**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING TITLE 61, CHAPTER 8, FOR CONSISTENCY AND CLARITY; REORGANIZING DEFINITIONS APPLICABLE TO THE CHAPTER INTO ONE SECTION; REVISING DEFINITIONS; PRESERVING SHOULDER-INCLUSIVE LEGISLATION FOR OPERATING BICYCLES, YIELDING TO EMERGENCY VEHICLES, AND MEETING OR PASSING A SCHOOL BUS; AND AMENDING SECTIONS 49-4-302, 61-6-301, 61-8-101, 61-8-102, 61-8-351, 61-8-387, 61-8-605, AND 61-12-401, MCA.”

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

Section 1. Section 49-4-302, MCA, is amended to read:

"**49-4-302. Privileges of permitholder -- privilege for disabled veteran -- exemptions from time limits -- requirements for accessible parking spaces.** (1) The parking permit issued under this part, when displayed, entitles a person to park a motor vehicle in an accessible parking space designated for use by a person with a disability, whether on public property or on private property available for public use, when the person for whom the permit was issued is using the accessible parking space to enter or exit the vehicle.

(2) A vehicle or motorcycle may not stop, stand, or park within an accessible parking space designated for use by a person with a disability as provided in 49-4-304 unless:

(a) (i) the vehicle is lawfully displaying a disability parking permit issued under this part, a distinguishing license plate or placard for a person with a disability that was issued by a foreign jurisdiction conferring parking privileges similar to those conferred in subsection (1), or an inscribed license plate displaying the letters "DV" issued under 61-3-458(4)(b) or (4)(i) or displaying a wheelchair as provided in 61-3-332(9); and

(ii) the designated accessible parking space is being used by the person for whom the permit, plate, or placard was issued to enter or exit the vehicle; or

(b) the vehicle is being used to transport a person with a disability and is temporarily stopping,

standing, or parking in an accessible parking space designated for use by a person with a disability as provided in 49-4-304 only for the purpose of loading or unloading the person with a disability.

(3) A vehicle or motorcycle may not stop, stand, or park within an access aisle designated for use by a person with a disability as provided in 49-4-304, regardless of whether a vehicle is lawfully displaying a disability parking permit issued under this part, a distinguishing license plate, or a placard for a person with a disability that was issued by a foreign jurisdiction conferring parking privileges similar to those conferred in subsection (1), or an inscribed license plate displaying the letters "DV" issued under 61-3-458(4)(b) or (4)(i) or displaying a wheelchair as provided in 61-3-332(9).

(4) Notice of the penalty for violation of this part is not required at the site of an accessible parking space.

(5) The governing body of a city, town, or county may exempt vehicles lawfully displaying a disability parking permit issued under this part and vehicles lawfully displaying inscribed license plates displaying the letters "DV" issued under 61-3-458(4)(b) or (4)(i) or displaying a wheelchair as provided in 61-3-332(9) and parked in public places along public streets from any time limitation imposed upon parking, except in areas where:

(a) stopping, standing, or parking of all vehicles is prohibited;

(b) only special vehicles may be parked; or

(c) parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

(6) (a) In accordance with subsection (2), the governing body of a city, town, or county or appropriate state agency shall impose all, but not less than all, of the applicable requirements set forth in 28 CFR 36 as of February 10, 2021, with respect to any accessible parking space constructed after September 30, 1985, and reserved for a person with a disability or a permitholder on ways of this state open to the public, as defined in ~~61-8-101~~ 61-8-102, or in the right-of-way, as defined in 60-1-103.

(b) In addition to requirements imposed under subsection (6)(a), an accessible parking space must be maintained and be free of any obstructions, including but not limited to snow, shipping pallets, and shopping carts. However, no person or business may be cited for violation of this subsection (6)(b) without an initial warning providing a reasonable amount of time to clear an obstruction."

Section 2. Section 61-6-301, MCA, is amended to read:

"**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~~ 61-8-102 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."

Section 3. Section 61-8-101, MCA, is amended to read:

"**61-8-101. ~~Application~~ Uniformity of interpretation -- application -- exceptions.** (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.~~ Interpretation of this chapter in this state must be as consistent as possible with the interpretation of similar laws in other states.

(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."

Section 4. Section 61-8-102, MCA, is amended to read:

"**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)~~(1) "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)~~(2) "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)~~(3) "Bicycle trailer" means a device with one or more wheels that is designed to be towed by a bicycle.

~~(d)~~(4) "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)~~(5) "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)~~(6) "Crosswalk" means:

~~(i)~~(a) 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)~~(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by lines or other markings on the surface.

~~(g)~~(7) "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)~~(8) "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)~~(9) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later dedicated to public use.

~~(j)~~(10) "Ignition interlock device" means ignition equipment that:

~~(i)~~(a) analyzes the breath to determine blood alcohol concentration;

~~(ii)~~(b) is approved by the department pursuant to 61-8-1025; and

~~(iii)~~(c) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific amount of an alcoholic beverage.

~~(k)~~(11) ~~(i)~~(a) "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)~~(b) 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)~~(12) "Laned roadway" means a roadway that is divided into two or more clearly marked lanes for

vehicular traffic.

~~(m)~~(13) "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)~~(14) "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)~~(15) "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)~~(16) "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.

(17) "Paved shoulder" means that portion of the shoulder that is adjacent to the edge of the roadway, continuous and level with the roadway, and paved.

~~(q)~~(18) "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)~~(19) "Police vehicle" means a vehicle used in the service of any law enforcement agency.

~~(s)~~(20) "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)~~(21) "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)~~(22) "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)~~(23) "School bus" has the meaning provided in 20-10-101.

~~(x)~~(24) "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)~~(25) "Traffic control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

~~(z)~~(26) "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.

(27) "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."

Section 5. Section 61-8-351, MCA, is amended to read:

"**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, paved shoulder, 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 or paved shoulder and the school bus will receive or discharge school children in a location outside of the roadway or paved shoulder, the school bus may not actuate the flashing red lights so long as the school children do not enter the roadway or paved shoulder.

(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)."

Section 6. Section 61-8-387, MCA, is amended to read:

"**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 not in an intersection and is parallel to and as close as possible to the right-hand edge or curb of the roadway, inclusive of a paved shoulder if it exists ~~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)."

Section 7. Section 61-8-605, MCA, is amended to read:

"**61-8-605. Riding on roadways and paved shoulders.** (1) A person may operate a bicycle on a roadway or a paved shoulder. Persons operating bicycles on a paved shoulder may ride two abreast.

(2) 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, or a paved shoulder if it exists and provides a reasonable margin of safety, 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 or a paved shoulder, 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 or a paved shoulder."

Section 8. Section 61-12-401, MCA, is amended to read:

"**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~~ 61-8-102, 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)."

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