days during that time must stop by 1 hour after sunset; (ii) the seating capacity of the premises where the beer and wine are sold may not exceed 75 persons; and (iii) gaming or gambling is not authorized under the license issued under this section. (c) If the owner of a golf course is the state, a unit of the university system, or a local government, the owner may lease the beer and wine license for use at the golf course to an individual or entity approved by the department. History: En. Sec. 1, Ch. 537, L. 1983; amd. Sec. 1, Ch. 117, L. 1985; amd. Sec. 1, Ch. 458, L. 2001; amd. Sec. 1, Ch. 605, L. 2003; amd. Sec. 2, Ch. 60, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-110. Beer and wine license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club

16-4-110. Beer and wine license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club.(1) On application and qualification, the department shall issue a license to sell beer and wine for consumption on the premises to: (a) a tribal alcoholic beverages licensee who operates the business within the exterior boundaries of a Montana Indian reservation

under a tribal license issued prior to January 1, 1985; (b) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation in Montana on May 13, 1985. (2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-105. (3) On application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but only to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued. (4) A license issued under this section is subject to all statutes and rules governing licenses to sell beer and wine at retail for on-premises consumption. (5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers. History: En. Sec. 1, Ch. 731, L. 1985; amd. Sec. 200, Ch. 56, L. 2009; amd. Sec. 11, Ch. 194, L. 2021; amd. Sec. 3, Ch. 60, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-111. Catering endorsement for beer and wine licensees

16-4-111. Catering endorsement for beer and wine licensees. (1) (a) A person who is licensed to sell beer and wine at retail for on-premises consumption may, on the approval of the department, be granted a catering endorsement to the license to allow the catering and sale of beer and wine to persons attending a special event on premises not otherwise licensed for the sale of beer and wine for on-premises consumption. The beer or wine must be consumed on the premises where the event is held. (b) A person who is licensed pursuant to 16-4-420 to sell beer and wine at retail for on-premises consumption may, on the approval of the department, be granted a catering endorsement to the license to allow the catering and sale of beer and wine to persons attending a special event on premises not otherwise licensed for the sale of beer and wine, along with food equal in cost to 65% of the total gross revenue from the catering contract, for on-premises consumption. The beer or wine must be consumed on the premises where the event is held. (c) A person licensed under 16-4-105 to sell beer and wine at retail for on-premises consumption at a guest ranch may, on the approval of the department, be granted a guest ranch catering endorsement to the license to allow the catering and sale of beer and wine to guests of the guest ranch for events at locations on the guest ranch other than the licensed premises. These events do not need to be special events. The beer and wine must be consumed where the event is held. (2) An application for a catering endorsement and an annual fee of \$200 must be submitted to the department for its approval. (3) With the exception of a guest ranch catering endorsement, a licensee who holds a catering endorsement may not cater an event in which the licensee or the concessionaire of the licensee is the sponsor. The catered event must be within 100 miles of the licensee's licensed premises measured in a straight line from the nearest entrance of the licensed premises to the nearest boundary of the catered event. (4) Except as provided in subsection (8), the storage of alcoholic beverages may occur on the premises of the catered event 1 day prior to the catered event until 1 day following the conclusion of the catered event if the alcoholic beverages are in a secured location that prevents access by anyone other than the licensee or the licensee's employees. (5) With the exception of a guest ranch catering endorsement, the licensee shall notify the local law enforcement agency that has jurisdiction over the premises that the catered event is to be held. A local government may charge a fee of \$35. (6) The sale of beer and wine pursuant to a catering endorsement is subject to the provisions of 16-6-103. (7) The sale of beer and wine pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval for the on-premises sale of beer and wine on premises where the event is to be held. (8) A licensee may sell and serve beer and wine in the grandstands and bleacher area of the premises, as well as from a booth, stand, or other fixed placed on the premises when the catered event is held on the premises of a county fairground, public sports arena, or Montana university as defined in 16-4-112. If the licensee has a written agreement with the state of Montana, a political subdivision of the state, or a Montana university to sell and serve beer and wine for multiple catered events at the premises, the licensee may store beer and wine to be used for the catered events on the premises of the fairground, public sports arena, or Montana university for the length of the written agreement if the beer and wine can be stored in a secure location that prevents access by anyone other than the licensee or the licensee's employees. Each catered event held at the premises is subject to the requirement in subsection (5) and must be individually reported to the department. (9) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, a Montana university as provided in 16-4-112, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended. History: En. Sec. 1, Ch. 599, L. 1993; amd. Sec. 7, Ch. 465, L. 1997; amd. Sec. 1, Ch. 324, L. 1999; amd. Sec. 24, Ch. 7, L. 2001; amd. Sec. 2, Ch. 369, L. 2003; amd. Sec. 3, Ch. 395, L. 2021; amd. Sec. 4, Ch. 60, L. 2023; amd. Sec. 2, Ch. 585, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-112. Catering endorsement -- university or college sporting events -- revenue sharing

16-4-112. Catering endorsement -- university or college sporting events -- revenue sharing. (1) A Montana university may contract with a licensed entity with a catering endorsement under 16-4-111 to serve beer and wine or under 16-4-204 to serve liquor, beer, and wine at a sporting event held by the Montana university. (2) The licensee may contract with the Montana university relating to the revenue sharing as permitted in 16-4-111 and 16-4-204. (3) For the purposes of this section, the term "Montana university" means: (a) a unit of the Montana university system as defined in 20-25-201; or (b) any other postsecondary institution in the state. History: En. Sec. 1, Ch. 395, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-113. Combined beer wholesaler and table wine distributor license

16-4-113. Combined beer wholesaler and table wine distributor license.(1) A person desiring to sell and distribute beer, table wine, or sacramental wine at wholesale to licensed retailers or table wine to agency liquor stores under the provisions of this code shall apply to the department for a license to do so and shall submit with the application the initial license fee provided in 16-4-501. The department may issue licenses to qualified applicants in accordance with the provisions of this code. (2) Combined beer wholesaler and table wine distributor licenses issued in any year expire on June 30 of that year at midnight. (3) A license fee may not be imposed on combined beer wholesaler and table wine distributor licensees by a municipality or any other political subdivision of the state. (4) The license must at all times be prominently displayed in the combined beer wholesaler and table wine distributor's licensed premises. (5) (a) An applicant must have: (i) a fixed place of business; (ii) sufficient capital; and (iii) the facilities, storehouse, and receiving house or warehouse for the receiving, storage, handling, and moving of beer, table wine, or sacramental wine in large and jobbing quantities for distribution and sale in original packages to other licensed distributors, licensed retailers, or agency liquor stores. (b) Each combined beer wholesaler and table wine distributor licensee is entitled to only one license, which must be issued for the licensee's licensed premises in Montana. A subwarehouse license may be issued for each subwarehouse operated by the licensee. The license must at all times be prominently displayed at the subwarehouse. (6) For the purposes of this code, a holder of a combined beer wholesaler and table wine distributor license is a "beer wholesaler" and a "table wine distributor" as defined at 16-1-106. History: En. Sec. 1, Ch. 138, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-114. reserved

16-4-114 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 1. Beer and Wine Licenses 16-4-115. Beer and wine licenses for off-premises consumption

16-4-115. Beer and wine licenses for off-premises consumption.(1) A retail license to sell beer or table wine, or both, in the original packages for off-premises consumption may be issued only to individuals or entities qualified for licensure under 16-4-401. If the premises proposed for licensing are operated in conjunction with another business, that business must be a grocery store or drugstore licensed as a pharmacy. The number of licenses that the department may issue is not limited by the provisions of 16-4-105 but must be determined by the department in the exercise of its sound discretion, and the department may in the exercise of its sound discretion grant or deny an application for any license or suspend or revoke any license for cause. (2) On receipt of a completed application for a license under this section, accompanied by the necessary license fee as provided in 16-4-501, the department shall request that the department of justice make a background investigation of all matters relating to the application. (3) Based on the results of the investigation or in exercising its sound discretion as provided in subsection (1), the department shall determine whether: (a) the applicant is qualified to receive a license; (b) the applicant's premises are suitable for the carrying on of the business; and (c) the requirements of this code and the rules promulgated by the department are met and complied with. (4) License applications submitted under this section are not subject to the provisions of 16-4-203 and 16-4-207. (5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging. History: En. Sec. 1, Ch. 228, L. 1995; amd. Sec. 2, Ch. 528, L. 1997; amd. Sec. 1, Ch. 54, L. 1999; amd. Sec. 1, Ch. 375, L. 2013; amd. Sec. 1, Ch. 64, L. 2021; amd. Sec. 12, Ch. 194, L. 2021; amd. Sec. 4, Ch. 97, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1001. Short title

16-4-1001. Short title.This part may be cited as the "Responsible Alcohol Sales and Service Act". History: En. Sec. 1, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1002. Legislative intent

16-4-1002. Legislative intent.It is the intent of this part that retail establishments and manufacturers licensed to sell or serve alcoholic beverages to the public ensure that all licensees and their employees that sell or serve alcoholic beverages are appropriately trained to comply with state law prohibiting the sale or service of alcoholic beverages to persons under 21 years of age and to persons who are intoxicated. This part does not apply to special permits issued under 16-4-301. History: En. Sec. 2, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1003. Definition

16-4-1003. Definition.As used in this part, "licensee" means a person or entity licensed by the department to sell alcoholic beverages at retail for either on-premises or off-premises consumption. History: En. Sec. 3, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1004. Notification -- violation -- penalty

16-4-1004. Notification -- violation -- penalty.(1) A licensee shall certify annually on its license renewal form that the licensee is in compliance with the provisions of this part. (2) A license renewal form that falsely includes information that the licensee and all employees have been trained pursuant to this part is a violation of this code. (3) If, after an investigation under 16-4-406, a licensee is determined to have violated subsection (2) of this section, the licensee must be assessed an administrative penalty under 16-4-406 or the penalty for false swearing under 45-7-202. History: En. Sec. 4, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1005. Licensees required to ensure training

16-4-1005. Licensees required to ensure training.A licensee shall: (1) require each employee who is authorized to sell, serve, or deliver alcoholic beverages in the normal course of employment and the employee's immediate supervisor to successfully complete training to ensure compliance with state law regarding the sale and service of alcoholic beverages. The training must be completed within 60 days of the employee's date of hire and every 3 years after the employee's initial training. (2) maintain employment records verifying employee completion of the training required in subsection (1). History: En. Sec. 5, Ch. 412, L. 2011; amd. Sec. 10, Ch. 336, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1006. Responsible server and sales training program

16-4-1006. Responsible server and sales training program.(1) The department shall certify all server and sales training programs that include the following: (a) effects of alcohol on the human body; (b) information, including criminal, civil, and administrative penalties, related to 27-1-710 and this code; (c) procedures for checking identification; (d) procedures for gathering proper documentation that may affect the licensee's liability; (e) training for skills to handle difficult situations and to learn evaluation techniques regarding intoxicated persons or others that pose potential liability; (f) a final test; and (g) a certificate of completion, which must be provided to participants who pass the final test. (2) The department may not provide a responsible server and sales training program. History: En. Sec. 6, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1007. Jurisdiction

16-4-1007. Jurisdiction.The implementation and enforcement of any mandatory server and sales training programs in this state is under the exclusive authority and jurisdiction of the department. History: En. Sec. 7, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1008. Penalty

16-4-1008. Penalty.(1) A licensee found as a result of a routine check for compliance with 16-3-301, 16-6-304, or 16-6-305 to be out of compliance with 16-4-1005 shall pay a \$50 penalty for a first offense, a \$200 penalty for a second offense, and a \$350 penalty for a third offense in a 3-year period. The fine must be paid to the department and deposited in the enterprise fund to the credit of the department for administration of this part. (2) The department shall consider the following as mitigating circumstances before taking an action pursuant to 16-4-406 against a licensee who is not in compliance with the provisions of this part: (a) the licensee's prior violation history; (b) the licensee's good faith effort to prevent a violation; (c) the existence of written policies governing employee conduct; and (d) whether the evidence of a violation was based solely on the investigating authority creating an opportunity for the violation rather than on complaints received or observed misconduct. History: En. Sec. 8, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 10. Responsible Alcohol Sales and Service 16-4-1009. Rulemaking

16-4-1009. Rulemaking.The department shall adopt rules to implement the provisions of this part. History: En. Sec. 9, Ch. 412, L. 2011.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 11. Direct Shipment Endorsements -- Table Wine 16-4-1101. Direct shipment endorsement for wineries -- definition

16-4-1101. Direct shipment endorsement for wineries -- definition.(1) A winery licensed or registered in Montana under 16-4-107 may sell and ship under a direct shipment endorsement up to 18 9-liter cases of table wine annually to an individual in Montana who is at least 21 years of age for the individual's personal use and not for resale. (2) The shipment of table wine directly to an individual in Montana from a winery that does not possess a current direct shipment endorsement is prohibited, and penalties may be assessed as provided in 16-4-1103. (3) The shipment of table wine directly to an individual in Montana under a direct shipment endorsement that is not conspicuously labeled as required under 16-4-1102(2) is prohibited and subject to penalties as provided in 16-4-1103. (4) For the purposes of this part, a "direct shipment endorsement" is permission issued by the department to a winery licensed or registered pursuant to 16-4-107 under which the winery is allowed to sell and ship table wine directly to an individual in Montana. History: En. Sec. 1, Ch. 184, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 11. Direct Shipment Endorsements -- Table Wine 16-4-1102. Requirements for direct shipment endorsements -- fee -- labeling -- taxes -- recordkeeping

16-4-1102. Requirements for direct shipment endorsements -- fee -- labeling -- taxes -- recordkeeping. (1) A winery licensed or registered under 16-4-107 shall before shipping table wine directly to an individual in Montana: (a) remit an annual direct shipment endorsement fee of \$50; (b) submit to the department a written statement acknowledging that the winery will contract only with common carriers that agree that any delivery of table wine will be made only to an individual in Montana who is at least 21 years of age and who signs a form acknowledging receipt of the table wine; and (c) receive from the department a direct shipment endorsement. (2) A shipment of table wine under this part must be conspicuously labeled with the words "Contains Alcohol: Signature of Person Age 21 or Older Required for Delivery". (3) (a) In addition to maintaining records required under 16-3-411 or 16-4-107, a winery with a direct shipment endorsement shall maintain records of any sales or shipments to an individual in Montana. (b) The winery shall electronically file a wine tax return and pay the tax required under 16-1-411. The information reported to the department must include the names and addresses of the individual to whom the table wine was shipped and any other information that the department determines is necessary to verify that direct shipment of table wine conforms to the requirements of Title 16. Failure to pay taxes or file the information required in this subsection (3)(b) subjects the winery holding the direct shipment endorsement to the penalties and interest provided for in 15-1-216. (4) A winery with a direct shipment endorsement shall allow the department to perform an audit of the record of shipments made under 16-4-1101. The shipment records must be retained for 3 years. (5) If a winery with a direct shipment endorsement uses a bonded wine warehouse to fill table wine orders shipped to an individual in Montana, the winery shall provide written notice to the department of the name and the address of the bonded wine warehouse. The winery is responsible for compliance with this part. History: En. Sec. 2, Ch. 184, L. 2013; amd. Sec. 3, Ch. 29, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 11. Direct Shipment Endorsements -- Table Wine 16-4-1103. Enforcement -- penalty -- rulemaking

16-4-1103. Enforcement -- penalty -- rulemaking. (1) Subject to a right to a hearing and the appeal process provided by the Montana Administrative Procedure Act in Title 2, chapter 4, the department may enforce the requirements of this part by suspending or revoking the direct shipment endorsement or imposing a civil penalty not to exceed \$1,500. (2) A winery that has a direct shipment endorsement is considered to have consented to the jurisdiction of the department or any other state agency and the Montana courts concerning enforcement of this part and related rules or regulations. (3) The owner of a winery is guilty of a misdemeanor if the winery makes a direct shipment without having a direct shipment endorsement. (4) The department may adopt rules to implement this part. History: En. Sec. 3, Ch. 184, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-201. All-beverages license quota

16-4-201. All-beverages license quota. (1) Except as otherwise provided by law, a license to sell liquor, beer, and table wine at retail, an all-beverages license, in accordance with the provisions of this code and the rules of the department, may be issued to any person who is approved by the department as a fit and proper person to sell alcoholic beverages, except that the number of all-beverages licenses that the department may issue for premises situated within incorporated cities and incorporated towns and within 5 miles of the corporate limits of those cities and towns must be determined on the basis of population prescribed in 16-4-502 as follows: (a) in incorporated towns of 500 inhabitants or fewer and within 5 miles of the corporate limits of the towns, not more than two retail licenses; (b) in incorporated cities or incorporated towns of more than 500 inhabitants and not more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities and towns, three retail licenses for the first 1,000 inhabitants and one retail license for each additional 1,000 inhabitants; (c) in incorporated cities of more than 3,000 inhabitants and within 5 miles of the corporate limits of the cities, five retail licenses for the first 3,000 inhabitants and one retail license for each additional 1,500 inhabitants. (2) The number of inhabitants in each incorporated city or incorporated town, exclusive of the number of inhabitants residing within 5 miles of the corporate limits of the city or town, governs the number of retail licenses that may be issued for use within the city or town and within 5 miles of the corporate limits of the city or town. The distance of 5 miles from the corporate limits of any incorporated city or incorporated town must be measured in a straight line from the nearest entrance of the premises proposed for licensing to the nearest corporate boundary of the city or town. A license that is restricted by quota limitations in this section may not be located farther than: (a) the county boundary within which the incorporated city or incorporated town is located; or (b) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section. (3) (a) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. (b) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following: (i) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area

boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas. (ii) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries. (iii) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas. (4) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in subsection (3) may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017. (5) If any new retail all-beverages licenses are allowed by separating a combined quota area that existed as of November 24, 2017, as provided in subsection (3), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for the new license. (6) When more than one new all-beverages license is subject to the competitive bidding process in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license. (7) Retail all-beverages licenses of issue on March 7, 1947, and all-beverages licenses issued under 16-4-209 that are in excess of the limitations in subsections (1) and (2) are renewable, but new licenses may not be issued in violation of the limitations. (8) The limitations in subsections (1) and (2) do not prevent the issuance of a nontransferable and nonassignable, as to ownership only, retail license to: (a) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation on May 13, 1985; (b) a continuing care retirement community as provided in 16-4-315; or (c) any post of a nationally chartered veterans' organization or any lodge of a recognized national fraternal organization if the veterans' or fraternal organization has been in continuous existence for a period of 5 years or more prior to January 1, 1949, and is applying for a license at the same location that it has occupied for the last 5 years. A post of a nationally chartered veteran's organization or a lodge of a recognized national fraternal organization that has held a veterans' or fraternal license within the past 10 years is not subject to the 5-year same-location requirement. (9) The number of retail all-beverages licenses that the department may issue for use at premises situated more than 5 miles outside of any incorporated city or incorporated town may not be more than one license for each 750 in population of the county after excluding the population of incorporated cities and incorporated towns in the county. (10) An all-beverages license issued under subsection (9) that becomes located within 5 miles of an incorporated city or town because of annexation after April 15, 2005, may not be transferred to another location within the city quota area any sooner than 5 years from the date of annexation. (11) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers. (12) A person licensed under this section may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food. (13) The department may adopt rules to implement this section. History: En. Sec. 3, Ch. 84, L. 1937; amd. Sec. 1, Ch. 226, L. 1947; amd. Sec. 1, Ch. 164, L. 1949; amd. Sec. 1, Ch. 144, L. 1951; amd. Sec. 1, Ch. 56, L. 1955; amd. Sec. 1, Ch. 206, L. 1959; amd. Sec. 1, Ch. 217, L. 1963; amd. Sec. 1, Ch. 322, L. 1971; amd. Sec. 1, Ch. 340, L. 1974; Sec. 4-403, R.C.M. 1947; amd. and redes. 4-4-202 by Sec. 79, Ch. 387, L. 1975; amd. Sec. 6, Ch. 496, L. 1977; R.C.M. 1947, 4-4-202; amd. Sec. 2, Ch. 25, L. 1981; amd. Sec. 3, Ch. 519, L. 1981; amd. Sec. 3, Ch. 595, L. 1983; amd. Sec. 4, Ch. 731, L. 1985; amd. Sec. 24, Ch. 68, L. 1987; amd. Sec. 2, Ch. 267, L. 2005; amd. Sec. 201, Ch. 56, L. 2009; amd. Sec. 3, Ch. 5, Sp. L. November 2017; amd. Sec. 3, Ch. 342, L. 2019; amd. Sec. 2, Ch. 473, L. 2019; amd. Sec. 13, Ch. 194, L. 2021; amd. Sec. 2, Ch. 451, L. 2021; amd. Sec. 2, Ch. 93, L. 2023; amd. Sec. 9, Ch. 601, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-203. Determination of public convenience and necessity

16-4-203. Determination of public convenience and necessity. (1) An original license issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 or the transfer of ownership or location of a license issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 may be approved if the department does not receive the minimum number of protests required for a public convenience and necessity determination pursuant to 16-4-207, in which case the application must be regarded as a prima facie showing of public convenience and necessity and no further determination of public convenience and necessity is allowed. (2) (a) If the department receives at least the minimum number of protests required for a public convenience and necessity determination, as provided in 16-4-207, an application must be approved when evidence indicates that the issuance of an original license or transfer of location will materially promote the public's ability to engage in the licensed activity. (b) The issuance of an original license or a transfer of location will materially promote the public's ability to engage in the licensed activity if: (i) the applicant's history and experience demonstrate the capacity to operate the proposed license in a lawful manner; (ii) the approval of the application for the premises at the proposed location is consistent with the public's demand or probable demand for the licensed activity that presently exists or is reasonably expected to exist within the next 5 years in the quota area where the proposed premises is located and in quota areas adjacent to the quota area where the proposed premises is located; (iii) the approval of the application for the premises at the proposed location contributes to the public's ability to participate in the licensed activity throughout the quota area where the proposed premises is located and quota areas adjacent to the quota area where the proposed premises is located; (iv) the approval of the application for the premises at the proposed location is consistent with adopted or pending planning, annexation, and zoning

ordinances of local governments that confer or will confer jurisdiction over business and developments such as the proposed license in the quota area where the proposed premises is located and in quota areas adjacent to the quota area where the proposed premises is located. (3) Protests are limited to the operation of the alcoholic beverage license only. Protests related to gambling or other matters will not be considered by the department. (4) When determining whether or not an application is justified by public convenience and necessity, the department may: (a) receive evidence at the public hearing specified in 16-4-207 only from the applicant, any protestors whose protests the department has accepted pursuant to 16-4-207, and any other person summoned or called by either a protestor or applicant; (b) find that the application is justified by public convenience and necessity if the applicant has provided substantial credible evidence as provided for in this subsection (4) that shows that the department's approval of the application will materially promote the public's ability to engage in the licensed activity. The substantial credible evidence required must include a consideration of each of the components of materially promoting the public's ability to engage in the licensed activity as provided in subsection (2)(b). (5) For the purposes of this section, the following definitions apply: (a) "Confer or will confer jurisdiction" means the power or authority that a local government or an appointed subsidiary of a local government has or may obtain within 1 year from the date of the hearing to consider and adopt planning, annexation, or zoning ordinances. (b) "Licensed activity" means the purchase of alcoholic beverages for on-premises consumption in a business licensed to sell alcoholic beverages at retail for on-premises consumption. (c) "Pending planning, annexation, and zoning ordinances" means the ordinances of a local government or an appointed subsidiary of a local government that were publicly considered within the year preceding the date of the hearing or are presently being considered. History: En. 4-403.1 by Sec. 2, Ch. 340, L. 1974; Sec. 4-403.1, R.C.M. 1947; redes. 4-4-205 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-4-205; amd. Sec. 4, Ch. 156, L. 1991; amd. Sec. 3, Ch. 528, L. 1997; amd. Sec. 4, Ch. 336, L. 2019; amd. Sec. 2, Ch. 645, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-204. Transfer -- catering endorsement for all-beverages licensees -- competitive bidding -- rulemaking

16-4-204. Transfer -- catering endorsement for all-beverages licensees -- competitive bidding -- rulemaking. (1) (a) Except as provided in subsection (3), a license may be transferred to a new owner and to a location outside the quota area where the license is currently located only when the following criteria are met: (i) the total number of all-beverages licenses in the current quota area exceeded the quota for that area by at least 25% in the most recent census prescribed in 16-4-502; (ii) the total number of all-beverages licenses in the quota area to which the license would be transferred, exclusive of those issued under 16-4-209(1)(a) and (1)(b), did not exceed that area's quota in the most recent census prescribed in 16-4-502: (A) by more than 33%; or (B) in an incorporated city of more than 10,000 inhabitants and within 5 miles of its corporate limits, by more than 43%; and (iii) the department finds, after a public hearing, that the public convenience and necessity would be served by a transfer. (b) A license transferred pursuant to subsection (1)(a) that was issued pursuant to a competitive bidding process is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6. (2) When the department determines that a license may be transferred from one quota area to another under subsection (1), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to purchase and transfer a license. (3) A license within an incorporated quota area may be transferred to a new owner and to a new unincorporated location within the same county on application to and with consent of the department when the total number of all-beverages licenses in the current quota area, exclusive of those issued under 16-4-209(1)(a) and (1)(b), exceeds the quota for that area by at least 25% in the most recent census and will not fall below that level because of the transfer. (4) A license issued under 16-4-209(1)(a) may not be transferred to a location outside the quota area and the exterior boundaries of the Montana Indian reservation for which it was originally issued. (5) (a) Any all-beverages licensee is, on the approval and in the discretion of the department, entitled to a catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending a special event on premises not otherwise licensed for the sale of alcoholic beverages for on-premises consumption. Except as provided in subsection (5)(k) of this section, the alcoholic beverages must be consumed on the premises where the event is held. (b) An application for a catering endorsement and an annual fee of \$250 must be submitted to the department for its approval. (c) An all-beverages license issued under 16-4-201 to a guest ranch is, on the approval and in the discretion of the department, entitled to a guest ranch catering endorsement to the licensee's all-beverages license to allow the catering and sale of alcoholic beverages to persons attending an event on the guest ranch other than at the licensed premises. These events do not need to be special events. The alcoholic beverages must be consumed where the event is held. (d) With the exception of a guest ranch catering endorsement, an all-beverages licensee who holds a catering endorsement may not cater an event in which the licensee or the concessionaire of the licensee is the sponsor. The catered event must be within 100 miles of the licensee's licensed premises measured in a straight line from the nearest entrance of the licensed premises to the nearest boundary of the catered event. (e) Except as provided in subsection (5)(i), the storage of alcoholic beverages may occur on the premises of the catered event 1 day prior to the catered event until 1 day following the conclusion of the catered event if the alcoholic beverages are in a secured location that prevents access by anyone other than the licensee or the licensee's employees. (f) With the exception of a guest ranch catering endorsement, the licensee shall notify the local law enforcement agency that has jurisdiction over the premises where the catered event is to be held. A local government may charge a fee of \$35. (g) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-6-103. (h) The sale of alcoholic beverages pursuant to a catering endorsement is subject to the provisions of 16-3-306, unless entities named in 16-3-306 give their written approval. (i) A licensee may sell and serve liquor, beer, and wine in the grandstands and bleacher area of the premises, as well as from a booth, stand, or

other fixed placed on the premises when the catered event is held on the premises of a county fairground, public sports arena, or Montana university as defined in 16-4-112. If the licensee has a written agreement with the state of Montana, a political subdivision of the state, or a Montana university to sell and serve liquor, beer, and wine for multiple catered events at the premises, the licensee may store liquor, beer, and wine to be used for the catered events on the premises of the fairground, public sports arena, or Montana university for the length of the written agreement if the liquor, beer, and wine can be stored in a secure location that prevents access by anyone other than the licensee or the licensee's employees. Each catered event held at the premises is subject to the requirement in subsection (5)(f) and must be individually reported to the department. (j) A licensee may not share revenue from the sale of alcoholic beverages with the sponsor of the catered event unless the sponsor is the state of Montana, a political subdivision of the state, a Montana university as provided in 16-4-112, or a qualified entity under section 501(c) of the Internal Revenue Code, 26 U.S.C. 501(c), as amended. (k) A distiller licensed under 16-4-312 may apply to the department to sponsor a catered event with a licensee with a catering endorsement under this subsection (5) that allows for the sale of liquor in original packaging for off-premises consumption at a liquor manufacturing industry-specific event. The department may only approve six of these events per year. (6) The department may adopt rules to implement this section. History: (4)(a), (b) of 4-4-206 En. Sec. 88, Ch. 387, L. 1975; R.C.M. 1947, 4-4-206(4)(a)(b)(part); amd. Sec. 1, Ch. 139, L. 1979; amd. Sec. 3, Ch. 25, L. 1981; amd. Sec. 1, Ch. 59, L. 1981; amd. Sec. 1, Ch. 512, L. 1981; amd. Sec. 1, Ch. 29, L. 1983; amd. Sec. 1, Ch. 37, L. 1983; amd. Sec. 1, Ch. 59, L. 1983; amd. Sec. 1, Ch. 636, L. 1983; amd. Sec. 5, Ch. 731, L. 1985; amd. Sec. 1, Ch. 34, L. 1987; amd. Sec. 3, Ch. 180, L. 1987; amd. Sec. 2, Ch. 599, L. 1993; amd. Sec. 25, Ch. 7, L. 2001; amd. Sec. 1, Ch. 85, L. 2001; amd. Sec. 3, Ch. 369, L. 2003; amd. Sec. 1, Ch. 277, L. 2007; amd. Secs. 4, 5, Ch. 5, Sp. L. November 2017; amd. Sec. 4, Ch. 342, L. 2019; amd. Sec. 4, Ch. 395, L. 2021; amd. Sec. 1, Ch. 299, L. 2023; amd. Sec. 3, Ch. 585, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-205. Limitation on number of licenses -- business in name of licensee

16-4-205. Limitation on number of licenses -- business in name of licensee. (1) Subject to the provisions of 16-4-401, a person may not be issued more than seven all-beverages licenses, with the exception of: (a) resort retail all-beverages licenses issued under 16-4-213, which do not count toward this limit; and (b) a secured party issued an additional all-beverages license as the result of a default. A secured party shall transfer ownership of any additional all-beverages license within 180 days of issuance. A business may not be carried on under any license issued under this chapter except in the name of the licensee. (2) The provisions of this section do not apply to licenses held by the Montana heritage preservation and development commission under the provisions of 16-4-305. History: En. Sec. 9, Ch. 84, L. 1937; Sec. 4-411, R.C.M. 1947; amd. and redes. 4-4-207 by Sec. 89, Ch. 387, L. 1975; R.C.M. 1947, 4-4-207; amd. Sec. 1, Ch. 82, L. 1985; amd. Sec. 3, Ch. 251, L. 1999; amd. Sec. 1, Ch. 211, L. 2013; amd. Sec. 5, Ch. 336, L. 2019; amd. Sec. 1, Ch. 371, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-206. Renumbered 16-4-402 (1) and (3)

16-4-206. Renumbered 16-4-402(1) and (3). Code Commissioner, 1979.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-207. Notice of application -- investigation -- publication -- protest

16-4-207. Notice of application -- investigation -- publication -- protest. (1) (a) When an application has been filed with the department for a license to sell alcoholic beverages at retail issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213 or to transfer the ownership or location of a license issued pursuant to 16-4-104, 16-4-201, 16-4-208, or 16-4-213, the department shall review the application for completeness and, based on review of the application and any other information supplied to the department, determine whether the applicant or the premises to be licensed meets criteria provided by law. The department may make requests for additional information necessary to complete the application. The application is considered complete when the applicant furnishes the application information requested by the department. When the application is complete, the department of justice shall investigate the application as provided in 16-4-402. When the department determines that an application for a license under this code is complete, the department shall publish in a newspaper of general circulation in the city, town, or county from which the application comes a notice that the applicant has made application for a retail on-premises license or a transfer of location and that protests may be made against the approval of the application by residents of the county from which the application comes, residents of adjoining Montana counties, or residents of adjoining counties in another state if the criteria in subsection (4)(d) are met. Protests must be mailed to the department within 10 days after the final notice is published. Notice of application for a new license must be published once a week for 4 consecutive weeks. Notice of application for transfer of ownership or location of a license must be published once a week for 2 consecutive weeks. (b) (i) Notice may be substantially in the following form for an applicant without a premises: NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used within the (quota area). Residents of..... counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to....., department of revenue, Helena,

Montana, on or before the..... day of....., 20..... Dated..... Signed (ii) Notice may be substantially in the following form for a premises only: NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of..... counties may protest against the approval of the premises location only as notice of protest for the applicant has already occurred. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to....., department of revenue, Helena, Montana, on or before the..... day of....., 20..... Dated..... Signed (iii) Notice may be substantially in the following form for an applicant and premises applied for at the same time or if the location of the license will be floated out of the quota area it was initially noticed in: NOTICE OF APPLICATION FOR RETAIL ALL-BEVERAGES LICENSE Notice is given that on the..... day of....., 20..., one (name of applicant) filed an application for a retail all-beverages license with the Montana department of revenue to be used at (describe location of premises where beverages are to be sold). Residents of..... counties may protest against the approval of the application. Each protestor is required to mail a letter that contains in legible print the protestor's full name, mailing address, and street address. Each letter must be signed by the protestor. A protest petition bearing the names and signatures of persons opposing the approval of an application may not be considered as a protest. Protests may be mailed to....., department of revenue, Helena, Montana, on or before the..... day of....., 20..... Dated..... Signed (2) Each applicant shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publishing the notice. There may be two charges if the applicant applies for licensure prior to applying for a premises under 16-4-417. (3) (a) If the department receives no written protests, the department may approve the application without holding a public hearing. (b) A response to a notice of opportunity to protest an application may not be considered unless the response is a letter satisfying all the requirements contained in the notice in subsection (1). (c) If the department receives sufficient written protests that satisfy the requirements in subsection (1) against the approval of the application, the department shall hold a public hearing as provided in subsection (4). (4) (a) If the department receives at least one protest but less than the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c), the department shall schedule a public hearing to be held in Helena, Montana, to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405, exclusive of public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6. (b) If the department receives the number of protests required for a public convenience and necessity determination as specified in subsection (4)(c) and the application is for an original license or for a transfer of location, the department shall schedule a public hearing to be held in the county of the proposed location of the license to determine whether the protest presents sufficient cause to deny the application based on the qualifications of the applicant as provided in 16-4-401 or on the grounds for denial of an application provided for in 16-4-405 including public convenience and necessity. The hearing must be governed by the provisions of Title 2, chapter 4, part 6. (c) The minimum number of protests necessary to initiate a public hearing to determine whether an application satisfies the requirements for public convenience and necessity, as specified in 16-4-203, for the proposed premises located within a quota area described in 16-4-201 must be 25% of the quota for all-beverages licenses determined for that quota area according to 16-4-201(1), (2), and (9) but in no case less than two. The minimum number of protests determined in this manner will apply only to applications for either on-premises consumption beer or all-beverages licenses. (d) A resident of a county in another state that adjoins the county in Montana from which an application comes may protest an application only if the county or state of residence of the person has certified to the department that a similarly situated Montana resident would be able to make formal protest of an alcoholic beverage license application in that state or county. The department may, by rule, establish how the certification is to be made. History: En. Sec. 1, Ch. 202, L. 1951; amd. Sec. 1, Ch. 145, L. 1965; Sec. 4-407.1, R.C.M. 1947; amd. and redes. 4-4-302 by Sec. 84, Ch. 387, L. 1975; amd. Sec. 8, Ch. 496, L. 1977; R.C.M. 1947, 4-4-302(part); amd. Sec. 1, Ch. 583, L. 1979; amd. Sec. 1, Ch. 445, L. 1983; amd. Sec. 1, Ch. 231, L. 1989; amd. Sec. 5, Ch. 156, L. 1991; amd. Sec. 5, Ch. 414, L. 1993; amd. Sec. 4, Ch. 528, L. 1997; amd. Sec. 41, Ch. 51, L. 1999; amd. Sec. 3, Ch. 448, L. 2001; amd. Sec. 5, Ch. 110, L. 2003; amd. Sec. 1, Ch. 86, L. 2011; amd. Sec. 6, Ch. 5, Sp. L. November 2017; amd. Sec. 5, Ch. 342, L. 2019; amd. Sec. 4, Ch. 479, L. 2019; amd. Sec. 3, Ch. 645, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-208. Airport all-beverages license

16-4-208. Airport all-beverages license. (1) The department shall issue one all-beverages license, to be known as a public airport all-beverages license, for use at each publicly owned airport served by scheduled airlines and enplaning and deplaning a minimum total of 5,000 passengers annually when: (a) application is made; (b) on finding that this license is justified by public convenience and necessity, including the convenience and necessity of the public traveling by scheduled airlines; and (c) following a hearing as provided in 16-4-207. (2) Application must be made by the agency owning and operating the airport. The agency owning and operating the airport may lease the airport all-beverages license to up to three individuals or entities approved by the department. (3) The lessee of an airport all-beverages license may purchase alcohol and the lease may be based on the percentage of sales of alcoholic beverages by the lessee. The lessee has the same rights and privileges as an airport all-beverage license issued under this section, and, in the event of a violation, is subject to reprimand, suspension of the lessee's alcohol operations, or a civil penalty not

to exceed \$1,500 as provided for a retail licensee under 16-4-406. (4) A public airport all-beverages license and all retail alcoholic beverage sales under it are subject to all statutes and rules governing all-beverages licenses, except for the provisions for curbside pickup as allowed under 16-3-312. (5) The department shall issue a public airport all-beverages license to a qualified applicant regardless of the number of all-beverages licenses already issued within the all-beverages license quota area in which the airport is situated. History: En. Sec. 1, Ch. 461, L. 1979; amd. Sec. 26, Ch. 68, L. 1987; amd. Sec. 14, Ch. 194, L. 2021; amd. Sec. 5, Ch. 97, L. 2023; amd. Sec. 2, Ch. 359, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-209. All-beverages license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club

16-4-209. All-beverages license for tribal alcoholic beverages licensee or enlisted personnel, noncommissioned officers', or officers' club. (1) Upon application and qualification, the department shall issue an all-beverages license to: (a) a tribal alcoholic beverages licensee who operates the business within the exterior boundaries of a Montana Indian reservation under a tribal license issued prior to January 1, 1985; (b) an enlisted personnel, noncommissioned officers', or officers' club located on a state or federal military reservation in Montana on May 13, 1985. (2) A license issued under the provisions of subsection (1) is not subject to the quota limitations of 16-4-201. (3) Upon application and approval by the department, a license issued under subsection (1)(a) may be transferred to another qualified applicant, but the license may be transferred only to a location within the quota area and the exterior boundaries of the Montana Indian reservation for which the license was originally issued. (4) A license issued under this section is subject to all statutes and rules governing all-beverages licenses. (5) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers. History: En. Sec. 2, Ch. 731, L. 1985; amd. Sec. 202, Ch. 56, L. 2009; amd. Sec. 15, Ch. 194, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-210. Resort license -- tour boat endorsement

16-4-210. Resort license -- tour boat endorsement. (1) A holder of a resort all-beverages license issued under 16-4-213 may be issued a tour boat endorsement to allow the sale of alcoholic beverages to passengers on boats at least 40 feet in length and equipped to carry at least 50 passengers. (2) The endorsement must be issued upon written application to the department and submission of an annual fee of \$200. The applicant must also submit proof: (a) of compliance with the following requirements: (i) county health department inspection and approval of food services offered on the boat; (ii) inspection and approval by the department of fish, wildlife, and parks of boat safety equipment requirements; (iii) current boat registration; and (iv) business liability insurance coverage; and (b) that the registered owner of the tour boat is: (i) a resort all-beverages licensee; (ii) an individual named on a resort all-beverages license; or (iii) a stockholder owning 10% or more of any class of stock in a corporate resort all-beverages license. (3) Alcoholic beverages may be sold pursuant to the endorsement authorized in subsection (1) only while the boat is underway within 30 miles of the resort boundary or is in preparation for scheduled departure. Except as provided in this subsection, no alcoholic beverages may be sold or served when the boat is secured at its or any other mooring. (4) Sale of alcoholic beverages under the endorsement is subject to all other requirements imposed for any all-beverages license issued under this part. History: En. Sec. 1, Ch. 149, L. 1989; amd. Sec. 6, Ch. 336, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-211. Resort area -- purpose -- policy

16-4-211. Resort area -- purpose -- policy. It is the intent and purpose of 16-4-211 through 16-4-213 to encourage the growth of quality recreational resort facilities in undeveloped areas of the state and to provide for the orderly growth of existing recreational sites by the establishment of resort areas within which retail all-beverages licenses may be issued by the department under the terms of 16-4-213. History: En. Sec. 1, Ch. 336, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-212. Resort area determination

16-4-212. Resort area determination. (1) To obtain a resort area designation, the resort area developer or landowner must submit an application with a plat setting forth the resort area boundaries and designating the ownership of the lands within the resort area. The plat must show the location and general design of the buildings and other improvements existing or to be built in the resort area. A master plan for the development of the resort area may be filed by the resort area developer in satisfaction of this section. (2) (a) In addition to the other requirements of this code, at the time of application, a resort area: (i) may not be located within the boundaries of an incorporated city or town quota area as described in 16-4-201(1) or (2), except that if the resort area is located in a county having a consolidated city-county unit of local government, the resort area must be more than 5 miles from the historical corporate limits of the city or town that existed immediately before the abandonment or consolidation into the consolidated city-county unit of local government; (ii) must have a current actual valuation of resort or recreational facilities, including land and improvements, of not less than \$10 million, at least \$5 million of which valuation must be for a structure or structures within the resort area; (iii) must be under the sole ownership or control of one person or entity; (iv) must contain a minimum of 125 acres of land; and (v) must

provide details of the recreational facilities that are or will be on the grounds of the resort that warrant the resort designation being granted. These recreational facilities must be completed prior to licenses being issued in 16-4-213. (b) A resort area's current actual valuation under subsection (2)(a)(ii) may be determined by using an independent appraisal or the department's tax appraisals of the property. (c) For the purposes of this subsection (2), "control" means land or improvements that are owned or that are held under contract, lease, option, or permit. (3) Within 15 business days after the application is filed, the department shall schedule a public hearing to be held in the proposed area to determine whether the facility proposed by the resort area developer or landowner is a resort area. At least 30 days prior to the date of the hearing, the department shall publish notice of the hearing in a newspaper published in the county or counties in which the resort area is located, once a week for 4 consecutive weeks. The notice must include a description of the proposed resort area. The resort area developer or landowner shall, at the time of filing an application, pay to the department an amount sufficient to cover the costs of publication. (4) A person may present, in person or in writing, a statement to the department at the hearing in opposition to or in support of the application. (5) Within 30 days after the hearing, the department shall approve or deny the application. If the application is denied, the applicant may request a review of the decision of the department pursuant to the Montana Administrative Procedure Act. (6) Once a resort area has been approved by the department, the boundaries of a resort area may not be changed without a new application. (7) (a) Except as provided in subsection (7)(b), an approved resort area designation lapses if no resort all-beverages licenses are issued pursuant to 16-4-213 within 5 years of the department's approval of the resort area or if the resort area applicant cannot demonstrate substantial progress toward completion of the improvements and outdoor recreational facilities described in the application. (b) A resort area designation that received department approval prior to January 1, 2024, lapses if no resort all-beverages licenses are issued pursuant to 16-4-213 by January 1, 2029. (c) A developer or landowner of a lapsed resort area may reapply to the department to obtain a new resort area designation. History: En. Sec. 2, Ch. 336, L. 2019; amd. Sec. 4, Ch. 645, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 2. All-Beverages Licenses 16-4-213. Resort retail all-beverages licenses

16-4-213. Resort retail all-beverages licenses. (1) After a resort area has been approved, applications may be filed with the department for the issuance of resort retail all-beverages licenses within the resort area. (2) (a) Except as provided in subsections (2)(b) and (2)(c), the department may issue one resort retail all-beverages license for the first 100 accommodation units and an additional license for each additional 50 accommodation units within an approved resort area as long as the recreational facilities under 16-4-212 have also been completed. (b) (i) For a resort area with a perimeter containing at least 500 contiguous acres that has a current actual valuation of completed recreational facilities, including land and improvements, of not less than \$20 million, the department may issue up to 10 resort retail all-beverages licenses regardless of the number of accommodation units. (ii) For a resort area with a perimeter containing at least 2,000 contiguous acres that has a current actual valuation of completed recreational facilities, including land and improvements, of not less than \$40 million, the department may issue up to 25 resort retail all-beverages licenses regardless of the number of accommodation units. (c) A resort area designation application to the department that received approval prior to January 1, 1999, is entitled to the issuance of one resort retail all-beverages license for a \$20,000 license fee. Any additional resort retail all-beverages licenses issued to a resort area under this subsection (2)(c) must meet the accommodation unit requirement in subsection (2)(a) of this section and pay the license fee and renewal fees as provided in 16-4-501. (d) (i) For purposes of this code, "accommodation unit" means a unit that is available for short-term guest rental and includes: (A) a single-family home; (B) a single unit of an apartment, condominium, or multiplex; (C) a single room of a hotel or motel; or (D) similar living space. A space under this subsection (2)(d)(i)(D) must be distinctly separated from other living spaces within the building and have its own sleeping, bath, and toilet facilities. (ii) In order to qualify toward the required total for the purposes of subsection (2)(a), accommodation units may not be located within the boundaries of a quota area as provided in 16-4-201(1) or (2) as of the date of submission for a resort retail all-beverages license. (3) Regardless of how many resort area all-beverages licenses are issued in a resort area, no more than 20 gambling machine permits may be issued for the resort area. (4) A resort retail all-beverages license within the resort area: (a) is subject to all other requirements of an all-beverages license in this code, except: (i) for the purposes of premises suitability under 16-3-311, a licensed retailer may use a part of the building as a licensed premises for the consumption of alcoholic beverages on the premises. The premises must be separated from the rest of the building by permanent walls but may have inside access to the rest of the building at all times even if the businesses or uses in the other part of the building are unrelated to the operation of the premises in which alcoholic beverages are served. If the premises are located in a portion of a building, the licensed retailer must be able to demonstrate that there are adequate safeguards in place to prevent public access to alcoholic beverages after hours, either by the presence of a lockable door or other security features such as rolling gates, locking cabinets, tap locks, or key card access; (ii) the interior portion of the licensed premises must be a continuous area that is under the control of the licensee and not interrupted by any area in which the licensee does not have adequate control, and includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators; and (iii) the premises may include one or more exterior patios or decks as long as sufficient physical safeguards are in place to ensure proper service and consumption of alcoholic beverages. An additional perimeter barrier may not be required if an existing boundary naturally defines the outdoor service area and impedes foot traffic. (b) is not subject to the quota limitations set forth in 16-4-201; and (c) is transferable to another location within the boundaries of the resort area or to another owner to be used at a location within the boundaries of the resort area. (5) For licenses issued under this section, a licensee may

apply to the department to allow for the delivery of alcohol to guests of accommodation units and the prestocking of alcoholic beverages in accommodation units within the designated resort area property as long as the purchaser's age is verified. The application fee is \$100. (6) Employees of the resort licensee who sell, serve, or deliver alcohol must be trained as provided in 16-4-1005. (7) A resort retail all-beverages licensee whose premises is located outside of a quota area as defined in 16-4-201(1) or (2) may enter into a maximum of one concession agreement per license with an unlicensed entity to serve alcoholic beverages. Except for 16-4-418(1), the provisions of 16-4-418 apply. (8) If a resort area has two or more resort retail all-beverage licenses or retail all-beverages licenses within the boundaries of the resort, the licensees may also apply to use a resort alternate alcoholic beverage storage facility to be located within the resort area. The application fee is \$100. The alternate storage facility will be considered part of each licensee's existing licensed premises, though it does not need to be contiguous to qualify for approval. The licensees using the alternate storage facility must meet all requirements to ensure the secure storage of alcoholic beverages and prevent on-site consumption of alcoholic beverages. Alcoholic beverages in sealed containers belonging to multiple licensees within the resort area may be stored in the same storage facility. A resort retail licensee or retail licensee who is approved to use the alternate storage facility may accept delivery of alcoholic beverages at the alternate storage facility and may transfer alcoholic beverages to another licensee approved to use the alternate storage facility. Any transfer of alcoholic beverages between approved licensees must be properly accounted for. Approval to use the alternate storage facility must be documented on the face of each license within the resort area that applies to use the alternate storage facility. (9) A license issued under this section may offer curbside pickup between 8 a.m. and 2 a.m. in original packaging, prepared servings, or growlers. History: En. Sec. 3, Ch. 336, L. 2019; amd. Sec. 16, Ch. 194, L. 2021; amd. Secs. 4, 11, Ch. 568, L. 2021; amd. Sec. 5, Ch. 645, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and issuance

16-4-301. Special permits to sell all alcoholic beverages, beer, and table wine -- application and issuance. (1) (a) The following organizations or institutions that conduct a special event may receive up to 12 special permits during a calendar year to sell beer and table wine to the patrons of the special event: (i) an organization or institution that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended; (ii) an organization or institution that is organized and operated to raise funds for a person in need; or (iii) an organization or institution that is an accredited Montana postsecondary school. (b) A civic league or organization that has a tax-exempt designation under section 501(c)(4) of the Internal Revenue Code, 26 U.S.C. 501(c)(4), as amended, or an organization authorized by an accredited Montana postsecondary school to engage in fundraising activities for intercollegiate athletics that has a tax-exempt designation under the provisions of section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended, may receive up to 12 special permits a year to sell beer and table wine. For purposes of fundraising activities for intercollegiate athletics, only one organization for each Montana postsecondary school may be authorized to apply for and receive special permits under this section. All net earnings from the sale of beer and table wine must be contributed to the state of Montana or a political subdivision of the state or must be devoted to purposes required of entities under section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), as amended. (c) An association or corporation engaged in professional sporting contests or junior hockey contests may receive one special permit to sell beer and table wine covering the entire season of play if: (i) the association or corporation is sanctioned by a sports organization that regulates the specific sport; (ii) the season of play of the sport is specified in advance; (iii) an admission fee to the contests is charged; and (iv) the contest events are held in facilities that provide seating for at least 1,000 patrons. (d) A chamber of commerce or business league that has a tax-exempt designation under section 501(c)(6) of the Internal Revenue Code, 26 U.S.C. 501(c)(6), as amended, may receive up to 12 special permits a year to sell beer and table wine. A chamber of commerce may not use one of its special permits for an event conducted by a business league, and a business league may not use one of its permits for an event conducted by a chamber of commerce. The chamber of commerce or business league receiving a special permit shall obtain liquor liability insurance for any event it conducts. (e) A winery licensed pursuant to 16-4-107 may receive up to 12 special permits during a calendar year to provide wine that was fermented or blended at the winery's licensed premises. The special permit allows the winery to sell its products for off-premises consumption if the products are sold in their original packaging. (f) The beer and wine sold under this subsection (1) must be consumed at the time when and within the enclosure where the special event, activity, or sporting contest is held. (g) An application for a special permit must be presented 5 business days in advance, but the department may, for good cause, waive the 5-day requirement. The application must describe the location of the enclosure where the special event, activity, or sporting contest is to be held, the nature of the special event, activity, or sporting contest, and the period during which it is contemplated that the special event, activity, or sporting contest will be held. An application for a permit for professional sporting contests or junior hockey contests under subsection (1)(c) must provide the inclusive dates of the season of play for the sporting contest. The application must be accompanied by the amount of the permit fee and a written statement of approval of the premises where the special event, activity, or sporting contest is to be held issued by the local law enforcement agency that has jurisdiction over the premises. (h) A special permit issued under this subsection (1) for the purpose of selling and serving beer and table wine at a special event, activity, or sporting contest conducted on the premises of a county fairground or public sports arena authorizes the permit holder to sell and serve beer and table wine in the grandstand and bleacher area of the premises, as well as from a booth, stand, or other fixed place on the premises. (i) For the purposes of this subsection (1), a post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization otherwise licensed under this code is an organization that may receive special permits for three special events a year to sell beer and table wine. All net proceeds must go to the post or lodge

acquiring the special permit. (2) (a) A post of a nationally chartered veterans' organization or a lodge of a recognized national fraternal organization not otherwise licensed under this code may receive, without notice or hearing as provided in 16-4-207, a special permit to sell beer and table wine or a special permit to sell all alcoholic beverages at the post or lodge to members and their guests only, to be consumed within the hall or building of the post or lodge. (b) The application of a nationally chartered veterans' organization or lodge of a recognized national fraternal organization must describe the location of the hall or building where the special permit will be used and the date it will be used. (c) The special permit may be issued for a 24-hour period only, ending at 2 a.m., and the department may not issue more than 12 special permits to any post or lodge during a calendar year. History: En. Sec. 13, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.35, R.C.M. 1935; amd. Sec. 1, Ch. 235, L. 1963; amd. Sec. 1, Ch. 285, L. 1974; Sec. 4-332, R.C.M. 1947; amd. and redes. 4-4-105 by Sec. 65, Ch. 387, L. 1975; amd. Sec. 4, Ch. 496, L. 1977; R.C.M. 1947, 4-4-105; amd. Sec. 1, Ch. 401, L. 1981; amd. Sec. 2, Ch. 37, L. 1983; amd. Sec. 2, Ch. 34, L. 1987; amd. Sec. 2, Ch. 180, L. 1987; amd. Sec. 26, Ch. 7, L. 2001; amd. Sec. 1, Ch. 89, L. 2001; amd. Sec. 4, Ch. 369, L. 2003; amd. Sec. 2, Ch. 733, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-302. Passenger carrier licenses

16-4-302. Passenger carrier licenses. Common carriers serving Montana may serve alcoholic beverages to passengers in aircraft over or railroad cars in the state of Montana upon the issuance of a retail all-beverages license by the department for that purpose. Such licenses shall be issued on an annual basis to common carriers making application therefor and shall be effective from July 1 of the current year to July 1 of the following year. History: En. 4-4-109 by Sec. 114, Ch. 387, L. 1975; R.C.M. 1947, 4-4-109(part); amd. Sec. 27, Ch. 68, L. 1987.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-303. Special beer and table wine license for nonprofit arts organizations

16-4-303. Special beer and table wine license for nonprofit arts organizations. (1) A nonprofit arts organization as defined in subsection (4) is entitled to a special beer and table wine license to sell beer and table wine to patrons of exhibitions, productions, performances, or programs sponsored or presented by the organization in a specific theatre or other appropriately designated place for on-premises consumption. (2) The proceeds derived from sales of beer and table wine, except for reasonable operating costs, must be used to further the purposes of the organization. (3) The department shall have access to the organization's records to determine whether the organization is entitled to a license under this section. (4) For the purposes of this section, the term "nonprofit arts organization" means an organization governed under Title 35, chapter 2, that is organized and operated for the principal purpose of providing artistic or cultural exhibitions, presentations, or performances for viewing or attendance by the general public. Assets of the corporation must be irrevocably dedicated to the activities for which the license is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of a member or individual except a nonprofit organization, association, or corporation. An artistic or cultural exhibition, presentation, or performance includes: (a) an exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums; and (b) a musical or dramatic performance or series of performances. (5) A license issued under this section is not subject to the provisions of 16-4-105. History: En. Sec. 1, Ch. 380, L. 1987.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-304. Beer and wine license for Yellowstone airport

16-4-304. Beer and wine license for Yellowstone airport. (1) Upon application, the department of revenue shall issue a retail beer and wine license to the Yellowstone airport, which is an airport near West Yellowstone, Montana, owned by the state of Montana and operated by the department of transportation. (2) The application must be made by the department of transportation. The department of transportation may lease the license of use at the airport to an individual or entity approved by the department of revenue. (3) The license is valid for the retail sale of beer and wine. (4) The lessee shall pay to the department of revenue an annual license fee as provided in 16-4-501. (5) The license issued pursuant to this section: (a) is not subject to the quota provisions of 16-4-105; (b) is nontransferable; (c) does not permit gambling activities otherwise allowed under Title 23, chapter 5. History: En. Sec. 1, Ch. 529, L. 1993; amd. Sec. 1, Ch. 293, L. 2005.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-305. Montana heritage retail alcoholic beverage licenses -- use -- quota

16-4-305. Montana heritage retail alcoholic beverage licenses -- use -- quota. (1) The Montana heritage preservation and development commission may use Montana heritage retail alcoholic beverage licenses within the quota area in which the licenses were originally issued, for the purpose of providing retail alcoholic beverage sales on property acquired by the state under Title 22, chapter 3, part 10. The licenses are to be considered when determining the appropriate quotas for issuance of other retail alcoholic beverage licenses. (2) The Montana heritage preservation and development commission may lease a Montana heritage retail alcoholic beverage license to an individual or entity approved by the department. (3) Montana heritage retail alcoholic beverage licenses are subject to all laws and rules governing the use and operation of retail alcoholic beverage licenses. (4) For the purposes of this section, "Montana heritage retail alcoholic beverage licenses" are all-beverages licenses and retail on-premises beer and wine

licenses that have been transferred to the Montana heritage preservation and development commission under the provisions of section 2, Chapter 251, Laws of 1999. History: En. Sec. 1, Ch. 251, L. 1999; amd. Secs. 7, 8, Ch. 5, Sp. L. November 2017; amd. Sec. 6, Ch. 342, L. 2019; amd. Sec. 5, Ch. 60, L. 2023; amd. Sec. 6, Ch. 97, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-306. Transfer of existing license to political subdivision of state -- rulemaking

16-4-306. Transfer of existing license to political subdivision of state -- rulemaking. (1) A political subdivision of the state of Montana may apply to the department for the transfer of an existing retail beer and wine license and, on approval by the department, the political subdivision may own and operate the license or lease the license to a person, firm, corporation, or other entity approved by the department. (2) A license that is transferred to a political subdivision of the state: (a) may be transferred only to another political subdivision of the state and not to any other person, firm, corporation, or entity; (b) does not authorize and may not be used in conjunction with gambling activities except for horseracing as authorized in Title 23, chapter 4; (c) may be authorized only for a fairgrounds complex owned by the political subdivision; (d) is authorized for use in all facilities contained in the fairgrounds complex; (e) must be taken into account in determining the license quota restrictions of 16-4-105; and (f) is subject to all license fees, laws, and rules applicable to retail beer and wine licenses. (3) The department may adopt rules to implement the provisions of this section. History: En. Sec. 1, Ch. 169, L. 2009; amd. Secs. 9, 10, Ch. 5, Sp. L. November 2017; amd. Sec. 7, Ch. 342, L. 2019; amd. Sec. 6, Ch. 60, L. 2023; amd. Sec. 7, Ch. 97, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-307. through 16-4-309 reserved

16-4-307 through 16-4-309 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-310. Definitions

16-4-310. Definitions. For the purpose of 16-4-311 and 16-4-312, the following definitions apply: (1) "Microdistillery" means a distillery located in Montana that produces 200,000 proof gallons or less of liquor annually. (2) "Produces" means the distillation of liquor on the premises of the distillery licensee. History: En. Sec. 1, Ch. 591, L. 2005; amd. Sec. 1, Ch. 160, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-311. Distillery license

16-4-311. Distillery license. (1) The department may, upon receipt of an application, issue a distillery license to a person who is authorized under the provisions of the Federal Alcohol Administration Act, 27 U.S.C. 201 through 212, to distill, rectify, bottle, and process liquor. A licensee may import, manufacture, distill, rectify, blend, denature, and store spirits of an alcoholic content greater than 0.5% alcohol by volume for sale to the department or as provided in 16-4-312 and may transport the liquor out of this state for sale outside this state. Distillery licensees must be permitted to purchase, from and through the department, alcoholic beverages for blending and manufacturing purposes upon terms and conditions that the department may provide. A licensee may not sell any alcoholic beverage within this state except to the department or as provided in 16-4-312. (2) An agricultural producer or association of agricultural producers or legal agent who manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and industrial alcohol for purposes other than human consumption is not required to obtain a distillery license from the department. (3) (a) A distillery producing less than 25,000 gallons of product annually may deliver its product directly to a state agency liquor store if the distillery uses the distillery's own equipment, trucks, and employees to deliver the product. The amount of product delivered may not be less than a case. The department shall create an electronic reporting system for distilleries to record deliveries made under this subsection (3). Agency liquor stores must be invoiced by the department for product received from a distillery. (b) A distillery delivering its product pursuant to this subsection (3) shall maintain records of each delivery, subject to inspection by the department. (c) The department shall pay the distillery for any product delivered to an agency liquor store: (i) the current freight rate; and (ii) the distiller's current quoted price per case. (d) For a licensed distillery holding complete ownership of a retail license pursuant to 16-4-401(9), liquor that is manufactured and sold at the collocated premises is not subject to the limitations imposed by subsection (3)(a) or the limitations and privileges of 16-4-312(3). Liquor manufactured and sold at the collocated premises does count toward production levels for tax purposes. History: En. Sec. 2, Ch. 591, L. 2005; amd. Sec. 4, Ch. 277, L. 2011; amd. Sec. 1, Ch. 375, L. 2015; amd. Sec. 10, Ch. 601, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-312. Domestic distillery

16-4-312. Domestic distillery. (1) A distillery located in Montana and licensed pursuant to 16-4-311 may: (a) import necessary products in bulk; (b) bottle, produce, blend, store, transport, or export liquor that it produces; (c) perform those operations that are permitted for bonded distillery premises under applicable regulations of the United States department of the treasury; and (d) have a premises that includes more than one building for manufacturing purposes pursuant to 27 CFR 19.53 and is operated under a federal basic permit. (2) (a) A distillery that is located in Montana and licensed pursuant to 16-4-311 shall sell liquor to the department

under this code, and the department shall include the distillery's liquor as a listed product. (b) The distillery may use a common carrier for delivery of the liquor to the department. (c) A distillery that produces liquor within the state under this subsection (2) shall maintain records of all sales and shipments. The distillery shall furnish monthly and other reports concerning quantities and prices of liquor that it ships to the department and other information that the department may determine to be necessary to ensure that distribution of liquor within this state conforms to the requirements of this code. (3) (a) A distillery that is located in Montana and licensed to manufacture distilled spirits may be licensed by the department to own, lease, maintain, and operate anywhere in the state a storage depot for receiving, handling, and storing distilled spirits in addition to distributing and selling distilled spirits from the storage depot, subject to this code. (b) To be licensed for a storage depot, a distillery shall pay an annual license fee as provided in 16-4-501 for each storage depot operated by the distillery, in addition to all other fees and taxes required to be paid by the distillery, and must meet all applicable suitability requirements. (4) A microdistillery may: (a) provide, with or without charge, not more than 2 ounces of liquor that it produces at the microdistillery to consumers for prepared servings: (i) through curbside pickup between 10 a.m. and 8 p.m.; and (ii) for on-premises consumption during the hours of operation that are identical to those allowed for a brewery license provided for in 16-3-213(2)(b) and corresponding administrative rules relating to the service, consumption, and possession of alcoholic beverages on the premises; or (b) sell liquor in original packaging that it produces at retail at the distillery between the hours of 8 a.m. and 2 a.m. directly to the consumer, including curbside pickup, for off-premises consumption if: (i) not more than 4.5 liters a day is sold to an individual; and (ii) the minimum retail price as determined by the department is charged. (5) Liquor samples provided pursuant to subsection (4)(a) are not permitted at more than one manufacturing premises for each license. History: En. Sec. 3, Ch. 591, L. 2005; amd. Sec. 1, Ch. 81, L. 2011; amd. Sec. 17, Ch. 194, L. 2021; amd. Sec. 3, Ch. 55, L. 2023; amd. Sec. 1, Ch. 209, L. 2023; amd. Sec. 1, Ch. 661, L. 2023; amd. Sec. 5, Ch. 728, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-313. Sacramental wine license

16-4-313. Sacramental wine license. (1) The department may issue a sacramental wine license to an establishment whether located in or outside Montana that sells church supplies, including sacramental wine, at retail to rabbis, priests, pastors, ministers, or other officials of churches or other established religious organizations exclusively for use as sacramental wine or for other religious purposes. Sales of sacramental wine may not be made to the public. (2) An application for a license under this section must be accompanied by a fee of \$100, which constitutes the first annual license fee. The annual license renewal fee is \$50. (3) Unless the sacramental wine is purchased onsite, an establishment selling sacramental wine for religious purposes may sell and deliver directly to the religious organization's premises by: (a) using the establishment's own employees and equipment; (b) contracting with a licensed table wine distributor; or (c) contracting with a common carrier, which maintains an alcohol shipment program, to ship and deliver the wine. If the wine is shipped and delivered by the common carrier, the shipment must be in boxes marked with the words "Wine Shipment From Sacramental Wine Licensee for Religious Purposes Only" and the boxes must also be conspicuously labeled with the words "Contains Alcohol: Signature of Person 21 Years of Age or Older Required for Delivery". (4) A sacramental wine licensee shall maintain records of all wine sales made during the preceding 2 years and shall allow the department access to the records when requested so that the department can ascertain whether the limitations of subsection (1) are being complied with. The required record must include the addresses to which the sacramental wine is delivered and the printed name of the official of the church or other religious organization who signed for delivery. (5) A sacramental wine licensee located out of state making sales under the provisions of this section is considered a table wine distributor for the purposes of 16-1-411. (6) Upon receipt of a completed application for a license under this section, the department shall, in exercising its sound discretion, determine whether: (a) the applicant is qualified under this section to receive a license; (b) the applicant's premises are suitable for the carrying on of the business; and (c) the requirements of this code and the rules promulgated by the department are being met and complied with. (7) License applications submitted under this section are not subject to the provisions of 16-3-402, 16-4-203, and 16-4-207. (8) A person licensed under subsection (1) may transport sacramental wine from the licensee's premises to the religious organization's premises in any quantity for religious purposes. (9) A sacramental wine licensee is not subject to the provisions of 16-4-1005 requiring licensees to ensure training. History: En. Sec. 1, Ch. 414, L. 2009; amd. Sec. 6, Ch. 115, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-314. Academic brewer license under small brewer exception -- conditions

16-4-314. Academic brewer license under small brewer exception -- conditions. (1) A postsecondary institution may apply for an academic brewer license under this section that allows the licensee to brew and sell beer to wholesalers as provided in this section. The academic brewer license: (a) does not allow for the sale of beer at retail and does not allow for the operation of a sample room as provided in 16-3-213; (b) is limited to production of 10,000 barrels annually; (c) allows for distribution only to wholesalers as provided in 16-3-214; (d) is under the ownership of a postsecondary institution; (e) may not offer gambling activities; (f) is otherwise subject to laws applying to brewery licenses as provided in this code; and (g) must operate in an on-campus facility operated in conjunction with a beer-brewing class or curriculum taught at the postsecondary institution or in conjunction with research at the postsecondary institution. (2) When a postsecondary institution has met the conditions in subsection (3) and has paid the fee specified for a brewer under 16-4-501, the department shall issue the academic brewer license. (3) To obtain a license under this section, a postsecondary institution shall: (a) document approval by the postsecondary institution's board of trustees or the board of regents of higher education, as applicable; (b) identify the on-campus location of the site where classes in beer making are to be

held or where research is to take place; and (c) for criminal background requirements under 16-4-414, designate two or more individuals, each of whom must have responsibility for licensing compliance and each of whom must meet the requirements in 16-4-401(2)(a). (4) For the purposes of this section, the term "postsecondary institution" means: (a) a unit of the Montana university system as described in 20-25-201; or (b) a Montana community college that is part of a community college district as defined in 20-15-101. (5) The department may adopt rules to implement this section. History: En. Sec. 1, Ch. 343, L. 2017; amd. Sec. 1, Ch. 53, L. 2023; amd. Sec. 9, Ch. 749, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 3. Special Licenses 16-4-315. Limited all-beverages license for continuing care retirement communities -- requirements -- rulemaking -- definitions

16-4-315. Limited all-beverages license for continuing care retirement communities -- requirements -- rulemaking -- definitions. (1) A continuing care retirement community may apply to the department for a limited, nontransferable all-beverages license that is exempt from the quota under 16-4-201 if the following conditions are met: (a) the applicant meets the requirements of 16-4-401, complies with 16-4-207 and 16-4-402, and pays an application fee of \$500, which constitutes the first annual license fee. If an application is denied, the department shall refund 75% of the application fee. Annual license renewal fees are as provided in 16-4-501. (b) the continuing care retirement community has a central dining area at which the alcoholic beverages may be served or purchased for on-premises consumption; (c) the serving hours for alcoholic beverages are within the hours of 11 a.m. to 8 p.m.; (d) those serving the alcoholic beverages must be 18 years of age or older and have completed the responsible server and sales training program as provided in 16-4-1005; and (e) those purchasing the alcoholic beverages must be residents of the continuing care retirement community or guests of a resident of the continuing care retirement community. (2) The limited all-beverages license for a continuing care retirement community does not authorize gaming or gambling under Title 23, chapter 5, parts 3, 5, or 6, but may allow live bingo or keno if the continuing care retirement community is authorized under 23-5-405 for live bingo and keno and complies with Title 23, chapter 5, part 4. (3) The limited all-beverage license does not allow sale of an alcoholic beverage for off-premises consumption, is subject to 16-3-241, and does not entitle the licensee to a catering endorsement under 16-4-204. (4) This section does not ban from the continuing care retirement community's residential areas the residents' possession of alcoholic beverages otherwise obtained. (5) The department may make rules to implement this section as necessary to recognize the combination of individual residences and communal areas that a continuing care retirement community represents. (6) For the purposes of this section, the following definitions apply: (a) "Continuing care retirement community" means a residential facility on one campus under the same operator that: (i) is administered under professional licensure by the department of public health and human services; and (ii) provides to individuals 55 years of age or older an independent living option and a graduated level of care. The graduated level of care may include an assisted living facility as defined in 50-5-101. (b) "Guest" means an individual who is either the nonresident spouse of a resident of the continuing care retirement community or an individual invited by a resident. (c) "On-premises" means within the confines of the continuing care retirement community campus. History: En. Sec. 1, Ch. 473, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-401. License as privilege -- criteria for decision on application -- restrictions -- colocated licenses

16-4-401. License as privilege -- criteria for decision on application -- restrictions -- colocated licenses. (1) A license under this code is a privilege that the state may grant to an applicant and is not a right to which any applicant is entitled. (2) Except as provided in 16-4-311 and subsection (5) of this section and subject to subsection (8), the department shall find in every case in which it makes an order for the issuance of a new license, for the approval of the transfer of a license, or for the renewal of a license that: (a) if the applicant is an individual: (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; (ii) the applicant has not been convicted of a felony or, if the applicant has been convicted of a felony, the applicant's rights have been restored; and (iii) the applicant is not under 19 years of age; (b) if the applicant is a publicly traded corporation: (i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); (ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a); and (iii) the corporation is authorized to do business in Montana; (c) if the applicant is a privately held corporation, all of the following must apply: (i) each owner of 15% or more of the outstanding stock meets the requirements for an individual applicant listed in subsection (2)(a). If no single owner owns more than 15% of the outstanding stock, the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a), and the owners of 51% of the outstanding stock must meet the requirements of subsection (2)(a). (ii) each individual who has control over the operation of the license meets the requirements for an individual applicant listed in subsection (2)(a); (iii) each person who shares in the profits or liabilities of a license meets the requirements for an individual applicant listed in subsection (2)(a). This subsection (2)(c)(iii) does not apply to a shareholder of a corporation who owns less than 15% of the outstanding stock in that corporation except that the provisions of subsection (7) apply. (iv) the corporation is authorized to do business in Montana; (d) if the applicant is a general partnership, each partner must meet the requirements of subsection (2)(a); (e) if the applicant is a limited partnership or a limited liability partnership, each general partner and all limited partners whose ownership interest in the partnership equals or exceeds 15% must meet the requirements of subsection

(2)(a). If no single limited partner's interest equals or exceeds 15%, then 51% of all limited partners must meet the requirements of subsection (2)(a). (f) if the applicant is a limited liability company: (i) all managing members and those members whose ownership interest in the company equals or exceeds 15% must meet the requirements of subsection (2)(a). If no single member's interest equals or exceeds 15%, then 51% of all members must meet the requirements of subsection (2)(a). (ii) the limited liability company is authorized to do business in Montana; (g) if the applicant is a trust, the trustee must meet the requirements of subsection (2)(a); (h) if the applicant is a nonprofit organization: (i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and (ii) the nonprofit organization is authorized to do business in Montana; (i) if the applicant is a cooperative association: (i) the applicant shall designate two or more officers or board members, each of whom must meet the requirements for an individual applicant listed in subsection (2)(a); and (ii) the cooperative association is authorized to do business in Montana. (3) The applicant and any individual of the applicant who must meet the requirements of (2)(a) must be current on all tax filings, taxes, interest, and penalties due to the state; however, nothing in this subsection authorizes the department to consider an applicant's tax status or whether the applicant was or is an income tax protestor when renewing the license. (4) In the case of a corporate applicant, the requirements of subsection (2)(b) or (2)(c) apply separately to each class of stock. (5) The provisions of subsection (2) do not apply to an applicant for or holder of a license pursuant to 16-4-302 or an applicant for registration under 16-4-101 or 16-4-107. (6) An applicant's source of funding must be from a suitable source. A lender or other source of money or credit may be found unsuitable if the source: (a) is a person whose prior financial or other activities or criminal record: (i) poses a threat to the public interest of the state; (ii) poses a threat to the effective regulation and control of alcoholic beverages; or (iii) creates a danger of illegal practices, methods, or activities in the conduct of the licensed business; or (b) has been convicted of a felony unless the person's rights have been restored. (7) (a) Except as specifically provided in this code relating to financial interests in licenses, nothing in this section applies or otherwise prohibits an applicant or licensee from obtaining personal financing from a licensed financial institution, taking advantage of consumer credit, or using a personal credit card to make purchases on behalf of a licensed entity if the applicant or licensee is reimbursed by the licensed entity within 90 days. An applicant or individual may obtain multiple transactions up to an aggregate maximum of \$100,000 with each individual transaction not to exceed \$25,000 to be used on behalf of the licensed entity. (b) A licensee's use of short-term financing of 90 days or less from institutional lenders and noninstitutional lenders does not constitute an undisclosed ownership interest in the license. (c) It is the intent of this subsection (7) to facilitate the efficient administration of an entity licensed under this code. (8) (a) An individual applying for an all-beverages license or having any ownership interest in an entity applying for an all-beverages license may not, if the application were to be approved, own an interest in more than half the total number of allowable all-beverages licenses in any quota area described in 16-4-201. (b) If two or more individuals through a business or family relationship share in the profits or liabilities of all-beverages licenses, the aggregate number of licenses in which they share in the profits or liabilities may not exceed half the total number of allowable all-beverages licenses in the specific quota area in which the all-beverages licenses will be held. (c) An applicant applying for an all-beverages license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not, if the application were to be approved, possess an ownership interest in more than the limit established in 16-4-205 for establishments licensed under this chapter for all-beverages sales. However, resort retail all-beverages licenses issued under 16-4-213 do not count toward this limit. (d) An applicant and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in an agency liquor store as defined in 16-1-106. (e) Except as provided in subsection (9), an applicant for an on-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages, except that an applicant's spouse may possess an ownership interest in one or more manufacturer licenses. This prohibition also applies to any individual of the applicant who must meet the requirements of subsection (2)(a). (f) An applicant for an off-premises consumption license or any member of the applicant's immediate family must be without financing from and may not have any affiliation to a manufacturer, importer, bottler, or distributor of alcoholic beverages. This prohibition also applies to any individual of the applicant who must meet the requirements of subsection (2)(a). (g) Except as provided in subsection (9), an applicant for a manufacturing, importing, or wholesaling license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not possess an ownership interest in any establishment licensed under this chapter for retail alcoholic beverage sales. (h) An applicant for a wholesale license and any individual of the applicant who must meet the requirements of subsection (2)(a) may not be a manufacturer of an alcoholic beverage or owned or controlled by a manufacturer of an alcoholic beverage. (9) (a) A person with an ownership interest in a licensed brewery or licensed winery may hold complete ownership of up to a combined total of three retail licenses issued pursuant to 16-4-105 or 16-4-201. The owner of a retail license issued pursuant to 16-4-105 or 16-4-201 may hold complete ownership of brewery or winery licenses. The first of these licenses must be a colocated license. (b) A person with an ownership interest in a licensed distillery may hold complete ownership of up to three retail licenses issued pursuant to 16-4-201. The owner of a retail license issued pursuant to 16-4-201 may hold complete ownership of distillery licenses. The first of these licenses must be a colocated license. (c) A person with an ownership interest in a retail license issued pursuant to 16-4-105 may not also have an ownership interest in a distillery license. (d) To hold both a manufacturing license and a retail license pursuant to this subsection (9), a licensee: (i) must maintain both the manufacturing license and the retail license on the same premises for the first of these licenses, known as a colocated premises; (ii) must have 100% of the same ownership between the manufacturing license and the retail license; and (iii) must provide and serve through the retail license alcohol produced by other manufacturers that are not affiliated or financially interested, either directly or indirectly, in the conduct or operation of the business in which the license was issued pursuant to 16-4-105 and 16-4-201, or the

licensed brewery, winery, or distillery. (e) Colocated licenses may transfer beer manufactured, liquor distilled, or wine produced by the licensee between the colocated manufacturing license and the retail license without it being considered distributed or delivered as provided in this code. (f) For the purposes of this code, the following definitions apply: (i) "Colocated license" means a manufacturing license and a retail license owned completely by a licensee and that are operated at one premises. (ii) "Colocated premises" means a premises where a manufacturing license and a retail license are both located. History: En. Sec. 10, Ch. 84, L. 1937; amd. Sec. 1, Ch. 76, L. 1945; amd. Sec. 1, Ch. 244, L. 1947; amd. Sec. 1, Ch. 10, L. 1957; Sec. 4-412, R.C.M. 1947; amd. and redes. 4-4-108 by Sec. 90, Ch. 387, L. 1975; R.C.M. 1947, 4-4-108; amd. Sec. 2, Ch. 186, L. 1979; amd. Sec. 3, Ch. 359, L. 1981; amd. Sec. 1, Ch. 178, L. 1983; amd. Sec. 20, Ch. 19, L. 1985; amd. Sec. 1, Ch. 133, L. 1985; amd. Sec. 28, Ch. 68, L. 1987; amd. Sec. 36, Ch. 530, L. 1995; amd. Sec. 2, Ch. 148, L. 1999; amd. Sec. 4, Ch. 448, L. 2001; amd. Sec. 5, Ch. 591, L. 2005; amd. Sec. 1, Ch. 197, L. 2007; amd. Sec. 2, Ch. 211, L. 2013; amd. Sec. 7, Ch. 336, L. 2019; amd. Sec. 2, Ch. 161, L. 2021; amd. Sec. 5, Ch. 568, L. 2021; amd. Sec. 13, Ch. 601, L.2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-402. Application -- investigation

16-4-402. Application -- investigation. (1) Prior to the issuance of a license under this chapter, the applicant shall file with the department an application containing information and statements relative to the applicant and the premises where the alcoholic beverage is to be sold as required by the department. (2) (a) Upon receipt of a completed application for a license under this code, accompanied by the necessary license fee, the department of justice shall make a thorough investigation of all matters relating to the application. Based on the results of the investigation or on other information, the department shall determine whether: (i) the applicant is qualified to receive a license; and (ii) (A) the applicant's premises are suitable for the carrying on of the business; (B) the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with 16-4-417; or (C) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business. (b) This subsection (2) does not apply to a catering endorsement provided in 16-4-111 or 16-4-204(5), a retail beer and wine license for off-premises consumption as provided in 16-4-115, or a special permit provided in 16-4-301. (c) For an original license application and an application for transfer of ownership or location of a license, the department of justice's investigation and the department's determination under this subsection (2) must be completed within 90 days of the receipt of a completed application. If information is requested from the applicant by either department, the time period in this subsection (2)(c) is tolled until the requested information is received by the requesting department. The time period is also tolled if the applicant requests and is granted a delay in the license determination or if the license is for premises that are to be altered, as provided in 16-3-311, or newly constructed. The basis for the tolling of the deadline must be documented. (3) (a) Upon proof that an applicant made a false statement in any part of the original application, in any part of an annual renewal application, or in any hearing conducted pursuant to an application, the application for the license may be denied, and if issued, the license may be revoked. (b) A statement on an application or at a hearing that is based upon a verifiable assertion made by a governmental officer, employee, or agent that an applicant relied upon in good faith may not be used as the basis of a false statement for a denial or revocation of a license. History: En. Sec. 6, Ch. 84, L. 1937; Sec. 4-408, R.C.M. 1947; amd. and redes. 4-4-303 by Sec. 85, Ch. 387, L. 1975; amd. Sec. 9, Ch. 496, L. 1977; Sec. 4-4-303, R.C.M. 1947; (1), (3) En. Sec. 5, Ch. 84, L. 1937; amd. Sec. 2, Ch. 221, L. 1939; amd. Sec. 2, Ch. 163, L. 1941; Sec. 4-407, R.C.M. 1947; amd. and redes. 4-4-301 by Sec. 83, Ch. 387, L. 1975; amd. Sec. 7, Ch. 496, L. 1977; Sec. 4-4-301, R.C.M. 1947; Sec. 16-4-206, MCA 1979; redes. 16-4-402(1) and (3) by Code Commissioner, 1979; amd. Sec. 1, Ch. 18, L. 1979; amd. Sec. 3, Ch. 37, L. 1983; amd. Sec. 1, Ch. 51, L. 1983; amd. Sec. 6, Ch. 156, L. 1991; amd. Sec. 6, Ch. 414, L. 1993; amd. Sec. 4, Ch. 599, L. 1993; amd. Sec. 3, Ch. 228, L. 1995; amd. Sec. 5, Ch. 528, L. 1997; amd. Sec. 2, Ch. 54, L. 1999; amd. Sec. 6, Ch. 110, L. 2003; amd. Sec. 1, Ch. 257, L. 2007; amd. Secs. 11, 12, Ch. 5, Sp. L. November 2017; amd. Sec. 8, Ch. 336, L. 2019; amd. Sec. 8, Ch. 342, L. 2019; amd. Sec. 5, Ch. 479, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-404. Protest period -- contents of license -- posting -- privilege -- transfer

16-4-404. Protest period -- contents of license -- posting -- privilege -- transfer. (1) A license may not be issued until on or after the date set in the notice for hearing protests. (2) Every license issued under this code must state the name of the person to whom it is issued, the location, by street and number or other appropriate specific description of location if no street address exists, of the premises where the business is to be carried on under the license, and other information the department considers necessary. If the licensee is a partnership or if more than one person has an interest in the business operated under the license, the names of all persons in the partnership or interested in the business must appear on the license. Every license must be posted in a conspicuous place on the premises in which the business authorized under the license is conducted, and the license must be exhibited on request to any authorized representative of the department or the department of justice or to any peace officer of the state of Montana. (3) A license issued under the provisions of this code is a privilege personal to the licensee named in the license and is valid until the expiration of the license unless sooner revoked or suspended. (4) A license may be transferred pursuant to 16-4-431 to the personal representative, executor, or administrator of the estate of a deceased licensee, or to a designee of the personal representative, executor, or administrator, when the estate consists in whole or in part of the business of selling alcoholic beverages under a license. The license may descend or be disposed of with the licensed business under appropriate probate proceedings. (5) A licensee may apply to the department for a transfer of the license to different premises within the quota area. The department may, after notice and

opportunity for protest, permit a transfer if the transfer is justified by public convenience and necessity, pursuant to 16-4-203, unless a public convenience and necessity hearing is required by 16-4-207. (6) On a bona fide sale of the business operated under a license, the license may be transferred to a qualified purchaser. A transfer of a license to a person or location is not effective unless approved by the department. A licensee or transferee or proposed transferee who operates or attempts to operate under a supposedly transferred license prior to the approval of the transfer by the department, endorsed on the license in writing, is considered to be operating without a license and the license affected may be revoked or suspended by the department. (7) The alcoholic beverage inventory of an existing licensee may be transferred under the following scenarios: (a) on a bona fide sale of the business operated under a license when the department: (i) has granted temporary operating authority to the buyer to operate the license; or (ii) has approved transfer of the license to the buyer; (b) on a license type change at an existing licensed premises when the department has granted temporary operating authority or approved the issuance of the new license, as long as the alcoholic beverage is allowed by the new license type; (c) on approval of a corporate structure change at an existing licensed premises; (d) on the sale of a license to be floated out of a quota area when the department has granted temporary operating authority or approved the license transfer; or (e) when a licensee is going out of business but only if the unopened alcohol is in its original packaging and the licensee receiving the alcohol is licensed for that type of alcohol. (8) Except as provided in 16-4-204 and subsections (2) through (7) of this section, a license may not be transferred or sold or used for any place of business not described in the license. A license may be subject to mortgage and other valid liens, in which event the name of the mortgagee, on application to and approval of the department, must be endorsed on the license. Beer or wine sold to a licensee on credit pursuant to 16-3-243 or 16-3-406 does not create a lien on a license, but a subsequent licensee has the obligation to pay for the beer or wine. History: (1) En. Sec. 1, Ch. 202, L. 1951; amd. Sec. 1, Ch. 145, L. 1965; Sec. 4-407.1, R.C.M. 1947; amd. and redes. 4-4-302 by Sec. 84, Ch. 387, L. 1975; amd. Sec. 8, Ch. 496, L. 1977; R.C.M. 1947, 4-4-302(part); (2) thru (7) En. Sec. 8, Ch. 84, L. 1937; amd. Sec. 1, Ch. 97, L. 1951; Sec. 4-410, R.C.M. 1947; amd. and redes. 4-4-206 by Sec. 88, Ch. 387, L. 1975; R.C.M. 1947, 4-4-206(part); redes. from 16-4-204(1)-(5), (8) by Code Commissioner, 1983; amd. Sec. 29, Ch. 68, L. 1987; amd. Sec. 7, Ch. 156, L. 1991; amd. Sec. 1, Ch. 311, L. 1993; amd. Sec. 8, Ch. 414, L. 1993; amd. Sec. 6, Ch. 528, L. 1997; amd. Sec. 2, Ch. 6, L. 2023; amd. Sec. 2, Ch. 28, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-405. Denial of license

16-4-405. Denial of license. (1) The department may deny the issuance of a retail alcoholic beverages license if it determines that the premises proposed for licensing are off regular police beats and cannot be properly policed by local authorities. (2) A retail license may not be issued by the department for a premises situated within a zone of a city, town, or county where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department. (3) A license under this code may not be issued if the department finds from the evidence at the hearing held pursuant to 16-4-207(3) that: (a) the welfare of the people residing or of retail licensees located in the vicinity of the premises for which the license is desired will be adversely and seriously affected; (b) if required, there is not a public convenience and necessity justification pursuant to 16-4-203; (c) the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria established by this code; or (d) the purposes of this code will not be carried out by the issuance of the license. History: (1), (2) En. Sec. 14, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.36, R.C.M. 1935; amd. Sec. 1, Ch. 225, L. 1947; amd. Sec. 1, Ch. 165, L. 1949; amd. Sec. 1, Ch. 55, L. 1955; amd. Sec. 1, Ch. 205, L. 1959; amd. Sec. 1, Ch. 271, L. 1965; amd. Sec. 1, Ch. 31, L. 1974; Sec. 4-333, R.C.M. 1947; amd. and redes. 4-4-201 by Sec. 66, Ch. 387, L. 1975; amd. Sec. 5, Ch. 496, L. 1977; Sec. 4-4-201, R.C.M. 1947; (3) En. Sec. 1, Ch. 202, L. 1951; amd. Sec. 1, Ch. 145, L. 1965; Sec. 4-407.1, R.C.M. 1947; amd. and redes. 4-4-302 by Sec. 84, Ch. 387, L. 1975; amd. Sec. 8, Ch. 496, L. 1977; Sec. 4-4-302, R.C.M. 1947; R.C.M. 1947, 4-4-201 (part), 4-4-302 (part); amd. Sec. 30, Ch. 68, L. 1987; amd. Sec. 8, Ch. 156, L. 1991; amd. Sec. 7, Ch. 528, L. 1997; amd. Sec. 6, Ch. 479, L. 2019.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-406. Renewal -- suspension or revocation -- penalty -- mitigating and aggravating circumstances -- contrived events

16-4-406. Renewal -- suspension or revocation -- penalty -- mitigating and aggravating circumstances -- contrived events. (1) The department shall, upon a written, verified complaint of a person, request that the department of justice investigate the action and operation of a brewer, winery, wholesaler, domestic distillery, table wine distributor, beer or wine importer, retailer, concessionaire, or any other person or business licensed or registered under this code. (2) Subject to the opportunity for a hearing under the Montana Administrative Procedure Act, if the department, after reviewing admissions of either the licensee or concessionaire or receiving the results of the department of justice's or a local law enforcement agency's investigation, has reasonable cause to believe that a licensee or concessionaire has violated a provision of this code or a rule of the department, it may, in its discretion and in addition to the other penalties prescribed: (a) reprimand a licensee or concessionaire or both; (b) proceed to revoke the license of the licensee or the concession agreement of the concessionaire or both only if the violations jeopardize health, welfare, and safety or there is not a proposed cure in place; (c) suspend the license or the concession agreement or both for a period of not more than 3 months; (d) refuse to grant a renewal of the license or concession agreement or both after its expiration only if the violations jeopardize health, welfare, and safety or there is not a proposed cure in place; or (e) impose a civil penalty not to exceed \$1,500. (3) The department shall consider mitigating circumstances and may adjust penalties within penalty ranges based on its consideration of mitigating circumstances. Examples of mitigating circumstances are: (a) there have been no violations by the licensee or concessionaire or both

within the past 3 years; (b) there have been good faith efforts by the licensee or concessionaire or both to prevent a violation; (c) written policies exist that govern the conduct of the licensee's employees or the concessionaire's employees or both; (d) there has been cooperation in the investigation of the violation that shows that the licensee or concessionaire or both or an employee or agent of the licensee or concessionaire or both accepts responsibility; or (e) the licensee or concessionaire or both have provided responsible alcohol server training to all of their employees. (4) The department shall consider aggravating circumstances and may adjust penalties within penalty ranges based on its consideration of aggravating circumstances. Examples of aggravating circumstances are: (a) prior warnings about compliance problems; (b) prior violations within the past 3 years; (c) lack of written policies governing employee conduct; (d) multiple violations during the course of the investigation; (e) efforts to conceal a violation; (f) the intentional nature of the violation; or (g) involvement of more than one patron or employee in a violation. (5) The department may not issue a violation to a licensee or a concessionaire provided the investigation was not based on complaints or on observed misconduct but was based solely on a contrived event by the investigating authority or another designated organization creating the opportunity for a violation. The department may issue a violation only if the licensee or concessionaire fails more than two contrived event investigations within a 3-year period beginning with the first failure. For purposes of this section, the first two violations resulting from a contrived event investigation within a 3-year period do not constitute a violation of this code, and the department may not consider these violations in considering any mitigating circumstances and penalties as provided in this section. History: En. Sec. 46, Ch. 106, L. 1933; re-en. Sec. 2815.45, R.C.M. 1935; amd. Sec. 8, Ch. 166, L. 1951; Sec. 4-342, R.C.M. 1947; amd. and redes. 4-4-402 by Sec. 69, Ch. 387, L. 1975; R.C.M. 1947, 4-4-402; amd. Sec. 9, Ch. 156, L. 1991; amd. Sec. 9, Ch. 414, L. 1993; amd. Sec. 4, Ch. 163, L. 2001; amd. Sec. 7, Ch. 110, L. 2003; amd. Sec. 1, Ch. 327, L. 2013; amd. Sec. 1, Ch. 97, L. 2015; amd. Sec. 7, Ch. 479, L. 2019; amd. Sec. 1, Ch. 103, L. 2021; amd. Sec. 6, Ch. 568, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-407. Renewal and nonrenewal of licenses -- notices of federal permit

16-4-407. Renewal and nonrenewal of licenses -- notices of federal permit. (1) Each July 1 or, when applicable, on the licensee's anniversary date, the department shall issue licenses to brewers, wineries, distillers, beer importers, beer wholesalers, table wine distributors, or retailers on an annual basis on receipt of a completed renewal form and payment of the fees prescribed by law. (2) Subject to the opportunity for a hearing, the department may refuse to renew a license if the licensee no longer qualifies for licensure under 16-4-401, a completed license renewal form has not been received, or the annual renewal fees required by 16-4-501 are not paid by July 1 or, when applicable, the licensee's anniversary date. (3) The department shall notify each applicant for an original license or renewal that it is the applicant's responsibility to determine if applicable provisions of federal law require the applicant to obtain a permit from a federal agency. History: En. Sec. 2, Ch. 235, L. 1943; Sec. 4-406, R.C.M. 1947; amd. and redes. 4-4-404 by Sec. 82, Ch. 387, L. 1975; amd. Sec. 12, Ch. 496, L. 1977; R.C.M. 1947, 4-4-404; amd. Sec. 2, Ch. 29, L. 1983; amd. Sec. 21, Ch. 19, L. 1985; amd. Sec. 3, Ch. 54, L. 1999; amd. Sec. 5, Ch. 163, L. 2001; amd. Sec. 1, Ch. 42, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-408. Renewal of suspended licenses

16-4-408. Renewal of suspended licenses. After suspension or revocation of a license, the department shall have the power to renew the same if in its discretion a proper showing therefor has been made. History: En. Sec. 27, Ch. 84, L. 1937; Sec. 4-429, R.C.M. 1947; amd. and redes. 4-4-405 by Sec. 102, Ch. 387, L. 1975; R.C.M. 1947, 4-4-405.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-411. Appeals concerning alcoholic beverages laws

16-4-411. Appeals concerning alcoholic beverages laws. (1) Any interested party shall have the right to appeal any decision of the department of revenue concerning the issuance, transfer, suspension, or revocation of alcoholic beverages licenses to the district court in the county in which the issuance, transfer, suspension, or revocation occurred. (2) The appeal must be in conformity with the provisions of Title 2, chapter 4, part 7. History: En. 82A-1808 by Sec. 2, Ch. 207, L. 1973; en. 82A-1808 by Sec. 64.1, Ch. 391, L. 1973; R.C.M. 1947, 82A-1808; amd. Sec. 1, Ch. 135, L. 1985; amd. Sec. 31, Ch. 68, L. 1987; amd. Sec. 5, Ch. 535, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-412. Limits on concurrent applications

16-4-412. Limits on concurrent applications. An application for the issuance of a new license or for the transfer of an existing license may not be considered by the department if a previous application for the same premises is pending. An application is considered pending if a final decision: (1) has not been made by the department; or (2) has been made by the department but: (a) a petition for judicial review can still be filed or has been filed; or (b) an appeal to the Montana supreme court can still be filed or has been filed. History: En. Sec. 1, Ch. 156, L. 1991; amd. Sec. 3, Ch. 93, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-413. Denial of application -- two-year moratorium

16-4-413. Denial of application -- two-year moratorium. (1) If an application for the issuance of a new license or for the transfer of

an existing license has been denied for any reason provided in 16-4-405, the department may not consider an application or issue any retail license, special permit, or special license for those premises for 2 years unless the department, using the criteria described in subsection (3), determines that the proposed use is substantially different from the use that was rejected. The prohibition period commences on the date of the final agency decision or, if judicially reviewed, on the date the judicial decision is final. (2) If an application is withdrawn after a hearing has been held in which testimony is received regarding any reason for denial provided in 16-4-405, the effect of the withdrawal is the same as if a final decision had been made denying the application for any reason provided in 16-4-405. The 2-year prohibition against considering an application or issuing a license for that vicinity commences on the date of the withdrawal. (3) The department shall determine whether a proposed use is substantially different by considering: (a) the capacity of the proposed use; (b) the nature of the establishment; (c) the presence and character of any entertainment; and (d) the characteristics of the neighborhood. History: En. Sec. 2, Ch. 156, L. 1991; amd. Sec. 1, Ch. 32, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-414. Fingerprints required of applicants and location managers -- exceptions

16-4-414. Fingerprints required of applicants and location managers -- exceptions. (1) Except as provided in subsection (2), an applicant for a license under this code, an individual who must meet the requirements of 16-4-401 for the issuance of a new license or for the approval of the transfer of a license, and any person employed by the applicant as a location manager shall submit their fingerprints with the application to facilitate a fingerprint and background check by the department of justice and the federal bureau of investigation. The results of the investigation must be used by the department in determining the applicant's eligibility for a license. (2) (a) If the applicant is a publicly traded corporation, an officer and any person employed by the applicant as a location manager are subject to the fingerprint and background check in subsection (1). (b) If the applicant employs a business entity as a location manager, a person designated pursuant to 16-4-419(3) is subject to the fingerprint and background check in subsection (1). (c) A change in the form of a licensee's business entity that does not result in any person having a new ownership interest in the business is not grounds for the department to require a fingerprint or background check. (3) Approved applicants may use a single background check and set of fingerprints for multiple license applications within 5 years. Applicants must attest that no criminal charges have been filed since the background check was last completed. History: En. Sec. 1, Ch. 110, L. 2003; amd. Sec. 1, Ch. 495, L. 2005; amd. Sec. 7, Ch. 568, L. 2021; amd. Sec. 3, Ch. 140, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-415. Changes in business entity ownership -- department approval required

16-4-415. Changes in business entity ownership -- department approval required. (1) In the case of corporate licensees, a person or entity that does not own stock or owns less than 15% of the stock in the corporation may not receive stock that results in the person or entity's share of stock in the corporation being 15% or greater, unless the department reviews and determines that the person or entity qualifies for ownership of a license as provided in 16-4-401. (2) In the case of all other business entities, when a proposed transfer of ownership would result in a party who prior to the transfer owned no interest in the license owning 15% or more interest in the license, the proposed transfer must be submitted to the department for review. The proposed new party must qualify for ownership of an alcoholic beverage license as provided in 16-4-401. (3) An ownership interest in an alcoholic beverage license may be transferred to an existing owner with 15% or more ownership in the license without department approval, subject to reporting requirements at the time of renewal. (4) In the case of a proposed change in business entity, the proposed new business entity shall apply for a transfer of ownership of the license with the department prior to changing the business entity. The proposed new business entity must qualify for ownership of an alcoholic beverage license as provided in 16-4-401. If the existing owners and ownership percentages do not change under the proposed change in business entity, the new entity shall notify the department of the new business entity type, but prior department approval is not required. History: En. Sec. 1, Ch. 148, L. 1999; amd. Sec. 8, Ch. 568, L. 2021; amd. Sec. 8, Ch. 97, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-416. Ownership of alcoholic beverage license by United States

16-4-416. Ownership of alcoholic beverage license by United States. (1) Whenever right, title, and interest in an alcoholic beverage license vests in the United States, the United States shall promptly give notice to the department of its interest and shall have the license placed on nonuse status. The United States shall transfer ownership of the license to a qualified applicant within 180 days from the date on which it obtained an interest in the license. On receipt of an application to transfer the license, the department may, pursuant to 16-4-433, grant the applicant temporary operating authority to operate the license. (2) The department, on a showing of good cause, may in its discretion extend the time for sale of the license for an additional period of up to 180 days. History: En. Sec. 1, Ch. 90, L. 2001; amd. Sec. 3, Ch. 28, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-417. Approval of a licensee without premises -- nonuse approval

16-4-417. Approval of a licensee without premises -- nonuse approval. (1) If an applicant has a license available to obtain under 16-4-104, 16-4-201, 16-4-204, or 16-4-420 but does not have a premises, the department may approve the applicant without

approving the premises. The department shall issue the license if all other requirements of this code related to an applicant are met. (2) (a) A license issued under subsection (1) must be immediately put on nonuse status until a premises is approved by the department and may not be transferred to another person or business entity prior to approval of the premises unless that transfer is due to a death of an owner or was reasonably beyond the control of the licensee. On issuance of the license under this section, the licensee shall apply for a premises within 6 months and must have the premises approved within 1 year from issuance of the license. The department may extend the nonuse period if the licensee provides evidence that the delay in use is for reasons outside the licensee's control and that the licensee is making progress toward licensure. (b) After approval of the premises, a licensee shall operate the license for 1 year prior to transferring the license to another person or business entity unless that transfer is due to a death of an owner. (c) A licensee shall pay all licensing fees annually even if the premises has not been approved. The department may establish nonuse license fees for a license issued under this section. History: En. Sec. 1, Ch. 479, L. 2019; amd. Sec. 2, Ch. 29, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-418. Concession agreements

16-4-418. Concession agreements. (1) Except for entities licensed under 16-4-105(1)(e) or 16-4-201(8) on or after January 1, 2021, the department may allow entities licensed under 16-4-105 or 16-4-201 to enter into concession agreements with unlicensed entities to serve alcoholic beverages. A licensee may enter into a maximum of three concession agreements for each license at any given time. (2) To be considered for approval, a concession agreement must: (a) demonstrate that the licensed premises is a contiguous premises that includes the space utilized by the concessionaire; and (b) provide that the licensee retains ultimate control over and responsibility for operating the license, including: (i) the ordering, purchase, sale, and service of alcoholic beverages; (ii) the right to discipline or otherwise sanction any employee in relation to the service of alcoholic beverages; (iii) reconciling the proceeds of alcoholic beverage sales at least monthly; (iv) terminating the concession agreement with cause where cause includes but is not limited to any violation of Title 16 and the sale or transfer of the license; and (v) the exclusive operation of all gaming activities if the licensee offers any gaming. (3) A licensee's gaming endorsement may not be extended through a concession agreement. (4) Nothing in this section precludes a licensee and a concessionaire from sharing employees. (5) A licensee may enter into a management agreement to satisfy the provisions of subsection (2)(b). (6) (a) The licensee may compensate the concessionaire for the sale of alcoholic beverages based only on one of the following or a combination of the following considerations: (i) a percentage of gross alcoholic beverage sales; (ii) a percentage of employee overhead; and (iii) a fixed dollar amount to be negotiated by the parties. (b) If the licensee and concessionaire change the structure of the compensation arrangement, the department must be provided with a copy of the amended compensation arrangement but does not have the ability to deny the amended compensation arrangement as long as it meets the requirements of this section. (7) (a) Other than changes provided in subsection (6)(b), a licensee shall submit any proposed modification to an existing concession agreement for review and approval by the department. Changes include but are not limited to proposed changes in ownership of the license and the parties of an existing concession agreement choosing to operate under the provisions of this section. The department shall approve or deny the application within 30 business days unless additional information is required. The existing concession agreement may remain in place pending department approval or denial. An applicant may apply for temporary operating authority pending approval for a change in ownership of a license or to operate under the provisions of this section without terminating an existing concession agreement. (b) Parties with a concession agreement existing prior to May 14, 2021, that elect to operate under the provisions of this section shall operate under the existing concession agreement pending department approval of the new concession agreement. (8) A concession agreement does not constitute an ownership interest in the license. (9) The department shall create a standardized concession agreement that includes only the requirements of this section. (10) The concessionaire shall pay the department an application fee of \$500 for each new concession agreement or for existing concession agreements that elect to operate under the provisions of this section. The new concession agreement application fee does not apply to modification of existing concession agreements. The annual renewal fee for each concession agreement is \$100. (11) (a) For the purposes of this section, the term "contiguous premises" means the interior portion of the premises that must be a continuous area under the control of the licensee or the concessionaire and not interrupted by any area in which one of the parties does not have control. (b) The term includes multiple floors on the premises and common areas necessarily shared by multiple building tenants in order to allow patrons to access other tenant businesses or private dwellings in the same building, including but not limited to entryways, hallways, stairwells, and elevators. History: En. Sec. 2, Ch. 479, L. 2019; amd. Sec. 1, Ch. 532, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-419. Location managers

16-4-419. Location managers. (1) Each applicant and each licensee shall submit an application to the department designating at least one location manager. Except as provided in subsection (2), a location manager must meet the following requirements: (a) the location manager's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the location manager is likely to operate the establishment in compliance with all applicable laws of the state and local governments; (b) the location manager has not been convicted of a felony or, if the location manager has been convicted of a felony, the location manager's rights have been restored; and (c) the location manager is not under 19 years of age. (2) If a location manager is an applicant or owner required to be vetted under 16-4-401, the requirements of this section do not apply. (3) If an

applicant or licensee designates a business entity as a location manager, the business entity must designate at least one officer, member, or partner that meets the requirements of subsection (1). History: En. Sec. 1, Ch. 140, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-420. Restaurant beer and wine license -- competitive bidding -- rulemaking

16-4-420. Restaurant beer and wine license -- competitive bidding -- rulemaking. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions: (a) the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license; (b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that: (i) the applicant intends to open a restaurant that will meet the requirements of subsection (4) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food. The department may audit the 65% requirement at any time in the first year of ownership. (ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and (iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule; and (c) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating. (2) A completed application for a license under this section and the appropriate application fee, as provided in subsection (8), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (2)(a) and (2)(b). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether: (a) the applicant is qualified to receive a license; and (b) (i) the applicant's premises are suitable for the carrying on of the business; (ii) the applicant is qualified to receive a license prior to a determination that the applicant's premises are suitable for carrying on with the business in accordance with 16-4-417; or (iii) if the applicant has already been issued a license, the proposed premises are suitable for the carrying on of the business and the seating capacity stated on the application is correct. (3) An application for a license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405. (4) (a) For purposes of this section, "restaurant" means a public eating place: (i) where individually priced meals are prepared and served for on-premises consumption; (ii) where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food prepared on the premises and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food prepared on the premises. (iii) that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant. The dining room for the restaurant must contain at least half of the total available seats. (iv) that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. (b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant. (c) The provisions of subsections (4)(a)(iv) and (4)(b) do not apply to a restaurant for which a restaurant beer and wine license was in effect as of April 9, 2009, or to subsequent renewals of that license. (5) (a) The department shall issue a restaurant beer and wine license to a qualified applicant: (i) except as provided in subsection (5)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105; (ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105; (iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105; (iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105; and (v) for a restaurant located in a quota area that is also a resort community, as defined in 7-6-1501, if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer and wine licenses that may be issued in that quota area pursuant to 16-4-105. (b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (5) based on the percentage amounts described in subsections (5)(a)(i) through (5)(a)(v), the department shall round to the nearer whole number. (c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (5)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area. (d) (i) When the 5-mile boundary of one incorporated city or incorporated town overlaps the 5-mile boundary of another incorporated city or incorporated town, the quota area for each city or town terminates in a straight line equidistant between each city or town. A license that is restricted by quota limitations in this section may not be located farther than: (A) the county boundary within which the incorporated city or incorporated town is located; or (B) the line that separates the incorporated city's or incorporated town's boundary from another incorporated city or incorporated town as specified in this section. (ii) If there are more than two overlapping quota areas, the quota area for each city or town terminates from the center of the overlap in a straight line to the intersecting

exterior point of overlap. Licenses existing as of November 24, 2017, will be designated as belonging to whichever quota area they are in as a result of the straight line equidistant between each city or town, except for the following: (A) In the Helena and East Helena previously combined quota area, the straight line will be drawn connecting the two outermost edges of the Helena corporate boundaries and extend outward to the quota area boundaries. Any license existing as of November 24, 2017, with a physical address of Helena will become a Helena license or with a physical address of East Helena will become an East Helena license, regardless of where it falls in the new quota areas. (B) In the Pinesdale and Hamilton previously combined quota area, the straight line will be drawn along Mill Creek road to the quota area boundaries. (C) In the Polson and Ronan quota areas, the straight line will be drawn from U.S. highway 93 west on Pablo West road to the quota area boundary and east on Clairmont road extending out to the quota area boundary. Any license existing as of November 24, 2017, within the Polson quota area will become a Polson license, regardless of where it falls in the new quota areas. Any license existing as of November 24, 2017, within the Ronan quota area will become a Ronan license, regardless of where it falls in the new quota areas. (6) For a period of 12 years after November 24, 2017, existing licenses or licenses that resulted from applications in process as of November 24, 2017, in either of two quota areas that were established as provided in 16-4-105 and subsection (5)(d) of this section may be transferred between the two quota areas if they were part of the combined quota area prior to November 24, 2017. (7) When more than one new restaurant beer and wine license is subject to the competitive bidding process in the same quota area, the department shall conduct a separate competitive bidding process at separate times for each available license. (8) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in a quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. (9) When the department determines that a quota area is eligible for a new restaurant beer and wine license under subsection (6) or (8), the department shall use a competitive bidding process as provided in 16-4-430 to determine the party afforded the opportunity to apply for a new license. (10) (a) Except as provided in subsection (10)(b), beer and wine may be sold for off-premises consumption, including curbside pickup, between the hours of 11 a.m. and 11 p.m. in original packaging, prepared servings, or growlers. If offering off-premises sales, food must also be ordered, the purchase price of the off-premises beer and wine may not exceed the purchase price of the food ordered, the beer or wine must be stated on the food bill, and the sales must count toward the 65% limit as provided in this section. (b) A restaurant beer and wine licensee may apply to the department and pay a fee for an endorsement to, with the licensee's own employees 21 years of age or older, deliver beer and wine in original packaging if the delivery includes food that is prepared by the licensee at the licensee's premises. The purchase price of the delivered beer and wine may not exceed the purchase price of the delivered food. (11) The amount of the initial licensing fee is determined according to the following schedule and must be paid before the license is issued: (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or fewer; (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more. (12) The annual fee for a restaurant beer and wine license is \$400. (13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating. (14) The number of licenses issued under this section to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the number of restaurant beer and wine licenses allowed in the quota area. (15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license. (16) A person licensed under this section may possess and use liquor in the kitchen of the licensed premises only for the preparation of food and as long as the alcohol content is cooked out of the food at the time of serving. Nothing in this subsection authorizes a licensee to consume, sell, serve, or give away liquor. (17) The department may adopt rules to implement this section. History: En. Sec. 1, Ch. 465, L. 1997; amd. Sec. 2, Ch. 324, L. 1999; amd. Sec. 27, Ch. 7, L. 2001; amd. Sec. 8, Ch. 110, L. 2003; amd. Sec. 1, Ch. 348, L. 2007; amd. Sec. 1, Ch. 187, L. 2009; amd. Sec. 197, Ch. 49, L. 2015; amd. Secs. 13, 14, Ch. 5, Sp. L. November 2017; amd. Sec. 9, Ch. 342, L. 2019; amd. Sec. 8, Ch. 479, L. 2019; amd. Sec. 18, Ch. 194, L. 2021; amd. Sec. 3, Ch. 451, L. 2021; amd. Sec. 7, Ch. 60, L. 2023; amd. Sec. 4, Ch. 93, L. 2023; amd. Sec. 1, Ch. 242, L. 2023; amd. Sec. 12, Ch. 601, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-421. Denial of restaurant beer and wine license

16-4-421. Denial of restaurant beer and wine license. (1) A restaurant beer and wine license may not be issued by the department for a premises situated within a zone of a city, town, or county where the sale of alcoholic beverages is prohibited by ordinance, a certified copy of which has been filed with the department. (2) A restaurant beer and wine license may not be issued or renewed if the department finds, subject to the opportunity for a hearing pursuant to Title 2, chapter 4, part 6, that the applicant or the premises proposed for licensing fail to meet the eligibility or suitability criteria provided by law. History: En. Sec. 2, Ch. 465, L. 1997.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-422. Sale of beer and wine prohibited during certain hours

16-4-422. Sale of beer and wine prohibited during certain hours. Except as provided in 16-3-305, restaurants licensed pursuant to 16-4-420 in which beer and wine are sold, offered for sale, or given away at retail may not serve beer and wine between the hours of 11 p.m. and 11 a.m. However, if an incorporated city or town has by ordinance further restricted the hours of sale of beer and wine,

then the sale of beer and wine in restaurants licensed to sell beer and wine, pursuant to 16-4-420, is prohibited within the limits of the city or town during the time that the sale is prohibited by this section and in addition to the hours that the sale is prohibited by ordinance. History: En. Sec. 3, Ch. 465, L. 1997.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-423. Restaurant beer and wine license -- prohibited practices

16-4-423. Restaurant beer and wine license -- prohibited practices. A restaurant licensed for the sale of beer and wine pursuant to 16-4-420 may not convey to any person by any means that a person may either purchase or consume beer or wine on the premises without being required to purchase food. History: En. Sec. 4, Ch. 465, L. 1997.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-430. Competitive bidding process -- all-beverages, retail beer and wine, and restaurant beer and wine licenses

16-4-430. Competitive bidding process -- all-beverages, retail beer and wine, and restaurant beer and wine licenses. (1) (a) When the department determines that a quota area is eligible for a license under 16-4-105, 16-4-201, 16-4-204, or 16-4-420, the department shall use a competitive bidding process to determine the party afforded the opportunity to apply for the license. The department shall use a competitive bidding process when: (i) a new license becomes available in a quota area where a license of the same type is not currently available in the quota area; (ii) the opportunity to transfer a license into a quota area becomes available where a license of the same type is not currently available in the quota area; (iii) the lapse, revocation, or issuance of a license within the quota area where the license is located has created the last remaining license for that license type in the quota area; or (iv) the department's denial of an application for licensure or an applicant's withdrawal of an application for licensure has created the last remaining license for that license type in a quota area. (b) The department shall: (i) determine the minimum bid based on 75% of the market value of applicable licenses in the quota area; (ii) publish notice that a quota area is eligible for a new license; (iii) notify the bidder with the highest bid; and (iv) keep confidential the identity of bidders, number of bids, and bid amounts until the highest bidder has been approved. (2) (a) To enter the competitive bidding process, a bidder shall submit an electronic bid form provided by the department. (b) The department shall contact any bidder whose timely submitted bid form has a deficiency and shall provide that bidder with an opportunity to resubmit the bid form within 5 business days to correct any deficiency. (3) In the case of a tie for the highest bid, the tied bidders may submit new bids. The minimum bid must be the tied bid amount. To submit a new bid, a tied bidder shall submit an electronic bid form provided by the department. (4) The highest bidder shall: (a) submit an application provided by the department and applicable fees for the license within 60 days of the department's notification of being the highest bidder; (b) pay the bid amount prior to approval of the license; (c) meet all other requirements to own the license; and (d) commence business within 1 year of the department's notification, unless the department grants an extension because commencement was delayed by circumstances beyond the applicant's control. Any extension request must be made in writing to the department prior to the deadline for commencing business. (5) If the highest bidder is not approved to own the license, the department shall offer the license to the next highest bidder. That bidder shall comply with the requirements of subsection (4). If no qualified bidder is approved to own the license, the department shall reopen the competitive bidding process for the license. (6) (a) If no bids are received during the competitive bidding process, the department shall reopen the bid at a lower bid amount than initially determined in subsection (1). (b) If, after holding a competitive bidding process, the department determines that there is no significant market value for a particular license, the department may withdraw that license from the competitive bidding process and process applications for the license in the order received. (c) If a quota area is already eligible for a license as of November 24, 2017, the department shall process applications for the license in the order received. (7) (a) The successful applicant is subject to forfeiture of the license, the license fees, and the original bid amount if the successful applicant: (i) applies to transfer the awarded license to another person or business entity within 1 year after receiving the license unless that transfer is due to a death of an owner; (ii) proposes a location for the license within the first year of operation that had the same license type within the previous 12 months; or (iii) does not use the license within 1 year of receiving the license or stops using the license within 5 years. The department may extend the time for use if the successful applicant provides evidence that the delay in use is for reasons outside the applicant's control. Evidence of the delay must be made in writing to the department prior to the deadline for commencing business. (b) If a license is forfeited, the department shall determine whether there is a lien against the license. If there is a lien, the department shall notify the lienholder or secured party of the forfeiture and the lienholder or secured party may foreclose on the license and request transfer of the license pursuant to 16-4-801. If there is not a lien on the license or if the lienholder or secured party does not foreclose on the license pursuant to 16-4-801, the department shall conduct another competitive bidding process for the license. (8) A license issued under this section is not eligible to offer gambling under Title 23, chapter 5, part 3, 5, or 6. (9) Nothing in subsection (7) relating to forfeiture prohibits a lienholder or secured party from foreclosing on a license. A lien may be placed on a license issued under this section and may be foreclosed on. If a license is foreclosed on, the department shall keep the license fees and the original bid amount and the lienholder or secured party may resell the license, pending department approval of the applicant. History: En. Sec. 1, Ch. 342, L. 2019; amd. Sec. 5, Ch. 93, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-431. Death or incapacity of licensee or owner of license -- rulemaking

16-4-431. Death or incapacity of licensee or owner of license -- rulemaking.(1) The appointed conservator, guardian, personal representative, executor, or administrator shall notify the department within 90 days of appointment in the event of the death or the judicial determination of incapacity of a licensee or owner of the licensee if the licensee is an entity. In any event, the department must be notified within 180 days of the death or the judicial determination of incapacity of the licensee or owner of the licensee. (2) The department may give the appointed conservator, guardian, personal representative, executor, or administrator or a trustee, or a designee of the appointed conservator, guardian, personal representative, executor, or administrator or a trustee, written approval to continue operation of the licensed business for the duration of the existing license and to renew the license when it expires. The appointed conservator, guardian, personal representative, executor, or administrator or a trustee, or a designee, must qualify for ownership of a license as provided in 16-4-401. If the department does not grant written approval to continue operation of the licensed business or the appointed conservator, guardian, personal representative, executor, or administrator or a trustee, or a designee, does not qualify for ownership of a license as provided in 16-4-401, the license must be placed on nonuse status. (3) Within 60 days of the closing of a decedent's estate or the judicial determination of restored capacity of a previously incapacitated licensee or owner of a license and removal of a conservator or guardian, the department must be provided with a copy of a court order or other documentation resolving the matter and, if a transfer is warranted, the true party of interest shall apply to transfer the license. (4) The department may adopt rules to implement this section. History: En. Sec. 1, Ch. 6, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-432. License operation requirements

16-4-432. License operation requirements.(1) A licensee under 16-4-104, 16-4-201, 16-4-204, or 16-4-420 shall: (a) commence operating the license on issuance of the license from the department, unless the licensee was approved for a license without a premises under 16-4-417; and (b) operate the license for 1 year prior to transferring the license to another person or business entity unless that transfer is due to a death of an owner. (2) Failure to comply with the provisions of subsection (1) subjects the licensee to license revocation. History: En. Sec. 1, Ch. 29, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 4. Licensing Criteria 16-4-433. Temporary operating authority

16-4-433. Temporary operating authority.(1) The department may grant temporary operating authority to an applicant for a license issued under this code for a period not to exceed 180 days. The department may not extend the period of temporary operating authority beyond 180 days and may not grant temporary operating authority more than once for the same application. (2) To be eligible to obtain temporary operating authority, and in addition to application requirements established by the department, the following requirements must be met: (a) the license applied for must be currently operated at the proposed premises and the premises must not have been altered from the last approved floor plan; or (b) the applicant must be a current licensee in good standing. (3) An applicant is eligible to exercise all of the privileges of the license if temporary operating authority is granted by the department. (4) The department may refuse to grant temporary operating authority if the department believes that the applicant is not qualified to hold a license, the applicant's proposed premises are not suitable for the operation of the business, or the department has adverse information about the applicant or the applicant's owners, officers, or managers. The department may immediately revoke temporary operating authority if the applicant or applicant's employees violate any provision of this code or any rules adopted under it. The refusal to grant temporary operating authority is not a contested case under the Montana Administrative Procedure Act. (5) The granting of temporary operating authority is not a temporary license or a permit. It does not guarantee that the department will grant the application if it finds that the applicant is not qualified to hold a license or the premises are not suitable for the operation of the business. History: En. Sec. 1, Ch. 28, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 5. Licensing Fees 16-4-501. License and permit fees

16-4-501. License and permit fees.(1) Each beer licensee licensed to sell either beer or table wine only or both beer and table wine under the provisions of this code shall pay a license fee. Unless otherwise specified in this section, the fee is an annual fee and is imposed as follows: (a) (i) each brewer and each beer importer, wherever located, whose product is sold or offered for sale within the state, \$500; (ii) for each storage depot, \$400; (b) (i) each license for selling and distributing beer, table wine, or sacramental wine at wholesale to licensed retailers or table wine to agency liquor stores under 16-4-113, \$400; each winery, \$200; (ii) for each subwarehouse and winery storage depot, \$400; (c) each beer and wine retailer, \$400; (d) (i) for a license to sell beer at retail for off-premises consumption only, \$200; (ii) for a license to sell table wine at retail for off-premises consumption only, either alone or in conjunction with beer, \$200; (e) any unit of a nationally chartered veterans' organization, \$50. (2) The permit fee under 16-4-301(1) is computed at the following rate: (a) \$10 a day for each day that beer and table wine are sold at events, activities, or sporting contests, other than those applied for pursuant to 16-4-301(1)(c); and (b) \$1,000 a season for professional sporting contests or junior hockey contests held under the provisions of 16-4-301(1)(c). (3) The permit fee under 16-4-301(2) is \$10 for the sale of beer and table wine only or \$20 for the sale of all alcoholic beverages. (4) Passenger carrier licenses must be issued on payment by the applicant of an annual license fee in the sum of \$300. (5) The annual renewal fee for: (a) a brewer producing 10,000 or fewer barrels of beer, as defined in 16-1-406, is \$200; (b) resort retail all-beverages licenses within a given resort area is \$2,000 for each license; and (c) a continuing care retirement community limited all-beverages license is \$500 for each license. (6) Except as

provided in this section, each licensee licensed under the quotas of 16-4-201 shall pay an annual license fee as follows: (a) for each license outside of incorporated cities and incorporated towns or in incorporated cities and incorporated towns with a population of less than 2,000, \$250 for a unit of a nationally chartered veterans' organization and \$400 for all other licensees; (b) for each license in incorporated cities with a population of more than 2,000 and less than 5,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$350 for a unit of a nationally chartered veterans' organization and \$500 for all other licensees; (c) for each license in incorporated cities with a population of more than 5,000 and less than 10,000 or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$500 for a unit of a nationally chartered veterans' organization and \$650 for all other licensees; (d) for each license in incorporated cities with a population of 10,000 or more or within a distance of 5 miles, measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city, \$650 for a unit of a nationally chartered veterans' organization and \$800 for all other licensees; (e) the distance of 5 miles from the corporate limits of any incorporated cities and incorporated towns is measured in a straight line from the nearest entrance of the premises to be licensed to the nearest boundary of the city or town; and where the premises of the applicant to be licensed are situated within 5 miles of the corporate boundaries of two or more incorporated cities or incorporated towns of different populations, the license fee chargeable by the larger incorporated city or incorporated town applies and must be paid by the applicant. When the premises of the applicant to be licensed are situated within an incorporated town or incorporated city and any portion of the incorporated town or incorporated city is without a 5-mile limit, the license fee chargeable by the smaller incorporated town or incorporated city applies and must be paid by the applicant. (f) an applicant for the issuance of a resort retail all-beverages license shall pay a \$100,000 license fee on issuance of the license. The resort retail all-beverages license may be transferred to another location within the boundaries of the resort area or to another owner to be used at a location within the boundaries of the resort area. (7) The fee for one all-beverages license to a public airport is \$800. This license is nontransferable. (8) The annual fee for a retail beer and wine license to the Yellowstone airport is \$400. (9) The annual fee for a special beer and table wine license for a nonprofit arts organization under 16-4-303 is \$250. (10) (a) The annual fee for a distillery is \$600. (b) The annual fee for each distillery storage depot is \$400. (11) The license fees provided in this section are exclusive of and in addition to other license fees chargeable in Montana for the sale of alcoholic beverages. (12) In addition to other license fees, the department may require a licensee to pay a late fee of 33 1/3% of any license fee delinquent on July 1 of the renewal year or 1 year after the licensee's anniversary date, 66 2/3% of any license fee delinquent on August 1 of the renewal year or 1 year and 1 month after the licensee's anniversary date, and 100% of any license fee delinquent on September 1 of the renewal year or 1 year and 2 months after the licensee's anniversary date. (13) All license and permit fees collected under this section must be deposited as provided in 16-2-108. History: (1) thru (5), (9) En. Sec. 45, Ch. 106, L. 1933; amd. Sec. 15, Ch. 46, Ex. L. 1933; re-en, Sec. 2815.44, R.C.M. 1935; amd. Sec. 2, Ch. 246, L. 1947; amd. Sec. 1, Ch. 122, L. 1963; Sec. 4-341, R.C.M. 1947; amd. and redes. 4-4-401 by Sec. 68, Ch. 387, L. 1975; amd. Sec. 10, Ch. 496, L. 1977; Sec. 4-4-401, R.C.M. 1947; (6) En. 4-4-204 by Sec. 81, Ch. 387, L. 1975; Sec. 4-4-204, R.C.M. 1947; (7) En. Sec. 4, Ch. 84, L. 1937; amd. Sec. 1, Ch. 221, L. 1939; amd. Sec. 1, Ch. 163, L. 1941; amd. Sec. 1, Ch. 211, L. 1943; amd. Sec. 1, Ch. 236, L. 1947; amd. Sec. 1, Ch. 356, L. 1974; Sec. 4-404, R.C.M. 1947; R.C.M. 1947, 4-4-404 (part), 4-4-204 (part), 4-4-401(part); amd. Sec. 13, I.M. No. 81, app. Nov. 7, 1978; (8) En. Sec. 2, Ch. 461, L. 1979; amd. Sec. 1, Ch. 181, L. 1981; amd. Sec. 2, Ch. 401, L. 1981; amd. Sec. 4, Ch. 519, L. 1981; amd. Sec. 3, Ch. 29, L. 1983; amd. Sec. 2, Ch. 51, L. 1983; amd. Sec. 4, Ch. 595, L. 1983; amd. Sec. 22, Ch. 19, L. 1985; amd. Sec. 2, Ch. 141, L. 1985; amd. Sec. 32, Ch. 68, L. 1987; amd. Sec. 2, Ch. 380, L. 1987; amd. Sec. 21, Ch. 83, L. 1989; amd. Sec. 2, Ch. 225, L. 1989; amd. Sec. 2, Ch. 371, L. 1997; amd. Sec. 8, Ch. 528, L. 1997; amd. Sec. 4, Ch. 54, L. 1999; amd. Sec. 6, Ch. 163, L. 2001; amd. Sec. 2, Ch. 405, L. 2001; amd. Sec. 5, Ch. 369, L. 2003; amd. Sec. 2, Ch. 293, L. 2005; amd. Sec. 6, Ch. 591, L. 2005; amd. Sec. 9, Ch. 501, L. 2007; amd. Sec. 3, Ch. 271, L. 2017; amd. Sec. 9, Ch. 336, L. 2019; amd. Sec. 3, Ch. 473, L. 2019; amd. Sec. 4, Ch. 55, L. 2023; amd. Sec. 8, Ch. 60, L. 2023; amd. Sec. 4, Ch. 138, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 5. Licensing Fees 16-4-502. Census

16-4-502. Census. The census taken under the direction of congress shall be the basis upon which the respective populations of the counties and incorporated cities or towns shall be determined. However, in the interim between censuses, the department shall use as such basis the most recent population estimates published by the bureau of the census, United States department of commerce. History: En. Sec. 4, Ch. 84, L. 1937; amd. Sec. 1, Ch. 221, L. 1939; amd. Sec. 1, Ch. 163, L. 1941; amd. Sec. 1, Ch. 211, L. 1943; amd. Sec. 1, Ch. 236, L. 1947; amd. Sec. 1, Ch. 356, L. 1974; Sec. 4-404, R.C.M. 1947; amd. and redes. 4-4-403 by Sec. 119, Ch. 387, L. 1975; amd. Sec. 11, Ch. 496, L. 1977; R.C.M. 1947, 4-4-403; amd. Sec. 4, Ch. 25, L. 1981.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 5. Licensing Fees 16-4-503. City and county licenses -- fees

16-4-503. City and county licenses -- fees. The city council of any incorporated town or city or the county commissioners outside of any incorporated town or city may provide for the issuance of licenses to persons to whom a retail license has been issued under the provisions of this code and may fix license fees, not to exceed a sum equal to five-eighths of the fee for an all-beverages license or 100% of the fee for a beer or beer and wine license collected by the department from such licensee under this code. History: En. Sec. 28, Ch. 84, L. 1937; Sec. 4-430, R.C.M. 1947; amd. and redes. 4-4-406 by Sec. 103, Ch. 387, L. 1975; amd. Sec. 1, Ch. 509, L. 1977; R.C.M. 1947, 4-4-406.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 8. Liquor License Security Interest 16-4-801. Security interest in alcoholic beverage license -- definitions

16-4-801. Security interest in alcoholic beverage license -- definitions. (1) (a) A security interest in an alcoholic beverage license is an interest in the alcoholic beverage license that secures payment or performance of an obligation. A contract for the sale of an alcoholic beverage license, including a provision allowing the seller to retain an ownership interest in the license solely for the purpose of guaranteeing payment for the license, may, for the purposes of this section, be treated as a security interest. (b) For the purposes of this section: (i) "alcoholic beverage" means a license issued under this chapter; and (ii) "default" means that: (A) the defaulting party has acknowledged in writing pursuant to the terms of a written security agreement or contract for sale that the defaulting party no longer has any ownership interest or any other rights to possess or control the alcoholic beverage license; (B) a court of competent jurisdiction has made an order foreclosing all of the defaulting party's interests in the license; or (C) there has been a nonjudicial sale by the secured party made pursuant to the Uniform Commercial Code and the secured party has provided written proof of the sale to the department. (2) The department, after review of the underlying documents creating the security interest, may approve a transfer of ownership of an alcoholic beverage license subject to a security interest as provided in subsection (1). A person holding a security interest may not have any control in the operation of the business operated under a license subject to a security interest nor may that person share in the profits or the liabilities of the business other than the payment or performance of the licensee's obligation under a security agreement. (3) (a) Within 7 days of a default by a licensee, the person holding the security interest shall give notice to the department of the licensee's default and either apply to have the license transferred to that person, subject to that person meeting the requirements of 16-4-401 and all other applicable provisions of this code, or the person shall place the license on nonuse status. On receipt of an application to transfer the license, the department may, pursuant to 16-4-433, grant the applicant temporary operating authority to operate the license. If the person holding the license places the license on nonuse status, the person shall transfer ownership of the license within 180 days from the date on which the notice of the default was given to the department. The operation of a business under a license by a person holding a security interest for more than 7 days after default of the licensee or without temporary operating authority issued by the department must be considered to be a violation of this code and constitutes grounds for the department to either deny an application for transfer of the license or for the revocation of the license pursuant to 16-4-406. (b) If the person holding the security interest does not qualify for or cannot qualify for ownership of an alcoholic beverage license under 16-4-401, the secured party shall transfer ownership of the alcoholic beverage license within 180 days of the notice of the default of the licensee. (c) The department, on a showing of good cause, may in its discretion extend the time for sale of the license for an additional period of up to 180 days. (4) (a) A regulated lender, as defined in 31-1-111, may obtain a security interest in an alcoholic beverage license or in other assets of a business operating an alcoholic beverage license to secure a loan or a guaranty of a loan. A regulated lender may use loan and collateral documentation and loan and collateral structure consistent with that used by the regulated lender in commercial loans generally, and the documentation and structure used by the lender do not create an undisclosed ownership interest in the alcoholic beverage license or the licensee's business by a coborrower or guarantor if the department determines the borrower, coborrower, guarantor, and owner or owners of the assets pledged as collateral meet the requirements of 16-4-401. As used in this subsection (4), permissible loan and collateral structuring includes but is not limited to permitting owners and nonowners of an alcoholic beverage license to: (i) be coborrowers of a borrower's loan; (ii) be guarantors of a borrower's loan, with or without a requirement that the regulated lender exhaust remedies against the borrower before collecting from the guarantor; or (iii) pledge assets as collateral for a borrower's loan or for a guaranty of a borrower's loan. (b) A person claiming a security interest in an alcoholic beverage license may submit to the department copies of documents evidencing the security interest, the license number, and a \$30 notification fee. The department shall deposit the fee as provided in 16-2-108. The department may create and provide a form to be used for this purpose. (c) The department shall notify those that have filed information provided in subsection (4)(b): (i) at least 20 days prior to issuance of an order of default for revocation, nonrenewal, or lapse of a license; or (ii) immediately after the department's office of dispute resolution has issued a decision to uphold the department's revocation or nonrenewal of a license under 16-4-406 or lapse of a license under 16-3-310. (5) When a licensee is the borrower, an owner of the licensee may make a payment on the institutional loan. If a payment is made under this subsection (5): (a) the party making the payment must be vetted and approved prior to making the payment; (b) the licensee shall notify the department within 90 days that the payment was made and designate whether the payment will be treated as a loan or an equity investment as follows: (i) for a payment treated as a loan, the licensee shall memorialize the loan by a written agreement, which must be provided to the department; or (ii) for a payment treated as an equity investment, if a change in ownership percentage occurs as a result, the licensee shall follow department requirements for disclosing changes in ownership percentages; and (c) the funds used for the payment must be the party's own funds or funds borrowed from an institutional lender. (6) If a borrower, coborrower, or guarantor is not the licensee or an owner of the licensee, the coborrower or guarantor may make a payment on the institutional loan, and the payment does not create an undisclosed ownership interest in the alcoholic beverage license by the borrower, coborrower, or guarantor only if: (a) the licensee notifies the department within 90 days that the payment was made; (b) the payment is made as a loan that is memorialized by a written agreement; and (c) the funds used for the payment are the coborrower's or guarantor's own funds or funds borrowed from an institutional lender. (7) A regulated lender that obtains a security interest in an alcoholic beverage license or in other assets of a business operating an alcoholic beverage license has no duty to ensure a coborrower's or guarantor's compliance with the requirements of subsection (5) or (6) in connection with loan or guaranty payments it may receive from the coborrower or guarantor. (8) For the purposes of subsections (5) and (6), the term "borrower" means the party that is primarily responsible for making payments and that receives the funds or on whose behalf the funds were

paid. History: En. Sec. 1, Ch. 280, L. 1999; amd. Sec. 1, Ch. 422, L. 2003; amd. Sec. 1, Ch. 62, L. 2009; amd. Sec. 1, Ch. 301, L. 2017; amd. Sec. 4, Ch. 28, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 9. Connoisseur's Licenses 16-4-901. Connoisseur's licenses -- application -- fees

16-4-901. Connoisseur's licenses -- application -- fees. (1) A person in this state desiring to receive direct shipments of beer from an out-of-state brewery for the person's own consumption and not for resale shall file with the department an application for a connoisseur's license. The application must be accompanied by a registration fee in the amount of \$50 for a beer connoisseur's license. (2) Each application for a license must be on a form prescribed by the department and must set forth the name of the applicant, the applicant's home or business address, proof that the applicant is at least 21 years of age, and other information that the department may require. (3) A connoisseur's license expires on June 30 of each calendar year. A licensee may annually renew a license with the department by paying a \$25 renewal fee for a beer connoisseur's license. (4) The holder of a connoisseur's license may not sell beer to the public. (5) The department shall adopt rules to provide procedures for the application for and the provision of a connoisseur's license. History: En. Sec. 7, Ch. 543, L. 2001; amd. Sec. 8, Ch. 184, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 9. Connoisseur's Licenses 16-4-902. Payment of taxes -- authority of department

16-4-902. Payment of taxes -- authority of department. (1) A person holding a connoisseur's license shall pay, on June 30 and December 31, the beer taxes imposed by Title 16, chapter 1, part 4, on beer that is received by direct shipment from an out-of-state brewery during the previous 6-month period. (2) Each holder of a connoisseur's license shall file with the department a return, on a form provided by the department, and pay the tax for shipments received. History: En. Sec. 8, Ch. 543, L. 2001; amd. Sec. 9, Ch. 184, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 9. Connoisseur's Licenses 16-4-903. Direct shipment of beer -- limitations

16-4-903. Direct shipment of beer -- limitations. (1) Subject to the provisions of 16-4-901, the holder of a connoisseur's license may receive up to 288 bottles or 12 cases of beer from an out-of-state brewery during a 12-month period for personal use and not for resale. (2) A licensee under this section shall forward to the out-of-state brewery a distinctive address label, provided by the department, clearly identifying any package that is shipped as a legal direct-shipment package to the holder of a connoisseur's license. (3) A licensee shall report to the department, on June 30 and December 31, the total amount of beer received from an out-of-state brewery and pay all applicable excise taxes, as provided for in Title 16, chapter 1, part 4, imposed on the receipt of beer during the previous 6 months. History: En. Sec. 9, Ch. 543, L. 2001; amd. Sec. 10, Ch. 184, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 9. Connoisseur's Licenses 16-4-904. and 16-4-905 reserved

16-4-904 and 16-4-905 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 9. Connoisseur's Licenses 16-4-906. Out-of-state brewery registration -- limitation on shipping -- penalty

16-4-906. Out-of-state brewery registration -- limitation on shipping -- penalty. (1) Each out-of-state brewery desiring to ship beer to a person holding a connoisseur's license shall register with the department on forms provided by the department. (2) The annual limit on out-of-state shipments to all connoisseur's license holders is 1,440 bottles or 60 cases of beer. (3) For any shipment into the state that exceeds the limits provided for in subsection (2), the out-of-state brewery may: (a) distribute the brewery's product through a licensed wholesale distributor; or (b) distribute as a brewery in accordance with the provisions of 16-3-214. (4) An out-of-state brewery that violates the provisions of this section is subject to the penalties provided for in 16-6-302. History: En. Sec. 10, Ch. 543, L. 2001; amd. Sec. 10, Ch. 501, L. 2007; amd. Sec. 4, Ch. 516, L. 2007; amd. Sec. 11, Ch. 184, L. 2013.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 9. Connoisseur's Licenses 16-4-907. through 16-4-909 reserved

16-4-907 through 16-4-909 reserved.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 4. License Administration Part 9. Connoisseur's Licenses 16-4-910. Penalty for noncompliance

16-4-910. Penalty for noncompliance. (1) Except as provided in 16-4-906, a person who violates the provisions of this part commits a civil offense. (2) A person convicted under subsection (1): (a) for a first offense, must be mailed a certified letter by the department ordering that person to cease and desist committing the violation; (b) for a second offense, shall be fined a civil penalty not to exceed \$500; and (c) for a third or subsequent offense, shall be fined a civil penalty not to exceed \$2,500. History: En. Sec. 11, Ch. 543, L. 2001.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-101. Employment of investigators and prosecuting officers

16-6-101. Employment of investigators and prosecuting officers. (1) The department of justice may appoint one or more investigators or prosecuting officers who, under its direction, shall perform the duties it may require. (2) When requested by the department, the department of justice shall: (a) investigate the character of an applicant applying for the issuance or transfer of an alcoholic beverage license and, if applicable, the suitability of a premises or proposed premises to be used in connection with an alcoholic beverage license; (b) investigate all matters relating to the purchase, sale, importation, exportation, possession, and delivery of alcoholic beverages; and (c) serve as a liaison to local law enforcement authorities in matters relating to alcoholic beverage law enforcement. History: En. Sec. 90, Ch. 105, L. 1933; re-en. Sec. 2815.150, R.C.M. 1935; Sec. 4-225, R.C.M. 1947; amd. and redes. 4-6-201 by Sec. 39, Ch. 387, L. 1975; R.C.M. 1947, 4-6-201; amd. Sec. 10, Ch. 414, L. 1993; amd. Sec. 1, Ch. 312, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-102. Search warrants

16-6-102. Search warrants. Upon information on oath by a department of justice investigator appointed under this code or by a peace officer showing reasonable cause to believe that alcoholic beverages are unlawfully kept, or kept for unlawful purposes, in any premises, a court may issue a warrant to authorize the investigator or peace officer or any other person named in the warrant to enter and search the entire premises, including to break open any door, lock, fastening, closet, cupboard, box, or other receptacle on the premises that might contain alcoholic beverages. History: En. Sec. 74, Ch. 105, L. 1933; re-en. Sec. 2815.133, R.C.M. 1935; Sec. 4-208, R.C.M. 1947; amd. and redes. 4-6-203 by Sec. 25, Ch. 387, L. 1975; R.C.M. 1947, 4-6-203; amd. Sec. 11, Ch. 414, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-103. Examination of licensee's or agency liquor store premises and carriers' cars and aircraft -- access control systems permitted -- rulemaking

16-6-103. Examination of licensee's or agency liquor store premises and carriers' cars and aircraft -- access control systems permitted -- rulemaking. (1) The department of justice or its representative or a peace officer may at any time examine the premises of a licensee or agency liquor store to determine whether the laws of Montana and the rules of the department or the department of justice are being complied with and also may inspect cars or aircraft of any common carrier system licensed under this code. (2) (a) Nothing in subsection (1) prohibits a retail licensee who also is licensed under Title 23 from implementing an access control system that meets the requirements of this section. (b) A retail licensee implementing an access control system shall notify the department and local law enforcement prior to the date the licensee begins using an access control system. A licensee shall also notify the department and local law enforcement when the licensee ceases to use the access control system. (3) The department may adopt rules to implement this section. (4) For the purposes of this section, the following definitions apply: (a) "Access control system" means any system that temporarily restricts access to the licensed premises during business hours by locking the main entrance and requiring a person to gain access by approval of the licensee or employees of the licensee. An access control system must provide immediate access to the department or its representative or a local peace officer. (b) "Immediate access" means that the department or its representative or a local peace officer who is identified as such is not unreasonably denied access to the premises. History: En. Sec. 26, Ch. 84, L. 1937; Sec. 4-428, R.C.M. 1947; amd. and redes. 4-6-204 by Sec. 101, Ch. 387, L. 1975; R.C.M. 1947, 4-6-204; amd. Sec. 12, Ch. 414, L. 1993; amd. Sec. 1, Ch. 153, L. 2019; amd. Sec. 1, Ch. 129, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-104. Unlawful alcoholic beverage -- seizure -- forfeiture

16-6-104. Unlawful alcoholic beverage -- seizure -- forfeiture. (1) An investigator or peace officer who finds an alcoholic beverage and who has reasonable cause to believe that the alcoholic beverage was obtained or kept by any person in violation of the provisions of this code may seize and remove the alcoholic beverage and the packages in which the alcoholic beverage is kept, and upon conviction of the person, the alcoholic beverage and all packages containing the alcoholic beverages are, in addition to any other penalty prescribed by this code, forfeited to the state of Montana. (2) Any alcoholic beverage that has been shipped into Montana in violation of this code must be seized by any peace officer or representative of the department and may be confiscated in the manner as provided for the confiscation of alcoholic beverages. History: (1) En. 4-6-205 by Sec. 22, Ch. 387, L. 1975; amd. Sec. 15, Ch. 496, L. 1977; Sec. 4-6-205, R.C.M. 1947; (2) En. Sec. 14, Ch. 106, L. 1933; amd. Sec. 5, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.23, R.C.M. 1935; amd. Sec. 1, Ch. 246, L. 1947; amd. Sec. 5, Ch. 166, L. 1951; amd. Sec. 1, Ch. 222, L. 1965; Sec. 4-318, R.C.M. 1947; amd. and redes. 4-4-103 by Sec. 56, Ch. 387, L. 1975; Sec. 4-4-103, R.C.M. 1947; R.C.M. 1947, 4-4-103(part), 4-6-205; amd. Sec. 3, Ch. 47, L. 1983; amd. Sec. 33, Ch. 68, L. 1987; amd. Sec. 11, Ch. 501, L. 2007; amd. Sec. 5, Ch. 516, L. 2007; amd. Sec. 2, Ch. 312, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-105. Seizure and forfeiture of alcoholic beverage and conveyance

16-6-105. Seizure and forfeiture of alcoholic beverage and conveyance. Whenever an investigator or any peace officer in making or

attempting to make a search under and in pursuance of authority of law finds in any motor vehicle, vessel, boat, canoe, or conveyance of any description an alcoholic beverage that is unlawfully kept or had or kept or held for unlawful purposes contrary to the provisions of this code, the investigator or peace officer may seize the alcoholic beverage and packages in which the alcoholic beverage is contained and the motor vehicle, vessel, boat, canoe, or conveyance in which the alcoholic beverage is found. Upon the conviction of the occupant or person in charge of the motor vehicle, vessel, boat, canoe, or conveyance, or of any other person, for having or keeping the alcoholic beverages contrary to any of the provisions of this code in any vehicle, vessel, boat, canoe, or conveyance, the court in which the person is convicted may, in addition to the sentence imposed under authority of law, declare the alcoholic beverage or any part seized and the package in which the alcoholic beverage is contained to be forfeited to the state of Montana. The court may in and by decree further declare the motor vehicle, vessel, boat, canoe, or conveyance seized to be forfeited to the state of Montana. History: En. Sec. 75, Ch. 105, L. 1933; re-en. Sec. 2815.134, R.C.M. 1935; Sec. 4-209, R.C.M. 1947; amd. and redes. 4-6-207 by Sec. 26, Ch. 387, L. 1975; R.C.M. 1947, 4-6-207; amd. Sec. 203, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-106. When force may be used in seizure of alcoholic beverages -- forfeiture -- hearing

16-6-106. When force may be used in seizure of alcoholic beverages -- forfeiture -- hearing. (1) If an alcoholic beverage is found by a department of justice investigator or a peace officer in any place in quantities that satisfy the investigator or peace officer that the alcoholic beverage is being kept contrary to this code, the investigator or peace officer may seize and remove, by force if necessary, any alcoholic beverage found and the packages in which the alcoholic beverage was kept and immediately turn the alcoholic beverage over to the department. (2) The department shall determine if the seized alcoholic beverage is suitable for resale in an agency liquor store. If the department has determined that the seized alcoholic beverage is suitable for resale, the department shall commence an administrative action against the owner of the alcoholic beverage. All seized alcoholic beverages found to be unsuitable for sale in an agency liquor store must be destroyed by the department. (3) A notice and opportunity for hearing must be given in accordance with the Montana Administrative Procedure Act, except that the notice must be published in the county where the alcoholic beverage was seized if a newspaper is published in the county. (4) The notice must show the date and place of seizure, the name of the person or persons actually or apparently in possession or control of the alcoholic beverage if the person was present at the time of the seizure, and the reasons the department claims the right to the possession of the alcoholic beverage. The notice must also demand that all persons who claim any right to the possession of the alcoholic beverage show the nature of their claim or claims, that the hearing examiner declare the alcoholic beverage contraband, and that the hearing examiner order that the alcoholic beverage be forfeited to the state. History: En. Sec. 76, Ch. 105, L. 1933; re-en. Sec. 2815.135, R.C.M. 1935; amd. Sec. 1, Ch. 140, L. 1945; Sec. 4-210, R.C.M. 1947; amd. and redes. 4-6-208 by Sec. 27, Ch. 387, L. 1975; R.C.M. 1947, 4-6-208; amd. Sec. 14, Ch. 20, L. 1985; amd. Sec. 1, Ch. 83, L. 1985; amd. Sec. 13, Ch. 414, L. 1993; amd. Sec. 92, Ch. 42, L. 1997.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-107. Disposal of forfeited alcoholic beverages -- report

16-6-107. Disposal of forfeited alcoholic beverages -- report. (1) If a court or hearing examiner orders the forfeiture of alcoholic beverages under this code or if a claimant to an alcoholic beverage under 16-6-105 or 16-6-106 fails to establish the claimant's right to the alcoholic beverage, the alcoholic beverage in question and the packages in which the alcoholic beverage is kept must be delivered to the department. The department shall determine the market value of each forfeited alcoholic beverage found to be suitable for sale in agency liquor stores and shall pay the amount determined to the state treasurer after deducting any expenses incurred by the department for transporting the forfeited alcoholic beverage to the state liquor warehouse. The alcoholic beverage suitable for sale in an agency liquor store must be taken into stock by the department and sold under the provisions of this code. All alcoholic beverages found to be unsuitable for sale in agency liquor stores must be destroyed by the department. (2) If an alcoholic beverage is seized by a peace officer, the officer shall report to the department in writing the particulars of the seizure. History: En. Sec. 77, Ch. 105, L. 1933; re-en. Sec. 2815.136, R.C.M. 1935; Sec. 4-211, R.C.M. 1947; amd. and redes. 4-6-209 by Sec. 28, Ch. 387, L. 1975; R.C.M. 1947, 4-6-209; amd. Sec. 2, Ch. 83, L. 1985; amd. Sec. 14, Ch. 414, L. 1993; amd. Sec. 37, Ch. 530, L. 1995.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-108. Inspection of carriers' records

16-6-108. Inspection of carriers' records. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this code, the department or the department of justice or any person appointed by either department in writing for the purpose may inspect the freight and express books and records and all waybills, bills of lading, receipts, and documents in the possession of any railway company, express company, or other common carrier doing business within the state containing any information or record relating to any goods shipped or carried or consigned or received for shipment or carriage within the state. History: En. Sec. 78, Ch. 105, L. 1933; re-en. Sec. 2815.137, R.C.M. 1935; Sec. 4-212, R.C.M. 1947; amd. and redes. 4-6-210 by Sec. 29, Ch. 387, L. 1975; R.C.M. 1947, 4-6-210; amd. Sec. 15, Ch. 414, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 1. Investigations 16-6-109. Unlawful for carrier to refuse inspection of records

16-6-109. Unlawful for carrier to refuse inspection of records. Every railway company, express company, or common carrier and every officer or employee of a company or common carrier who neglects or refuses to produce and submit for inspection any book, record, or document referred to in 16-6-108 when requested to do so by the department or the department of justice or by a person appointed by either department is guilty of an offense against this code. History: En. Sec. 79, Ch. 105, L. 1933; re-en. Sec. 2815.138, R.C.M. 1935; Sec. 4-213, R.C.M. 1947; amd. and redes. 4-6-211 by Sec. 30, Ch. 387, L. 1975; R.C.M. 1947, 4-6-211; amd. Sec. 16, Ch. 414, L. 1993.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2.
Prosecutions 16-6-201. Jurisdiction of courts

16-6-201. Jurisdiction of courts. (1) As to misdemeanor actions, the district courts of this state have concurrent jurisdiction with justice of the peace courts in all prosecutions under the Montana Alcoholic Beverage Code described in 16-1-101. (2) The jurisdiction provided for in subsection (1) is in addition to the jurisdiction of: (a) justices' courts, as provided in 3-10-303; (b) municipal courts, as provided in 3-6-103; and (c) city courts, as provided in 3-11-102. History: En. Sec. 48, Ch. 106, L. 1933; amd. Sec. 16, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.47, R.C.M. 1935; amd. Sec. 9, Ch. 166, L. 1951; Sec. 4-344, R.C.M. 1947; amd. and redes. 4-6-301 by Sec. 70, Ch. 387, L. 1975; R.C.M. 1947, 4-6-301; amd. Sec. 1, Ch. 49, L. 2007.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2.
Prosecutions 16-6-202. Appeal

16-6-202. Appeal. An appeal shall lie from any conviction or order made in the prosecution of any offense against any of the provisions of this code, and the practice and procedure on any appeal from any such conviction or order and all proceedings thereon shall be governed by the law applicable to appeal in criminal cases. History: En. Sec. 89, Ch. 105, L. 1933; re-en. Sec. 2815.149, R.C.M. 1935; Sec. 4-224, R.C.M. 1947; amd. and redes. 4-6-302 by Sec. 38, Ch. 387, L. 1975; R.C.M. 1947, 4-6-302.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2.
Prosecutions 16-6-203. Description of offense

16-6-203. Description of offense. In describing the offense respecting the sale or keeping for sale or other disposal of alcoholic beverages or the having, keeping, giving, purchasing, or consumption of alcoholic beverages in any information, summons, conviction, warrant, or proceeding under this code, it shall be sufficient to state simply the sale or keeping for sale or disposal, having, keeping, giving, purchasing, or consumption of alcoholic beverages, without stating: (1) the name or kind of such alcoholic beverage or the price thereof; (2) the name of any person to whom it was sold or disposed of or by whom it was taken or consumed or from whom it was purchased or received; or (3) the quantity of alcoholic beverage, except in the case of offenses where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity. History: En. Sec. 80, Ch. 105, L. 1933; re-en. Sec. 2815.139, R.C.M. 1935; Sec. 4-214, R.C.M. 1947; amd. and redes. 4-6-303 by Sec. 31, Ch. 387, L. 1975; R.C.M. 1947, 4-6-303.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2.
Prosecutions 16-6-204. Defense need not be negated

16-6-204. Defense need not be negated. The description of any offense under this code, in the words of this code or in any words of like effect, shall be sufficient in law; and any exception, exemption, provision, excuse, or qualification, whether it occurs by way of proviso or in the description of the offense in this code, may be proved by the defendant but need not be specified or negated in the information or complaint; but if it is so specified or negated, no proof in relation to the matter so specified or negated shall be required on the part of the informant or complainant. History: En. Sec. 81, Ch. 105, L. 1933; re-en. Sec. 2815.140, R.C.M. 1935; Sec. 4-215, R.C.M. 1947; amd. and redes. 4-6-304 by Sec. 32, Ch. 387, L. 1975; R.C.M. 1947, 4-6-304.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2.
Prosecutions 16-6-205. Sufficiency of evidence

16-6-205. Sufficiency of evidence. In any prosecution under this code for the sale or keeping for sale or other disposal of alcoholic beverages or the having, keeping, giving, purchasing, or consuming of alcoholic beverages, it is not necessary that any witness testify to the precise description or quantity of the alcoholic beverages sold, disposed of, kept, had, given, purchased, or consumed or the precise consideration, if any, received for the alcoholic beverages. It is also unnecessary to testify to the fact of the sale or other disposal having taken place with the witness's participation or to the witness's own personal or certain knowledge. However, a conviction may be based upon circumstantial evidence reasonably tending to establish the guilt of the accused beyond a reasonable doubt. History: En. Sec. 82, Ch. 105, L. 1933; re-en. Sec. 2815.141, R.C.M. 1935; Sec. 4-216, R.C.M. 1947; amd. and redes. 4-6-305 by Sec. 33, Ch. 387, L. 1975; R.C.M. 1947, 4-6-305; amd. Sec. 204, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2.
Prosecutions 16-6-206. Proof of violation

16-6-206. Proof of violation. In proving the sale, disposal, gift, or purchase, gratuitous or otherwise, or consumption of an alcoholic

beverage, it shall not be necessary in any prosecution to show that any money actually passed or any alcoholic beverage was actually consumed if the court hearing the case is satisfied that a transaction in the nature of a sale, disposal, gift, or purchase actually took place or that any consumption of an alcoholic beverage was about to take place. Proof of consumption or intended consumption of an alcoholic beverage on premises on which such consumption is prohibited by some person not authorized to consume an alcoholic beverage thereon shall be evidence that such alcoholic beverage was sold, given to, or purchased by the person consuming or being about to consume or carrying away the same, as against the occupant of the premises. History: En. Sec. 83, Ch. 105, L. 1933; re-en. Sec. 2815.142, R.C.M. 1935; Sec. 4-217, R.C.M. 1947; amd. and redes. 4-6-306 by Sec. 34, Ch. 387, L. 1975; R.C.M. 1947, 4-6-306.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2. Prosecutions 16-6-207. Analyst's report as prima facie evidence of contents

16-6-207. Analyst's report as prima facie evidence of contents. In any prosecution under this code or the rules adopted to implement this code, production by a police officer, constable, inspector, or peace officer of a certificate or report signed or purporting to be signed by a United States or state analyst as to the analysis or ingredients of any alcoholic beverage or other fluid or any preparation, compound, or substance, the certificate or report is prima facie evidence of the facts stated in the certificate or report and of the authority of the person giving or making the certificate or report without any proof of appointment or signature. History: En. Sec. 84, Ch. 105, L. 1933; re-en. Sec. 2815.143, R.C.M. 1935; Sec. 4-218, R.C.M. 1947; amd. and redes. 4-6-307 by Sec. 35, Ch. 387, L. 1975; R.C.M. 1947, 4-6-307; amd. Sec. 205, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2. Prosecutions 16-6-208. Inference of intoxicating beverage

16-6-208. Inference of intoxicating beverage. The court trying a case shall, in the absence of proof to the contrary, be at liberty to infer that the alcoholic beverage in question is intoxicating from the fact that a witness described it as intoxicating or by a name which is commonly applied to an intoxicating beverage. History: En. Sec. 85, Ch. 105, L. 1933; re-en. Sec. 2815.144, R.C.M. 1935; Sec. 4-219, R.C.M. 1947; amd. and redes. 4-6-308 by Sec. 36, Ch. 387, L. 1975; R.C.M. 1947, 4-6-308.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 2. Prosecutions 16-6-209. Inferences of fact from evidence found

16-6-209. Inferences of fact from evidence found. Upon the hearing of any charge of selling or purchasing an alcoholic beverage or of unlawfully having or keeping an alcoholic beverage contrary to any of the provisions of this code, the court trying the case may draw inferences of fact from the kind and quantity of alcoholic beverage found in the possession of the person accused or in any building, premises, vehicle, motorcar, automobile, vessel, boat, canoe, conveyance, or place occupied or controlled by the accused and from the frequency with which the alcoholic beverage is received at or in or is removed from the location and from the circumstances under which the alcoholic beverage is kept or dealt with. History: En. Sec. 86, Ch. 105, L. 1933; re-en. Sec. 2815.145, R.C.M. 1935; Sec. 4-220, R.C.M. 1947; amd. and redes. 4-6-309 by Sec. 37, Ch. 387, L. 1975; R.C.M. 1947, 4-6-309; amd. Sec. 206, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-301. Transfer, sale, possession, and manufacture of alcoholic beverages -- when unlawful

16-6-301. Transfer, sale, possession, and manufacture of alcoholic beverages -- when unlawful. (1) Except as provided by this code, a person or the person's agents or employees may not: (a) expose or keep an alcoholic beverage for sale; (b) directly or indirectly or upon any pretense or upon any device, sell or offer to sell an alcoholic beverage; or (c) in consideration of the purchase or transfer of any property or for any other consideration or at the time of the transfer of any property, give to any other person an alcoholic beverage. (2) A person may not have or keep any alcoholic beverage that has not been purchased within the state of Montana. (3) This code does not prohibit: (a) a person entering this state from another state or foreign country from having in the person's actual physical possession an amount not to exceed 3 gallons of alcoholic beverage that was purchased in another state or foreign country; (b) possession of beer produced for personal or family use and not intended for sale that meets the exemptions of 26 U.S.C. 5053(e) and regulations implementing that section, including the brewing of beer, for personal or family use, on premises other than those of the person brewing the beer; (c) possession of beer purchased from an out-of-state brewery if the person possessing the beer holds a connoisseur's license as provided for in 16-4-901 or possession of table wine purchased from a winery that has a direct shipment endorsement as provided in 16-4-1101; (d) possession of alcoholic beverages by brewers, distillers, and other persons duly licensed by the United States for the manufacture of those alcoholic beverages; (e) possession of proprietary or patent medicines or of any extracts, essences, tinctures, or preparations if the possession is authorized by this code; (f) possession by a sheriff or bailiff of alcoholic beverages seized under execution or other judicial or extrajudicial process or sales under executions or other judicial or extrajudicial process to the department or a licensee; (g) possession of wine produced for personal or family use and not intended for sale that meets the exemptions of 26 U.S.C. 5042(a)(2) and regulations implementing that section, including the production of wine, for personal or family use, on premises other than those of the person producing the wine; or (h) active service members shipping personal collections of alcoholic beverages to a military base in this state. (4) Except as provided in this code, a person or the

person's agents or employees may not: (a) attempt to purchase any alcoholic beverage; (b) directly or indirectly or upon any pretense or device, purchase any alcoholic beverage; or (c) in consideration of the sale or transfer of any property or for any other consideration or at the time of the transfer of any property, take or accept from any other person any alcoholic beverage. (5) In accordance with 27 CFR 19.51, manufacturing of liquor for personal or family consumption is prohibited. History: (1) thru (3)En. Sec. 45, Ch. 105, L. 1933; amd. Sec. 1, Ch. 166, L. 1935; re-en. Sec. 2815.104, R.C.M. 1935; amd. Sec. 1, Ch. 66, L. 1957; Sec. 4-150, R.C.M. 1947; amd. and redes. 4-1-201 by Sec. 16, Ch. 387, L. 1975; Sec. 4-1-201, R.C.M. 1947; (4)En. Sec. 49, Ch. 105, L. 1933; re-en. Sec. 2815.108, R.C.M. 1935; Sec. 4-154, R.C.M. 1947; amd. and redes. 4-6-101 by Sec. 19, Ch. 387, L. 1975; Sec. 4-6-101, R.C.M. 1947; R.C.M. 1947, 4-1-201, 4-6-101; amd. Sec. 34, Ch. 68, L. 1987; amd. Sec. 3, Ch. 546, L. 1997; amd. Sec. 5, Ch. 543, L. 2001; amd. Sec. 12, Ch. 184, L. 2013; amd. Sec. 3, Ch. 312, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-302. Sale of alcoholic beverage without license -- sale or importation in violation of code -- penalty

16-6-302. Sale of alcoholic beverage without license -- sale or importation in violation of code -- penalty. (1) For the purposes of this section "person" means an individual, partnership, corporation, company, firm, society, association, joint-stock company, trust, or other entity capable of holding a legal or beneficial interest in property, but does not include a state or agency of a state. (2) A person who has not been issued a license under this code who sells or keeps for sale in Montana any alcoholic beverage commits a criminal offense and upon conviction is punishable by a fine not to exceed \$5,000 or by imprisonment in the state prison for not less than 1 or more than 5 years or by both the fine and imprisonment. (3) A person in the business of selling alcoholic beverages in another state or country who imports or distributes alcoholic beverages in violation of this code commits a civil offense. (4) A person convicted under subsection (3): (a) for a first offense, must be mailed a certified letter by the department ordering that person to cease and desist any shipments of alcoholic beverages to any person in Montana; (b) for a second offense, shall be fined a civil penalty not to exceed \$5,000; (c) for a third offense, shall be fined a civil penalty not to exceed \$10,000; and (d) for a fourth or subsequent offense, shall be fined a civil penalty not to exceed \$50,000. History: En. Sec. 18, Ch. 84, L. 1937; Sec. 4-420, R.C.M. 1947; amd. and redes. 4-4-407 by Sec. 97, Ch. 387, L. 1975; R.C.M. 1947, 4-4-407; amd. Sec. 4, Ch. 5, L. 1979; amd. Sec. 6, Ch. 543, L. 2001.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-303. Sale of liquor not purchased or transferred from agency liquor store forbidden -- penalty

16-6-303. Sale of liquor not purchased or transferred from agency liquor store forbidden -- penalty. It is unlawful for any licensee to sell or keep for sale or have on the licensee's premises for any purpose any liquor except that purchased from an agency liquor store or transferred as allowed in 16-4-404(7). Any licensee found in possession of or selling and keeping for sale any liquor that was not purchased from an agency liquor store or transferred as allowed in 16-4-404(7) shall, upon conviction, be punished by a fine of not less than \$500 or more than \$1,500, by imprisonment for not less than 3 months or more than 1 year, or by both fine and imprisonment. If the department is satisfied that the liquor was knowingly sold or kept for sale within the licensed premises by the licensee or by the licensee's agents, servants, or employees, the department shall immediately revoke the license. History: En. Sec. 17, Ch. 84, L. 1937; Sec. 4-419, R.C.M. 1947; amd. and redes. 4-6-102 by Sec. 96, Ch. 387, L. 1975; amd. Sec. 14, Ch. 496, L. 1977; R.C.M. 1947, 4-6-102; amd. Sec. 38, Ch. 530, L. 1995; amd. Sec. 5, Ch. 28, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-304. Providing alcoholic beverage to intoxicated person prohibited

16-6-304. Providing alcoholic beverage to intoxicated person prohibited. A person, including a licensee and a licensee's agents or employees, may not sell, serve, or give an alcoholic beverage to a person who is apparently under the influence of alcohol. History: En. Sec. 55, Ch. 105, L. 1933; re-en. Sec. 2815.114, R.C.M. 1935; Sec. 4-160, R.C.M. 1947; amd. and redes. 4-6-103 by Sec. 23, Ch. 387, L. 1975; R.C.M. 1947, 4-6-103; amd. Sec. 4, Ch. 312, L. 2023.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-305. Age limit for sale or provision of alcoholic beverages -- liability of provider

16-6-305. Age limit for sale or provision of alcoholic beverages -- liability of provider. (1) (a) Except in the case of an alcoholic beverage provided in a nonintoxicating quantity to a person under 21 years of age by the person's parent or guardian, physician or dentist for medicinal purposes, a licensed pharmacist upon the prescription of a physician, or an ordained minister or priest in connection with a religious observance, a person may not sell or otherwise provide an alcoholic beverage to a person under 21 years of age. (b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age. (c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce: (i) a blood, breath, or urine alcohol concentration in excess of 0.05; or (ii) substantial or visible mental or physical impairment. (2) A person is guilty of a misdemeanor who: (a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for the

person; (b) permits the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for the person; or (c) holds out the person to be 21 years of age or older to the owner of the establishment or to the owner's employee. (3) It is unlawful for any person to fraudulently misrepresent the person's age to any dispenser of alcoholic beverages or to falsely procure any identification card or to alter any of the statements contained in any identification card, including a tribal identification card. (4) A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the result of the intoxicated condition created by the violation. (See compiler's comments for contingent termination of certain text.) History: (1)En. Sec. 56, Ch. 105, L. 1933; re-en. Sec. 2815.115, R.C.M. 1935; amd. Sec. 1, Ch. 240, L. 1971; amd. Sec. 2, Ch. 94, L. 1973; Sec. 4-161, R.C.M. 1947; amd. and redes. 4-6-104 by Sec. 24, Ch. 387, L. 1975; Sec. 4-6-104, R.C.M. 1947; (2)En. Sec. 38, Ch. 84, L. 1937; amd. Sec. 2, Ch. 226, L. 1947; amd. Sec. 1, Ch. 161, L. 1951; amd. Sec. 5, Ch. 240, L. 1971; amd. Sec. 6, Ch. 94, L. 1973; Sec. 4-439, R.C.M. 1947; amd. and redes. 4-6-404 by Sec. 104, Ch. 387, L. 1975; Sec. 4-6-404, R.C.M. 1947; R.C.M. 1947, 4-6-104, 4-6-404(part); amd. Sec. 1, Ref. 74, app. Nov. 7, 1978; (3)En. Sec. 1, Ch. 26, L. 1979; amd. Sec. 4, Ch. 186, L. 1979; amd. Sec. 35, Ch. 68, L. 1987; amd. Sec. 2, Ch. 217, L. 1987; amd. Sec. 1, Ch. 448, L. 1989; amd. Sec. 2, Ch. 180, L. 2007.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-306. Bottle clubs prohibited

16-6-306. Bottle clubs prohibited. (1) The operation of alcoholic beverage bottle clubs is prohibited by any individual or entity. A bottle club is defined as any individual or entity maintaining, operating, or leasing premises not licensed for the sale of alcoholic beverages in which alcoholic beverages are kept for consumption by members of the public or for the purpose of providing a place for consuming alcoholic beverages by members of the public for a fee or other consideration. For the purposes of this subsection, "consideration" includes but is not limited to a cover charge, the sale of food, ice, mixers, or any other fluids for alcoholic beverages, the furnishing of glassware or other containers for use in the consumption of alcoholic beverages, or the expectation of a purchase of a good or service. (2) Nothing in this section prevents the service or consumption of alcoholic beverages at private gatherings. For the purposes of this subsection, "private gathering" means an event hosted by an individual that is not open to the general public and in which no fee or consideration is charged. The term does not include an event catered by a licensed retailer. (3) Nothing in this section prohibits a licensed on-premises retailer or concessionaire from opening and serving to patrons 21 years of age or older wine from a sealed bottle brought to the premises by the patron for on-premises consumption. This service may not constitute a violation of 16-3-301 or this section, regardless of whether the licensed retailer charges a corkage fee. (4) The department may assess a fine of up to \$500 against individuals or entities serving alcoholic beverages or allowing consumption of alcoholic beverages in violation of subsection (1) without a license or special permit. History: En. Sec. 1, Ch. 200, L. 1959; amd. Sec. 1, Ch. 109, L. 1963; Sec. 4-172, R.C.M. 1947; redes. 4-6-105 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-6-105; amd. Sec. 36, Ch. 68, L. 1987; amd. Sec. 9, Ch. 568, L. 2021.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-307. Consumption of alcoholic beverage on druggists' premises prohibited

16-6-307. Consumption of alcoholic beverage on druggists' premises prohibited. No person within the state of Montana shall consume any alcoholic beverage on any premises where an alcoholic beverage is kept for sale by a druggist, nor shall any druggist permit any alcoholic beverage to be consumed on such premises. History: En. Sec. 51, Ch. 105, L. 1933; re-en. Sec. 2815.110, R.C.M. 1935; Sec. 4-156, R.C.M. 1947; amd. and redes. 4-6-106 by Sec. 20, Ch. 387, L. 1975; R.C.M. 1947, 4-6-106.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-308. Patent medicine prohibition

16-6-308. Patent medicine prohibition. From and after the date of notification under 16-1-202(3), any person within the state selling or keeping for sale any such proprietary or patent medicine, extract, essence, tincture, or preparation so prohibited shall be guilty of an offense under this code. History: En. Sec. 36, Ch. 105, L. 1933; re-en. Sec. 2815.95, R.C.M. 1935; Sec. 4-141, R.C.M. 1947; amd. and redes. 4-1-203 by Sec. 15, Ch. 387, L. 1975; R.C.M. 1947, 4-1-203(part).

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-309. Alcoholic beverages administered to institution inmates

16-6-309. Alcoholic beverages administered to institution inmates. An alcoholic beverage may not be administered by any person under 16-1-204 except to bona fide patients or inmates of the institution of which the person is in charge, and every person in charge of an institution who administers alcoholic beverages in evasion or violation of this code is guilty of an offense against this code. History: En. Sec. 34, Ch. 105, L. 1933; re-en. Sec. 2815.93, R.C.M. 1935; amd. Sec. 9, Ch. 154, L. 1965; Sec. 4-139, R.C.M. 1947; amd. and redes. 4-1-205 by Sec. 13, Ch. 387, L. 1975; R.C.M. 1947, 4-1-205(part); amd. Sec. 37, Ch. 68, L. 1987; amd. Sec. 207, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-310. Officer or agent of corporation deemed party to offense

16-6-310. Officer or agent of corporation deemed party to offense. Where an offense against this code is committed by a corporation, the officer or agent of the corporation in charge of the premises in which the offense is committed shall prima facie be deemed to be a party to the offense so committed and shall be personally liable to the penalties prescribed for the offense as a principal offender. Nothing in this section shall relieve the corporation or the person who actually committed the offense from liability therefor. History: En. Sec. 72, Ch. 105, L. 1933; re-en. Sec. 2815.131, R.C.M. 1935; Sec. 4-206, R.C.M. 1947; redes. 4-6-107 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-6-107.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-311. Occupant of premises deemed party to offense

16-6-311. Occupant of premises deemed party to offense. Upon proof of the fact that an offense against this code has been committed by any person in the employ of the occupant of any house, shop, room, or other premises in which the offense is committed or by any person who is suffered by the occupant to be or remain in or upon such house, shop, room, or premises or to act in any way for the occupant, the occupant shall prima facie be deemed to be a party to the offense so committed and shall be liable to the penalties prescribed for the offense as a principal offender, notwithstanding the fact that the offense was committed by a person who is not proved to have committed it under or by the direction of the occupant. Nothing in this section shall relieve the person actually committing the offense from liability therefor. History: En. Sec. 73, Ch. 105, L. 1933; re-en. Sec. 2815.132, R.C.M. 1935; Sec. 4-207, R.C.M. 1947; redes. 4-6-108 by Sec. 120, Ch. 387, L. 1975; R.C.M. 1947, 4-6-108.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-312. Premises where alcoholic beverages illegally sold -- public nuisance

16-6-312. Premises where alcoholic beverages illegally sold -- public nuisance. Any room, house, building, boat, vehicle, structure, or place where alcoholic beverages are knowingly manufactured, sold, or bartered in violation of this code or 45-8-111 and all property knowingly kept and used in maintaining the same is hereby declared to be a public nuisance, and any person who maintains such a nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than \$100 or more than \$500 and be imprisoned not less than 30 days or more than 6 months. History: En. Sec. 8, Ch. 30, L. 1937; Sec. 4-238, R.C.M. 1947; amd. and redes. 4-6-401 by Sec. 43, Ch. 387, L. 1975; amd. Sec. 16, Ch. 496, L. 1977; R.C.M. 1947, 4-6-401.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-313. Injunction actions

16-6-313. Injunction actions. An action to enjoin any nuisance defined in this code may be brought in the name of the state of Montana by the attorney general of the state or by any county attorney. The action must be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it appears, by affidavits or otherwise, to the satisfaction of the judge that the nuisance exists, a temporary writ of injunction must be issued restraining the defendant from conducting or permitting the continuance of the nuisance until the conclusion of the trial. If a temporary injunction is sought, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the fixtures or other things used in connection with the violation of this code constituting the nuisance. A bond may not be required in instituting the proceedings. The court is not required to find that the property involved was being unlawfully used at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that alcoholic beverages may not be manufactured, sold, or bartered in the room, house, building, boat, vehicle, structure, or place or any part of those locations. Upon judgment of the court ordering the nuisance to be abated, the court may order that the room, house, building, boat, vehicle, structure, or place may not be occupied or used for 1 year. The court may permit the location to be occupied or used if the owner, lessee, tenant, or occupant gives a bond with sufficient surety, to be approved by the court making the order, in the sum of not less than \$500 or more than \$1,000, payable to the state of Montana and conditioned that alcoholic beverages will not be manufactured, sold, or bartered at the location and that the person will pay all fines, costs, and damages that may be assessed for any violations of this code upon the property. History: En. Sec. 48, Ch. 106, L. 1933; amd. Sec. 16, Ch. 46, Ex. L. 1933; re-en. Sec. 2815.49, R.C.M. 1935; Sec. 4-346, R.C.M. 1947; amd. and redes. 4-6-402 by Sec. 71, Ch. 387, L. 1975; R.C.M. 1947, 4-6-402; amd. Sec. 39, Ch. 68, L. 1987; amd. Sec. 208, Ch. 56, L. 2009.

2024 Montana Code Annotated Title 16. Alcohol, Tobacco, and Marijuana Chapter 6. Enforcement Part 3. Miscellaneous Prohibitions and Penalties 16-6-314. Penalty for violating code -- revocation of license -- penalty for violation by underage person

16-6-314. Penalty for violating code -- revocation of license -- penalty for violation by underage person. (1) A person who violates a provision of this code is guilty of a misdemeanor punishable as provided in 46-18-212, except as otherwise provided in this section. (2) If a retail licensee is convicted of an offense under this code, the licensee's license must be immediately revoked or, in the discretion of the department, another sanction must be imposed as provided under 16-4-406. (3) A person under 21 years of age who violates 16-3-301(4) or 16-6-305(3) is subject to the penalty provided in 45-5-624(2) or (3). (See compiler's comments for contingent termination of certain text.) History: En. Sec. 38, Ch. 84, L. 1937; amd. Sec. 2, Ch. 226, L. 1947; amd. Sec. 1, Ch. 161, L. 1951; amd. Sec. 5, Ch. 240, L. 1971; amd. Sec. 6, Ch. 94, L. 1973; Sec. 4-439, R.C.M. 1947; amd. and redes. 4-6-404 by Sec.

104, Ch. 387, L. 1975; R.C.M. 1947, 4-6-404(part); amd. Sec. 5, Ch. 186, L. 1979; amd. Sec. 2, Ch. 105, L. 1985; amd. Sec. 3, Ch. 217, L. 1987; amd. Sec. 22, Ch. 83, L. 1989; amd. Sec. 1, Ch. 481, L. 1995; amd. Sec. 12, Ch. 501, L. 2007; amd. Sec. 6, Ch. 516, L. 2007; amd. Sec. 14, Ch. 591, L. 2023.