

ORDINANCE 2024-01: CHAPTER 2 OF THE CODE OF ORDINANCES OF BROADUS MONTANA

AN ORDINANCE ADOPTING TOWN OF BROADUS TRAFFIC REGULATIONS

Section 2-1: Purpose: The purpose of this ordinance is to adopt the following Traffic Regulations for enforcement within the Town Limits of the Town of Broadus, Montana.

The Town of Broadus hereby adopts its Traffic Regulation Codes.

Section 2-2: Authority :(a) This ordinance is enacted according to the authority granted to the Town of Broadus found in Title 7, Chapter 5, Part 42 of the Montana Code Annotated, and elsewhere.

(b) The sections of this Traffic Code are intended to be uniform with the provisions of Title 61, M.C.A. No provision of this chapter which is construed by a court of law to be in conflict or at variance with Title 61 shall be enforceable, unless specific authority is given by Title 61 for such conflict or variance. (State law reference – Uniformity of provisions throughout state, MCA 61-8-103.)

(Town Code numbers are listed in bold italic print)

General Provisions

2-3 Application –exceptions (1) As used in this chapter, "ways of this municipality 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 **2-100** and **2-169**(1)(b), (1)(c), and (2), with regard to operating a vehicle while under the influence of drugs, apply anywhere within this Town;

(c) the provisions of **2-100** and **2-169** except subsections (1)(b), (1)(c), and (2) thereof, and **2-170** through **2-172**, with regard to operating a vehicle while under the influence of alcohol, apply upon all ways of this municipality 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 municipality 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.

2-4 Uniformity of interpretation – definitions (1) Interpretation of this chapter in this Town must be as consistent as possible with the interpretation of similar laws in this state.

(2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

(a) "Authorized emergency vehicle" means a vehicle of the fire department or fire patrol, an ambulance, and an emergency vehicle designated or authorized by the department.

(b) "Bicycle" means:

(i) a vehicle propelled solely by human power upon which any person may ride and that has two tandem wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position, except scooters and similar devices; or

(ii) 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. If a combustion engine is used, the maximum piston or rotor displacement may not exceed 3.05 cubic inches (50 centimeters) regardless of the number of chambers in the power source. The power source may not be capable of propelling the device, unassisted, at a speed exceeding 30 miles an hour (48.28 kilometers 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.

(c) "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.

(d) "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.

(e) "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;

(ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing by

lines or other markings on the surface.

(f) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic upon 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.

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

(h) "Ignition interlock device" means ignition equipment that:

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

(ii) is approved by the department pursuant to 2-5; 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.

(i) (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 upon 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.

(j) "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.

(k) "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 MCA 61-1-101 and includes but is not limited to the vehicles listed in MCA 61-1-101(7)(b).

(l) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with this chapter that are placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

(m) "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.

(n) "Police vehicle" means a vehicle used in the service of any law enforcement agency.

(o) "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.

(p) "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.

(q) "Right-of-way" means the privilege of the immediate use of the roadway.

(r) "School bus" has the meaning provided in MCA 20-10-101.

(s) "Sidewalk" means that 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.

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

(u) "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.

2-5 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 2-406 and elsewhere for any person to do any act forbidden or fail to perform any act required in this chapter.

2-6 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 MCA 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.

2-7 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 2-200 through 2-210) 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

2-8 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 herein stated.

(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 so long as he 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 2-205.

(4) The foregoing provisions shall 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, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

2-9 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.

2-10 Rights of owners of real property. 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.

Traffic Control Devices

2-11 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 MCA 61-8-202 are presumed to have been placed by an official act or at the discretion of a lawful authority.

2-12 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 8 and chapter 9, Title 61, MCA, 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 MCA 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.

2-13 Local traffic control devices. Local authorities in their respective jurisdictions shall place and maintain such traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic control devices hereafter erected shall conform to the state manual and specifications.

2-14 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 *2-15*, 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 *2-15*, 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 *2-15*, 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.

2-15 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.

2-16 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 **2-136**.

(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.

2-17 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.

2-18 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.

Vehicle Operating Requirements

2-100 Reckless driving – reckless endangerment of highway worker. (1) A person commits the offense of reckless driving if the person:

(a) operates a vehicle in willful or wanton disregard for the safety of persons or property; or

(b) operates a vehicle in willful or wanton disregard for the safety of persons or property while passing, in either direction, a school bus that has stopped and is displaying the visual flashing red signal, as provided in **2-139** and **2-801**. This subsection (1)(b) does not apply to situations described in **2-139(6)**.

(2) 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 **2-410**.

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

(i) avoidance of an obstacle;

(ii) an emergency; or

(iii) to protect the health and safety of an occupant of the vehicle or of another person.

(b) As used in this section:

(i) "construction zone" has the same meaning as is provided in **2-109**; and

(ii) "highway worker" means an employee of the department of transportation, a local authority, a utility company, or a private contractor.

2-101 Careless driving. (1) A person operating or driving a vehicle on a public highway 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 entitled to the use of the highway.

(2) A person who is convicted of the offense of careless driving is subject to the penalties provided in **2-406** or **2-411**.

2-102 Speed restrictions. (1) Except as provided in **2-104**, **2-105**, **2-107**, and subsection (2) of this section, the speed limit for vehicles traveling:

(a) On any public highway of this municipality in an urban district is 25 miles an hour (Unless otherwise posted).

(b) In any marked or otherwise specified school zone of this municipality is 15 miles an hour at all times day/night (Unless otherwise posted).

(2) 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.

(3) Except when a special hazard exists that requires lower speed for compliance with subsection (2), the limits specified in **2-107** and in this section or established as authorized in **2-104** through **2-106** and **2-108** are

the maximum lawful speeds allowed.

(4) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.

(5) The speed limits set forth in this section may be altered by the transportation commission or a local authority as authorized in **2-104, 2-105, 2-108 and 2-109**.

2-103 Permission of authorities to hold speed contest. 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.

2-104 Establishment of special speed zones. (1) (a) If the commission determines upon the basis of an engineering and traffic investigation that a speed limit set by MCA **61-8-303** 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, the commission may set a reasonable and safe special speed limit at that location.

(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 MCA **7-5-2141** and MCA **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) The department of transportation shall erect and maintain appropriate signs giving notice of special limits. When the signs are erected, the limits are effective for those zones at all times or at other times that the commission sets.

(3) The authority of the commission under this section includes the authority to set reduced nighttime speed limits on curves and other dangerous locations.

(4) This section does not authorize the commission to set a statewide speed limit.

2-105 When local authorities may and shall alter limits. (1) If a local authority in its jurisdiction determines on the basis of an engineering and traffic investigation that the speed permitted under **2-102** and **2-104** through **2-108** 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; or

(d) decreases the limit in an area near a school, a senior citizen center, as defined in MCA **23-5-112**, or a designated crosswalk that is close to a school or a senior citizen center to not less than 80%, rounded down to the nearest whole number evenly divisible by 5, of the limit that would be set on the basis of an engineering and traffic investigation, but 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 **2-13**.

(2) A board of county commissioners may set limits, as provided in subsection (1)(c), 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 *2-102* for an urban district.

(4) 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.

(5) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed limits on all federal-aid highways or extensions of federal-aid highways in all municipalities or urban areas. The commission shall set these limits in accordance with *2-104*.

2-106 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 ordinance.

(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.

2-107 Special speed limitations on motor driven cycles. (1) A person may not operate a motor-driven cycle at any time mentioned in *2-11* 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.

2-108 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.

2-109 Traffic violations in construction zone and work zone – definitions. (1) As used in this section, the following definitions apply:

(a) "Construction 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 under contract with the department of transportation or a local authority. A construction zone may include a work zone.

(b) "Public highway" has the same meaning as in MCA [60-1-103](#).

(c) "Work zone" means the area where the construction, repair, maintenance, or survey work is actually taking place. 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 construction zone or in a work zone on a public highway in violation of any of the provisions of Town Codes *2-100* through *2-168*.

(3) The speed limit in a construction zone or 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 or construction 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 construction zone and the work zone; and
- (iii) display the speed limit in effect within both zones.

(b) The department of transportation, the local authority, the utility company, or the private contractor shall clearly indicate at the boundary of a construction zone that a person who violates any of the provisions of Town Codes **2-100** through **2-168** in the work zone is subject to the fine provided in subsection (5)(a).

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

(d) 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) A person convicted of a traffic violation in a work zone 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 Town Codes **2-400** through **2-423**.

(b) A person convicted of a traffic violation in a construction zone is guilty of a misdemeanor. Upon arrest and conviction, the person is subject to the penalty provided for the violation in Town Codes **2-400** through **2-423**.

2-110 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.

2-111 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.

2-112 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.

2-113 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 **2-138**; or

(f) when an obstruction exists that makes it necessary to drive to the left of the center of the roadway.

(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 vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing must be operated in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

2-114 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.

2-115 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 2-178, 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.

2-116 Overtaking vehicle on right. (1) The operator of a vehicle may overtake and pass upon 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) upon 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 upon 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.

2-117 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 on a one-way roadway.

2-118 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 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) 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 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.

(3) The provisions of this section do not apply under the conditions provided in 2-113(1) or to the operator of a vehicle that is turning left into or from an alley, private road, or driveway.

2-119 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.

2-120 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.

2-121 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.

2-122 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.

2-123 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 if no opposing signage posted in the dividing curb, section, separation, or line of 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.

2-124 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.

2-125 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 left 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

2-126 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) upon any street, road, alley, or right of way with posted signage;

(2) unless the movement can be made safely and without interfering with other traffic; or

(3) 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.

2-127 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.

2-128 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 2-125 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.

2-129 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.

2-130 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.

2-131 Vehicle approaching or entering intersection. (1) 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.

(2) The right-of-way rule declared in subsection (1) is modified at through highways and otherwise as stated in this chapter.

2-132 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.

2-133 Vehicle entering through highway – definition. (1) The operator of a vehicle shall stop as required by 2-136 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.

2-134 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.

2-135 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.

2-136 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.

2-137 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.

2-138 Operation of vehicles on approach of authorized emergency vehicles or police vehicles – approaching stationary emergency vehicles or police vehicles. (1) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of 2-801 or of a police vehicle properly and lawfully making use of an audible signal only, the operator of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle or police vehicle has passed, except when otherwise directed by a police officer or highway patrol officer.

(2) This section does not relieve the driver of an authorized emergency vehicle or police vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(3) Upon approaching a stationary authorized emergency vehicle or police vehicle that is displaying visible signals of flashing or rotating amber, blue, red, or green lights, the operator of the approaching vehicle shall:

(a) reduce the vehicle's speed, proceed with caution, and, if possible considering safety and traffic conditions, move to a lane that is not adjacent to the lane in which the authorized emergency vehicle or police vehicle is located or move as far away from the authorized emergency vehicle or police vehicle as possible; or

(b) if changing lanes is not possible or is determined to be unsafe, reduce the vehicle's speed, proceed with caution, and maintain a reduced speed, appropriate to the road and the conditions, through the area where the authorized emergency vehicle or police vehicle is stopped.

2-139 Meeting or passing school bus – vehicle operator liability for violation – penalty. (1) Upon overtaking from either direction a school bus that has stopped on the highway or street to receive or discharge school

children, a driver of a motor vehicle:

(a) shall stop the motor vehicle not less than approximately 15 feet before reaching the school bus when there is in operation on the bus a visual flashing red signal as specified in **2-801**; and

(b) may not proceed until the children have entered the school bus or have alighted and reached the side of the highway or street and until the school bus ceases operation of its visual flashing red signal.

(2) The driver of a motor vehicle 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 when meeting or overtaking from either direction a school bus that is preparing to stop on the highway or street to receive or discharge school children as indicated by flashing amber lights as specified in **2-801**.

(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 and, in addition, must be equipped with visual signals meeting the requirements of **2-801**. 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 whenever but only whenever the school bus is stopped on the highway or street whether inside or outside the corporate limits of any city or town to receive or discharge school children. However, a school district board of trustees may, in its discretion, 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.

(4) The requirements that a driver of a motor vehicle shall stop when a school bus receives or discharges school children under subsection (1) and the requirements that amber and red lights must be actuated by a school bus driver under subsection (3) do not apply when a school bus receives or discharges school children in a designated school bus pullout on a state highway. A designated school bus pullout must meet the following requirements:

(a) The pullout must be located on a roadway separated by a physical barrier, such as a guardrail, raised median, drainage ditch, or irrigation ditch.

(b) The separate roadway must be designed, constructed, and signed specifically for use by school buses, with sufficient space for safe ingress and egress from the main traveled way.

(c) The pullout must be approved by the local affected school district, by a resolution of the district trustees, and by the district superintendent as a mandatory school bus stop for receiving and discharging school children.

(5) 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.

(6) 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.

(7) (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 (7)(a) constitutes particularized suspicion under MCA **46-5-401(1)** that an operator of the vehicle committed a violation of this section.

(8) Violation of subsection (1) is punishable upon conviction by a fine of not more than \$500.

2-140 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.

2-141 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.

2-142 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 or 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.

2-143 Additional parking regulations. (1) Except as otherwise provided in this section, a vehicle that is stopped or parked upon 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 upon 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 federal-aid or state highway 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.

(5) The authority having jurisdiction may place proper signage restricting overnight camping/parking of vehicles on any road, street, side street, alley, right of way, or public/town property.

2-144 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).

2-145 Unattended motor vehicles. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the roadway.

2-146 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.

2-147 Riding on motorcycles. (1) A person operating a motorcycle or quadricycle on public streets or highways may ride only upon the permanent and regular seat attached to the motorcycle or quadricycle. The operator may not carry any other person and another person may not ride on a motorcycle or quadricycle unless the motorcycle or quadricycle 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 quadricycle or the view of the operator.

(3) A person operating a motorcycle or quadricycle 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 or quadricycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle or quadricycle.

(5) Except as provided in subsections (5)(a) and (5)(b), motorcycles and quadricycles must be operated with lights on at all times when operated on any public roadway. A motorcycle or quadricycle may be operated without lights from one-half hour before sunrise to one-half hour after sunset if:

(a) the motorcycle is registered under MCA 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 or quadricycle 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.

2-148 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.

2-149 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.

2-150 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.

2-151 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.

2-152 Crossing fire hose. A vehicle may not be operated over an unprotected hose of a fire department 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 fire department official in command.

2-153 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 2-160 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 2-160, the penalty provisions of 2-406 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.

2-154 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.

2-155 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.

2-156 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.

2-157 Shooting from or across road or highway right-of-way. Except as provided in MCA [87-2-803\(4\)](#), a person may not shoot a firearm from or across the right-of-way of a highway.

2-158 Securing of load – requirement. A person operating a loaded vehicle on a public highway for the purpose of transporting solid waste as defined in MCA [75-10-203](#), except a commercial motor vehicle or a vehicle transporting unprocessed agricultural products, shall attach, cover, or otherwise secure the load sufficiently to prevent littering or creating an obstruction dangerous to the public traveling on the highway.

2-159: Reserved

2-160 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.

2-161 Unlawful operation of motorized nonstandard vehicle – exception. A person may not operate a motorized nonstandard vehicle on ways of this municipality 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.

2-162 Authorized operation of electric personal assistive mobility devices. Electric personal assistive mobility devices, as defined in MCA [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.

2-163 Definitions. As used in **2-164** through **2-168**, the following definitions apply:

(1) "Funeral escort vehicle" means a motor vehicle properly equipped pursuant to **2-165**.

(2) "Funeral lead vehicle" means a motor vehicle, including a funeral hearse that is properly equipped pursuant to **2-165**, 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.

2-164 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 2-5. 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 2-163 through 2-168, 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.

2-165 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.

2-166 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.

2-167 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 2-164;

(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 2-163 through 2-168 is proceeding through a red traffic control signal at that intersection as permitted by 2-164 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.

2-168 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 2-163 through 2-168. 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.

Driving Under Influence of Alcohol or Drugs

2-169 Driving under influence of alcohol or drugs - - definitions. (1) It is unlawful and punishable, as provided in 2-183, 2-415 and 2-420 through 2-423, for a person who is under the influence of:

- (a) alcohol to drive or be in actual physical control of a vehicle upon the ways of this municipality open to the public;
- (b) a dangerous drug to drive or be in actual physical control of a vehicle within this municipality;
- (c) any other drug to drive or be in actual physical control of a vehicle within this municipality; or
- (d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this municipality.

(2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use alcohol or a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).

(3) (a) "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.

(b) Subject to *2-181*, as used in this part, "vehicle" has the meaning provided in MCA *61-1-101*, except that the term does not include a bicycle.

(4) 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 or breath 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.

(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.

(5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing upon the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(6) Absolute liability as provided in MCA *45-2-104* will be imposed for a violation of this section.

2-170 Blood or breath tests for alcohol, drugs, or both. (1) A person who operates or is in actual physical control of a vehicle upon ways of this municipality 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 drugs in the person's body.

(2) (a) The test or tests must be administered at the direction of a peace officer when:

(i) the officer has reasonable grounds to believe that the person has been driving or has been in actual physical control of a vehicle upon ways of this municipality open to the public while under the influence of alcohol, drugs, or a combination of the two and the person has been placed under arrest for a violation of *2-169*;

(ii) the person is under the age of 21 and has been placed under arrest for a violation of *2-169*; or

(iii) the officer has probable cause to believe that the person was driving or in actual physical control of a vehicle:

(A) in violation of *2-169* and the person has been involved in a motor vehicle accident or collision resulting in property damage; or

(B) involved in a motor vehicle accident or collision resulting in serious bodily injury, as defined in MCA *45-2-101*, or death.

(b) The arresting or investigating officer may designate which test or tests are administered.

(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 provided by subsection (1).

(4) If an arrested person refuses to submit to one or more tests requested and designated by the officer as provided in subsection (2), the refused test or tests may not be given, but the 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 subsection (6).

(5) 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 provided in *2-171*.

(6) (a) Except as provided in subsection (6)(b), the following suspension periods are applicable upon refusal to submit to one or more tests:

(i) upon a first refusal, a suspension of 6 months with no provision for a restricted probationary license;

(ii) upon a second or subsequent refusal within 5 years of a previous refusal, as determined from the records of the department, a suspension of 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 a 1-year period; 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 *2-170(2)* arising from a separate incident, the conviction has the same effect as a previous testing refusal for purposes of this subsection (6)(b).

(7) 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.

(8) 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 *2-171*. (9) A suspension under this section is subject to review as provided in this part.

(10) This section does not apply to blood and breath tests, samples, and analyses used for purposes of medical treatment or care of an injured motorist or related to a lawful seizure for a suspected violation of an offense not in this part.

2-171 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) (a) The court shall take testimony and examine the facts of the case, except that the issues are limited to whether:

(i) a peace officer had reasonable grounds to believe that the person had been driving or was 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 was placed under arrest for violation of *2-169*;

(ii) the person is under 21 years of age and was placed under arrest for a violation of *2-178*;

(iii) the officer had probable cause to believe that the person was driving or in actual physical control of a vehicle in violation of *2-169* and the person was involved in a motor vehicle accident or collision resulting in property damage, bodily injury, or death; and

(iv) the person refused to submit to one or more tests designated by the officer.

(b) Based on the issues in subsection (4)(a) and no others, the court shall determine whether the petitioner is entitled to a license or whether the petitioner's license is subject to suspension or revocation.

(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.

2-172 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 *2-169*, *2-174*, *2-178*, or MCA *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 or breath, 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 motor vehicle. A person may not be convicted of a violation of *2-169* based upon 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 municipality.

(b) a report of the facts and results of one or more tests of a person's blood or breath is admissible in evidence if:

(i) a breath test or preliminary alcohol screening test was performed by a person certified by the forensic sciences division of the department to administer the test;

(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 *2-173(1)*;

(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 as provided in this section, 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.

2-173 Administration of tests. (1) Only a physician or 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.

(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 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 or 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.

2-174 Operation of noncommercial vehicle by person with alcohol concentration of 0.08 or more - - operation of commercial vehicle by person with alcohol concentration of 0.04 or more. (1) It is unlawful and punishable as provided in 2-183, 2-415, 2-416, and 2-420 through 2-423 for any person to drive or be in actual physical control of:

(a) a noncommercial vehicle upon the ways of this municipality open to the public while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or urine, is 0.08 or more; or

(b) a commercial motor vehicle upon the ways of this municipality open to the public while the person's alcohol concentration, as shown by analysis of the person's blood or breath, is 0.04 or more.

(2) Absolute liability, as provided in MCA 45-2-104, will be imposed for a violation of this section.

2-175 Definition of alcohol concentration. For purposes of MCA 16-6-305, MCA 23-2-535, MCA 67-1-211, and this title, "alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

2-176 Multiple convictions prohibited. When the same acts may establish the commission of an offense under both 2-169 and 2-174, a person charged with such conduct may be prosecuted for a violation of both 2-169 and 2-174. However, he may only be convicted of an offense under either 2-169 or 2-174.

2-177 Preliminary alcohol screening test. (1) A person who operates or is in actual physical control of a vehicle upon ways of this municipality open to the public is considered to have given consent to a preliminary alcohol screening test of the person's breath, for the purpose of estimating the person's alcohol concentration, upon the request of a peace officer who has a particularized suspicion that the person was driving or in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol or in violation of 2-178.

(2) The person's obligation to submit to a test under 2-179 is not satisfied by the person submitting to a preliminary alcohol screening test pursuant to this section.

(3) The peace officer shall inform the person of the right to refuse the test and that the refusal to submit to the preliminary alcohol screening test will result in the suspension for up to 1 year of that person's driver's license.

(4) If the person refuses to submit to a test under this section, a test will not be given. However, the refusal is sufficient cause to suspend the person's driver's license as provided in 2-179.

(5) A hearing as provided for in 2-180 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 driving or in actual physical control of a vehicle upon ways of this state open to the public while under the influence of alcohol or in violation of 2-178 and whether the person refused to submit to the test.

(6) The provisions of 2-170(3) through (8) that do not conflict with this section are applicable to refusals under this section. If a person refuses a test requested under 2-170 and this section for the same incident, the department may not consider each a separate refusal for purposes of suspension under 2-170.

(7) A test may not be conducted or requested under this section unless both the peace officer and the instrument used to conduct the preliminary alcohol screening test have been certified by the department pursuant to rules adopted under the authority of 2-173(5).

2-178 Operation of vehicle by person under twenty-one with alcohol concentration of 0.02 or more. (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle upon ways of this municipality open to the public. Absolute liability, as provided for in MCA 45-2-104, is imposed for a violation of this section.

(2) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500.

(3) 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.

(4) 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.

(5) 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 2-421 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 MCA 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.

(6) A conviction under this section may not be counted as a prior conviction under 2-169 or 2-174, MCA 61-8-401, or MCA 61-8-406.

2-179 Forfeiture procedure. (1) A motor vehicle forfeited under 2-422 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 MCA 44-12-201(1) must be instituted by the arresting agency within 20 days after the seizure of the motor vehicle.

(3) For purposes of MCA 44-12-203 and MCA 44-12-204, there is a rebuttable presumption of forfeiture. The owner of the motor vehicle may rebut the presumption by proving a defense under 2-421(2) or by proving that the owner was not convicted of a second or subsequent offense under 2-169 or 2-174. It is not a defense that the convicted person owns the motor vehicle jointly with another person.

(4) (a) For purposes of MCA 44-12-206, 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.

(5) Actions the court may take under MCA 44-12-205(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.

2-180 Prohibition on transfer, sale, or encumbrance of vehicles subject to seizure or forfeiture - - penalty. (1) It is unlawful for the owner of a vehicle subject to seizure under MCA 61-5-212 or seizure and forfeiture under 2-421 to transfer, sell, or encumber the owner's interest in that vehicle from the time of the owner's arrest or the filing of the underlying charge until the time that the underlying charge is dismissed, the owner is acquitted of the underlying charge, the issue of seizure or forfeiture is resolved by the sentencing court, or the underlying charge is otherwise terminated.

(2) The prohibition against transfer of title may not be stayed pending the determination of an appeal from the conviction on the underlying charge.

(3) A person who violates this section is guilty of a felony and upon conviction shall be imprisoned in the county jail for not more than 2 years, fined an amount not more than \$20,000, or both.

2-181 Ignition interlock device - - assisting in starting and operating - - circumventing - - penalty. (1) It is unlawful for a person who is subject to a restriction under 2-183 to operate a motor vehicle 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.

2-182 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 upon 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.

2-183 Driving under influence of alcohol or drugs – driving with excessive alcohol concentration – ignition interlock device. (1) In addition to the punishments provided in **2-409** and **2-415**, regardless of disposition and if a probationary license is recommended by the court, the court may, for a person convicted of a first offense under **2-169** or **2-174**, 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.

(2) If a person is convicted of a second or subsequent violation of **2-169** or **2-174**, in addition to the punishments provided in **2-409** and **2-415**, regardless of disposition, the court shall order that each motor vehicle owned by the person at the time of the offense be either:

- (a) seized and subjected to the forfeiture procedure provided under **2-179**; or
- (b) during the 12-month period beginning with the end of the period of driver's license revocation, equipped with a functioning ignition interlock device and require the person to pay the reasonable cost of leasing, installing, and maintaining the device.

(3) Any restriction imposed under this section must be included in a report of the conviction made by the court to the department in accordance with MCA **61-11-101** and placed upon the person's driving record maintained by the department in accordance with MCA **61-11-102**.

(4) The duration of a restriction imposed under this section must be monitored by the department.

2-184 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 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 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 motor vehicle, including 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 MCA **3-1-317**, MCA **3-1-318**, MCA **45-2-101**, MCA **46-18-236**, **2-7**, and **2-406** 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 MCA **3-1-317**, MCA **3-1-318**, and MCA **46-18-236** may not be imposed for a violation of this section.

2-185 Definitions. As used in **2-184**, the following definitions apply:

(1) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains 0.5% or more of alcohol by volume.

(2) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers, including the driver.

(3) "Camper" has the meaning provided in MCA **61-1-101**.

(4) "Highway" has the meaning provided in MCA **61-1-101**, including the shoulders of the highway.

(5) "Motor home" has the meaning provided in MCA **61-1-101**.

(6) "Motor vehicle" has the meaning provided in MCA **61-1-101**.

(7) "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.

(8) "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.

Pedestrian Traffic

2-200 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 2-14 and 2-15.

(3) At all other places, pedestrians are accorded the privileges and are subject to the restrictions provided in Section 2-200 through 2-210.

(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 2-205(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 Section 2-200 through 2-210.

2-201 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 2-202(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.

2-202 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.

2-203 Operators to exercise due care. Notwithstanding 2-200 through 2-202, 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.

2-204 Pedestrians to use right half of crosswalk Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

2-205 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 2-207, 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.

2-206 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.

2-207 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 MCA 60-1-103, but not on a roadway or a shoulder as is otherwise permissible under 2-205(2).

2-208 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.

2-209 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 2-800(4) and visual signals that meet the requirements of 2-801 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.

2-210 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.

Bicycle Traffic

2-300 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) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

2-301 Traffic laws applicable to persons operating bicycles. Every person operating a bicycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle by this chapter, which by their very nature can have no application.

2-302 Riding on bicycles. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.

2-303 Clinging to vehicles. No person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle shall attach the same or himself to any vehicle upon a roadway, but a bicycle trailer or bicycle semitrailer may be attached to a bicycle if that trailer or semitrailer has been designed for such attachment.

2-304 Riding on roadways. (1) As used in this section:

(a) "laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic; and

(b) "roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, including the paved shoulder.

(2) A person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable except when:

(a) overtaking and passing another vehicle proceeding in the same direction;

(b) preparing for a left turn at an intersection or into a private road or driveway; or

(c) necessary to avoid a condition that makes it unsafe to continue along the right side of the roadway, including but not limited to a fixed or moving object, parked or moving vehicle, pedestrian, animal, surface hazard, or a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(3) A person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as close to the left side of the roadway as practicable.

(4) Persons riding bicycles upon 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 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.

(5) A bicycle, as defined in 2-5(2)(b)(ii), is excluded from the provisions of subsections (2) and (3).

2-305 Carrying articles. No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handle bars.

2-306 Lamps and other equipment on bicycles. (1) Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to rear-facing reflectors required by this section.

(2) Every bicycle when in use at nighttime shall be equipped with an essentially colorless front-facing reflector, essentially colorless or amber pedal reflectors, and a red rear-facing reflector. Pedal reflectors shall be mounted on the front and back of each pedal.

(3) Every bicycle when in use at nighttime shall be equipped with either tires with retroflective sidewalls or reflectors mounted on the spokes of each wheel. Spoke mounted reflectors shall be within 76 millimeters (3 inches) of the inside of the rim and shall be visible on each side of the wheel. The reflectors on the front wheel shall be essentially colorless or amber and the reflectors on the rear wheel shall be amber or red.

(4) Reflectors required by this section shall be of a type approved by the department.

(5) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(6) Every bicycle is encouraged to be equipped with a flag clearly visible from the rear and suspended not less than 6 feet above the roadway when the bicycle is standing upright. The flag shall be fluorescent orange in color.

2-307 Bicycles on sidewalks. (1) A person operating a bicycle upon and along a sidewalk or across a roadway upon and along a crosswalk shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing any pedestrian.

(2) A person may not ride a bicycle upon and along a sidewalk or across a roadway upon and along a crosswalk where the use of a bicycle is prohibited by official traffic control devices.

(3) Except as provided in subsections (1) and (2), a person operating a vehicle by human power upon and along a sidewalk or across a roadway upon and along a crosswalk has all the rights and duties applicable to a pedestrian under the same circumstances.

2-308 Bicycle racing – when lawful. (1) Bicycle racing on a highway is prohibited except as authorized in this section.

(2) Bicycle 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 highway racing events will be granted only under conditions that assure 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 highway racing event may be exempted from compliance with any traffic laws otherwise applicable if traffic control is adequate to assure the safety of all highway users.

Enforcement -- Penalties

2-400 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.

2-401 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.

2-402 Arrest without a warrant in radar cases. (1) The driver of any such motor vehicle may be arrested without a warrant under this section provided the arresting officer is in uniform or displays his 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 such driver must be made immediately after such observation or radio message and as the result of uninterrupted pursuit.

2-403 Erection of signs – definition. (1) The operator of a motor vehicle may not be arrested under 2-402 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.

2-404 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 *2-141* through *2-143*, 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 *2-169* do not apply to removal under this subsection.

2-405 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 *2-17* 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.

2-406 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 MCA [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 MCA [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.

2-407 Penalty for erection of unauthorized sign. The erection of a sign, emblem, marker, or traffic control device in violation of *2-12* is a misdemeanor, punishable by a fine of not less than \$25 or more than \$300.

2-408 Injury to or removal of sign or marker as misdemeanor – penalty. (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.

2-409 Penalty for driving under influence of alcohol or drugs – first through third offense. (1) Except as provided in subsection (4), a person convicted of a violation of *2-169* shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than \$300 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 12 months and by a fine of not less than \$600 or more than \$2,000. The initial 24 hours of the imprisonment term must be served and may not be served under home arrest. The mandatory imprisonment sentence 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. Except for the initial 24 hours of the imprisonment term, notwithstanding MCA [46-18-201](#)(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(2) Except as provided in subsection (4), on a second conviction, the person shall be punished by a fine of not less than \$600 or more than \$1,000 and by imprisonment for not less than 7 days or more than 6 months, 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 a fine of not less than \$1,200 or more than \$2,000 and by imprisonment for not less

than 14 days or more than 12 months. At least 48 hours of the imprisonment term must be served and served consecutively and may not be served under home arrest. The imposition or execution of the first 5 days of the imprisonment sentence may not be suspended. Except for the initial 5 days of the imprisonment term, notwithstanding MCA 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person.

(3) Except as provided in subsection (4), on the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than \$1,000 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 a term of not less than 60 days or more than 12 months and by a fine of not less than \$2,000 or more than \$10,000. At least 48 hours of the imprisonment term must be served and served consecutively and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person.

(4) If the person has a prior conviction under MCA 45-5-106, the person shall be punished as provided in 2-420 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration.

2-410 Reckless driving – reckless endangerment of highway workers – penalty. (1) Except as provided in subsection (2), a person convicted of reckless driving under 2-100(1)(a) or (1)(b) or convicted of reckless endangerment of a highway worker under 2-100(4) shall be punished upon a first conviction by imprisonment for a term of not more than 90 days, by a fine of not less than \$25 or more than \$300, or both. On a second or subsequent conviction, the person shall be punished by imprisonment for a term of not less than 10 days or more than 6 months, by a fine of not less than \$50 or more than \$500, or both.

(2) A person who is convicted of reckless driving under 2-100 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, by incarceration for a term not to exceed 1 year, or both. Section 2-139(8) does not apply to a prosecution under 2-100(1)(b) that is punishable under this subsection.

2-411 Careless driving – penalty. (1) A person who violates the provisions of 2-101 is guilty of the offense of careless driving and, except as provided in subsection (2), is punishable as provided in 2-406.

(2) A person whose violation of the provisions of Section 2-101 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.

2-412 Penalty for unauthorized speed contest. Any person convicted for violation of 2-103 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.

2-413 Penalty for leaving vehicle on public property. Any person or persons violating the provisions of 2-144 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.

2-414 Controlled-access violation – penalty. A person who violates any of the provisions of 2-123(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

2-415 Penalty for driving with excessive alcohol concentration – first through third offense. (1) Except as provided in subsection (4), a person convicted of a violation of 2-174 shall be punished by imprisonment for not more than 10 days and by a fine of not less than \$300 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 20 days and by a fine of not less than \$600 or more than \$2,000.

(2) Except as provided in subsection (4), on a second conviction of a violation of 2-174, the person shall be punished by imprisonment for not less than 5 days, to be served in the county jail and not on home arrest, or more than 30 days 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 10 days, which may not be served on home arrest, or more than 60 days and by a fine of not less than \$1,200 or more than \$2,000. The imposition or execution of the first 5 days of the imprisonment sentence may not be suspended.

(3) Except as provided in subsection (4), on a third conviction of a violation of 2-174, the person shall be punished by imprisonment for not less than 10 days, to be served in the county jail and not on home arrest, or more than 6 months and by a fine of not less than \$1,000 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 20 days, which may not be served on home arrest, or more than 12 months and by a fine of not less than \$2,000 or more than \$10,000. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended.

(4) If the person has a prior conviction under MCA [45-5-106](#), the person shall be punished as provided in [2-420](#) for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration.

2-416 Offenses committed by persons under the age of eighteen. A person under 18 years of age who is convicted of an offense under this title shall not be punished by incarceration, but shall be punished by:

- (1) a fine not to exceed the fine that could be imposed on him if he were an adult, provided that such person may not be imprisoned for failure to pay such fine;
- (2) revocation of his 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 he either owns the vehicle or is the only person who uses the vehicle; or
- (4) any combination of subsections (1) through (3).

2-417 No-passing zone violation – penalty. A person convicted of a violation of [2-118](#) 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.

2-418 Penalty for violation of speed limits – no record for certain violations (1) A person violating the speed limit imposed pursuant to [2-102](#) shall be fined in accordance with the following schedule:

Amount of Fine	MPH in Excess of Speed Limit
\$ 20	1 - 10 (daytime)
20	1 - 10 (nighttime)
40	11 - 20
70	21 - 30
100	31+

(2) A violation of a speed limit imposed pursuant to [2-102](#) is not a criminal offense within the meaning of MCA [3-1-317](#), MCA [45-2-101](#), MCA [46-18-236](#), [2-7](#), and [2-406](#) and, except as provided in subsection (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:

- (a) 10 miles an hour during the daytime; or
 - (b) 5 miles an hour during the nighttime.
- (3) The surcharge provided for in MCA [3-1-317](#) may not be imposed for a violation of [2-102](#).
- (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.

2-419 Violating speed limit near school – penalty doubled – disposition of fines. (1) A person convicted of violating a special speed limit near a school imposed by a local authority pursuant to [2-105\(1\)\(d\)](#) 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 [2-406](#).

- (2) The fine proceeds must be allocated as follows:
- (a) 50% of the fine collected must be distributed as provided in MCA [3-10-601](#), MCA [46-17-402](#), or MCA [46-18-235](#); and
 - (b) 50% must be forwarded to the local authority that adopted the special speed limit as provided in [2-105\(1\)\(d\)](#) for the purposes of erecting signs providing notification of the penalty or for other local law enforcement needs.

2-420 Driving under influence of alcohol or drugs – driving with excessive alcohol concentration – penalty for fourth or subsequent offense. (1) Except as provided in subsection (3), if a person is convicted of a violation of [2-169](#) or [2-174](#) and the person has either a single conviction under MCA [45-5-106](#) or any combination of three or more prior convictions under MCA [45-5-104](#), MCA [45-5-205](#), [2-169](#), or [2-174](#) and the offense under MCA [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 [2-169\(1\)](#), the person is guilty of a felony and shall be punished by:

- (a) sentencing the person to the department of corrections for placement in an appropriate correctional facility or program for a term of 13 months. The court shall order that if the person successfully completes a

residential alcohol treatment program operated or approved by the department of corrections, the remainder of the 13-month sentence must be served on probation. The imposition or execution of the 13-month sentence may not be deferred or suspended, and the person is not eligible for parole.

(b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and

(c) a fine in an amount of not less than \$1,000 or more than \$10,000.

(2) The department of corrections may place an offender sentenced under subsection (1)(a) in a residential alcohol treatment program operated or approved by the department of corrections or in a state prison.

(3) If a person is convicted of a violation of *2-169* or *2-174*, the person has either a single conviction under MCA *45-5-106* or any combination of four or more prior convictions under MCA *45-5-104*, MCA *45-5-205*, *2-169*, or *2-174* and the offense under MCA *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 *2-169*(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment program under subsection (2), whether or not the person successfully completed the program, the person shall be sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be fined an amount of not less than \$1,000 or more than \$10,000, or both.

(4) The court shall, as a condition of probation, order:

(a) that 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;

(c) that the person may not frequent an establishment where alcoholic beverages are served;

(d) that the person may not consume alcoholic beverages;

(e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;

(f) that the person enter in and remain in an aftercare treatment program for the entirety of the probationary period;

(g) that the person submit to random or routine drug and alcohol testing; and

(h) that if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system.

(5) The sentencing judge may impose upon 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 MCA *46-18-231*;

(b) payment of costs as provided in MCA *46-18-232* and MCA *46-18-233*;

(c) payment of costs of court-appointed counsel as provided in MCA *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 (5)(a) through (5)(e).

(6) Following initial placement of a defendant in a treatment facility under subsection (2), the department of corrections may, at its discretion, place the offender in another facility or program.

(7) The provisions of MCA *46-18-203*, MCA *46-23-1001* through MCA *46-23-1005*, MCA *46-23-1011* through MCA *46-23-1014*, and MCA *46-23-1031* apply to persons sentenced under this section.

2-421 Driving under influence of alcohol or drugs – driving with excessive alcohol concentration – assessment, education, and treatment required. (1) In addition to the punishments provided in *2-409*, *2-415*, and *2-420*, regardless of disposition, a defendant convicted of a violation of *2-169* or *2-174* shall complete:

(a) a chemical dependency assessment;

(b) a chemical dependency education course; and

(c) on a second or subsequent conviction for a violation of *2-169* or *2-174*, except a fourth or subsequent conviction for which the defendant completes a residential alcohol treatment program under *2-420*(2), 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. 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.

(4) The assessment must describe the defendant's level of addiction, if any, and contain a recommendation as to education, treatment, or both. 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. 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 upon 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 education 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) Chemical dependency treatment must be ordered for a first-time offender convicted of a violation of **2-169** or **2-174** upon a finding of chemical dependency made by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services.

(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 MCA **46-18-201(2)**, whenever a judge suspends a sentence imposed under **2-409** 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.

2-422 *Driving under influence of alcohol or drugs – driving with excessive alcohol concentration – forfeiture of vehicle.* (1) On the second or subsequent conviction of a violation of **2-169** or **2-174** or a second or subsequent conviction under MCA **61-5-212** when the reason for the suspension or revocation was that the person was convicted of a violation of **2-169** or **2-174** or a similar offense under the laws of any other state or the suspension was under **2-170** or **2-177** 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 court, in addition to the punishments provided in MCA **61-5-212**, **2-409**, and **2-415** and any other penalty imposed by law, shall order that each motor vehicle owned by the person at the time of the offense be either seized and subjected to the procedure provided under **2-179** or equipped with an ignition interlock device as provided under **2-183**.

(2) 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.

(3) 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.

2-423 *Driving under influence of alcohol or drugs – driving with excessive alcohol concentration – 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 **2-409**, **2-415**, or **2-420**, "conviction" means a final conviction, as defined in MCA **45-2-101**, in this state, conviction for a violation of a similar statute or regulation in another state or on a federally recognized Indian reservation, or a forfeiture 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, which forfeiture has not been vacated.

(b) 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, unless the offense is the offender's fourth or subsequent offense, in which case all previous convictions must be used for sentencing purposes.

(c) A previous conviction under **2-409** or **2-415** for violation of **2-169** or **2-174** may be counted for purposes of determining the number of a subsequent conviction for violation of either **2-169** or **2-174**.

(2) Except as provided in **2-420**, the court may order that a term of imprisonment imposed under **2-409**, **2-415**, or **2-420** 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 require that the defendant follow the rules of that facility. The facility may be, but is not required to be, a community-based prerelease center as provided for in MCA **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 **2-409** and **2-415** concerning minimum periods of imprisonment, the court may order that a term of imprisonment imposed under either section 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 **2-409**, **2-415**, or **2-420**.

(5) The provisions of MCA **61-2-107**, MCA **61-2-302**, MCA **61-5-205(2)**, and MCA **61-5-208(2)**, relating to

suspension of driver's licenses and later reinstatement of driving privileges, apply to any conviction under **2-409** or **2-415** for a violation of **2-169** or **2-153**.

VEHICLE EQUIPMENT

General Provisions

2-500 Application -- exceptions. (1) The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except 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 municipality, 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 municipality. 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.

2-501 Uniformity of interpretation -- definitions. (1) Section **2-500** through **2-827** 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 **2-5**.

(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 combustible 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 **2-5**.

(f) "Right-of-way" has the meaning provided in **2-5**.

2-502 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 Section **2-904** for any person to do any act forbidden or fail to perform any act required in section **2-500** through **2-827**.

2-503 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.

2-504 Responsibility of public officers and employees. (1) The provisions of section **2-500** through **2-827** 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 section **2-500** through **2-827** with reference to authorized emergency vehicles.

(2) Unless specifically made applicable, the provisions of section **2-500** through **2-827** (except those contained in **2-200** through **2-210**) 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.

2-505 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 section **2-500** through **2-827**, except those provisions of this chapter which by their very nature can have no application.

2-506 Rights of owners of real property not affected -- when. Nothing in section **2-500** through **2-827** 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 section 2-500 through 2-827, or otherwise regulating such use as may seem best to such owner.

2-507 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.

Lighting Equipment

2-601 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.

2-602 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 2-601 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.

2-603 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 MCA 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 2-601.

(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 2-602(2).

(4) When headlamps are required to be lighted by 2-601, 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.

2-604 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 mounted on the rear 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 MCA 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.

2-605 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 **2-608** 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 **2-602(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.

2-606 Stop lamps -- when required. (1) A person may not sell a new motor vehicle in this municipality 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.

2-607 Application of succeeding sections. Sections **2-608** through **2-609** 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 **2-601** 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.

2-608 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 **2-607**:

- (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.

2-609 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 **2-618**;

(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.

2-610 Mounting of reflectors, clearance lamps, and side marker lamps. (1) Reflectors when required by **2-608** 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.

2-611 Visibility of reflectors, clearance lamps, and marker lamps. (1) Every reflector upon any vehicle referred to in **2-608** 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.

2-612 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.

2-613 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 **2-601**:

(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.

2-614 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.

2-615 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 **2-601** 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 **2-601** 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 **2-601** be equipped with two multiple-beam or single-beam headlamps meeting the requirements of **2-620** or **2-622** 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 **2-601** 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 **2-620** or **2-622**.

(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.

2-616 Lamps on other vehicles and equipment. A vehicle, including animal-drawn vehicles and vehicles referred to in **2-507(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 **2-601** 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.

2-617 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 **2-620(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 **2-620** 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.

2-618 Signal lamps and signal devices -- when required. (1) A motor vehicle or combination of vehicles may be equipped and when required under section 2-500 through 2-827 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.

2-619 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.

2-620 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, or motor-driven cycle must be so arranged 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, or motor-driven cycle, 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.

2-621 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 2-601, 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 2-620(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 section 2-500 through 2-827 other than the uppermost distribution of light specified in 2-620(1).

2-622 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.

2-623 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 2-620(1) and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in 2-620(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.

2-624 Number of driving lamps required or permitted. (1) At all times specified in 2-601, 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.

2-625 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 MCA 20-10-101.

2-626 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.

2-627 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 municipality in lieu of the lamps otherwise required on motor vehicles by section 2-500 through 2-827. Such standards and specifications may permit the use of flashing lights for purposes of identification on snow-removal equipment when in service upon the highways. The standards and specifications for lamps referred to in this section shall correlate with and so far as possible

conform with those approved by the American association of state highway officials.

(2) It shall be unlawful to operate any snow-removal equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted as provided in this section.

2-628 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 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.

Brakes

2-700 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 section 2-500 through 2-827.

2-701 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 2-711 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.

2-702 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.

2-703 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 2-711;

(2) any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of 2-711;

(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 2-711.

(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 2-711.

2-704 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.

2-705 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.

2-706 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.

2-707 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 2-708, 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.

2-708 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.

2-709 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.

2-710 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.

2-711 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 MCA [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.

2-712 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.

2-713 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.

2-714 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.

2-715 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.

Miscellaneous Regulations

2-800 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.

2-801 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 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 two red and two amber alternating flashing lights and to the rear two red and two amber alternating flashing lights. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. The warning lights must be as 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 only with caution and at a

speed that is no greater than is reasonable and proper under the conditions existing at the point of operation subject to the provisions of **2-16** and **2-102**.

(6) An employee, agent, or representative of the state or a political subdivision of the state or of a fire department 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 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 **2-604(6)**, only police vehicles as defined in **2-501** 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 **2-100(4)**, and is punishable as provided in **2-410**.

2-802 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.

2-803 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.

2-804 Windshields required, exception -- unobstructed and equipped with wipers -- window tinting and sunscreening -- restrictions -- exemptions. (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 **2-807**, 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 sun screening material that is not clear and transparent below the AS-1 line or if it has a sun screening material that is red, yellow, or amber in color above the AS-1 line;

(b) the front side windows have sun screening 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 sun screening 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 **2-824**, **2-825**, 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 sun screening 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 sun screening 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) "Sun screening 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 sun screening 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 **2-824**. 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 sun screening device or other material prohibited under subsection (4) on October 1, 1991.

2-805 Restrictions as to tire equipment -- particular tires, chains, or traction equipment -- 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 semi trailer 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, or 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. 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) The department of transportation and local authorities, as defined in **2-5**, 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.

(5) If the department of transportation determines at any time that dangerous or unsafe conditions on a highway require particular tires, tire chains, or traction equipment for vehicles in addition to or beyond the ordinary pneumatic rubber tires, the department may establish the following recommendations or requirements with respect to the use of the equipment for all vehicles using the highway:

- (a) chains or other approved traction devices recommended for driver wheels;
- (b) chains or other approved traction devices required for driver wheels; or
- (c) chains required for driver wheels.

(6) Equipment required by subsection (5)(b) or (5)(c) must conform to rules established by the department of justice.

(7) The department of transportation shall place and maintain signs and other traffic control devices on a highway designated under subsections (5) that indicate the tire, tire chain, or traction equipment recommendation or 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 equipment will suffice, the requirement is applicable to tires on driver wheels of one axle, as defined in MCA **61-10-104**, of a vehicle, including embedded tires. The signs or traffic control devices may differentiate in recommendations or 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, no resilient material; and
- (b) "pneumatic tire" means a tire in which compressed air or nitrogen is designed to support the load.

2-806 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 MCA 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.

2-807 Safety glazing material in motor vehicles. (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.

2-808 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.

2-809 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 fuses 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, fuses, 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.

2-810 Display of warning devices when vehicle disabled. (1) Whenever a motor truck, passenger bus, truck, tractor, trailer, semi trailer, 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 **2-809**.

(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.

2-811 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.

2-812 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 municipality must be equipped as follows:

(a) At least three wrappers are required as standard equipment. The wrappers must:

(i) be made of steel chain, steel cable, or a combination of steel chain and steel cable;

(ii) have a minimum working load limit of at least 3,000 pounds; and

(iii) 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.

2-813 Slow-moving vehicles. (1) It is unlawful for a person to operate on a public highway, a farm, rural, or county road, or a city street of this municipality 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 2-5, 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 2-102 does not have a clear lane for passing as required by 2-116, 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.

2-814 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. 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 2-827.

(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 2-801(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.

(2) 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 2-827.

(3) The owner or operator of a commercial tow truck who complies with the requirements of MCA 61-8-906 and MCA 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.

(4) A commercial tow truck company that is in compliance with 2-827 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 2-801(5).

2-815 Headgear required for minor motorcycle riders. (1) An operator and passenger under 18 years of age of a motorcycle or quadricycle operated upon the streets or highways of this municipality shall wear protective headgear upon the head. The headgear must meet standards established by the department of justice.

(2) A person may not operate a motorcycle upon a highway in the municipality unless all passengers under 18 years of age are in compliance with subsection (1).

2-816 Motorcycle noise suppression devices. All motorcycles or quadricycles operated on the streets and highways of this municipality shall 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 shall meet the following noise decibel limitations, on the standard A scale, such decibel limitations to be measured at 50 feet distant from the closest point to the motorcycle or quadricycle:

(1) any cycle manufactured prior to 1970	92 db(A)
(2) any cycle manufactured after 1969 but prior to 1973	88 db(A)
(3) any cycle manufactured after 1972 but prior to 1975	86 db(A)
(4) any cycle manufactured after 1974 but prior to 1978	80 db(A)
(5) any cycle manufactured after 1977 but prior to 1988	75 db(A)
(6) any cycle manufactured after 1987	70 db(A)

2-817 "Properly restrained" defined. As used in 2-818 through 2-819, "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 2-808.

2-818 Child safety restraint systems -- standards -- exemptions. (1) If a child under 6 years of age and weighing less than 60 pounds is a passenger in a motor vehicle, that motor vehicle must be equipped with one child safety restraint for each child in the vehicle and each child must be properly restrained.

(2) The department shall by rule establish standards in compliance with 2-817 through 2-819 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.

2-819 Certain vehicles exempt. Section 2-818 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.

2-820 Evidence admissible without presumption of negligence. Evidence of compliance or failure to comply with 2-818 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 2-818 does not alone constitute negligence.

2-821 Penalty. Violation of 2-818 is punishable by a fine of not more than \$100.

2-822 Air-conditioning equipment -- use of flammable refrigerant prohibited. (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 2-823 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.

2-823 Air-conditioning equipment -- sale prohibited. (1) Refrigerant not allowed to be used pursuant to 2-822 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 2-822, if installed prior to April 18, 2003, are not subject to any penalties provided for under Title 61, chapter 9.

2-824 Window tinting and sunscreening -- waiver -- conditions. The highway patrol or a local law enforcement agency may grant a waiver of the standards of 2-804(4) for reasons of safety or security or for medical reasons based on an affidavit signed by a licensed physician. 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.

2-825 Window tinting and suncreening -- penalty. (1) A person who owns or operates a motor vehicle in violation of 2-804(4) is guilty of a misdemeanor and is punishable as provided in MCA 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 2-804(4) is guilty of a misdemeanor and is punishable as provided in MCA 46-18-212.

2-826 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 MCA 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.

2-827 Use of warning signs, flares, reflectors, lanterns, and flag persons. (1) The operator of a commercial tow truck, in compliance with the requirements of MCA 61-8-906 and MCA 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, 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 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 "hazard 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 2-100(4), and is punishable as provided in 2-410.

Enforcement -- Penalties

2-900 Inspections by officers of the 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 such vehicle to stop and submit such vehicle to an inspection and such test with reference thereto as may be appropriate.

(2) In the event such vehicle and its equipment are found to be in safe condition and in full compliance with the law, the officer making such inspection may issue to the driver an official certificate of inspection and approval of such vehicle specifying those parts or equipment so inspected and approved.

(3) In the event such 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. Said notice shall specify the deficiencies and require that such vehicle be placed in safe condition and its equipment in proper repair and adjustment within 5 days.

2-901 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.

2-902 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 2-900, shall comply therewith and shall within 5 days 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 a notice with reference thereto as above provided 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 section 2-500 through 2-827.

2-903 Reserved:

2-904 Violation of chapter -- penalty. (1) It is a misdemeanor for any person to violate any of the provisions of section 2-500 through 2-827 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 section 2-500 through 2-827 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 herein 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 MCA 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 MCA 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.

2-905 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 MCA 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 MCA 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.

2-906 Violation of general lighting requirement and slow-moving vehicle provisions -- penalty. Any person violating the provisions of 2-616 or 2-813 shall be subject to penalty as provided in 2-904.

2-907 Unauthorized use of firefighter's private vehicle -- penalty. Any person violating the provisions of 2-626 is guilty of a misdemeanor.

2-908 Violations of provisions relating to fenders, splash aprons, or flaps -- penalty. Any person violating any of the provisions of 2-806 is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 or more than \$25.

2-909 Penalty for seatbelt violations. Any person who violates the provisions of 2-808 is guilty of a misdemeanor and upon conviction shall be fined not to exceed \$100.

2-910 Violation of towing requirements -- penalty. Any person violating any of the provisions of 2-814 shall be deemed guilty of a misdemeanor and subject to a penalty not to exceed \$100.

2-911 Violation of motorcycle or quadricycle requirements -- penalty. (1) A person convicted of the violation of 2-815 shall be fined \$5.

(2) A person convicted of the violation of 2-816 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

2-912 Violation of tire restrictions -- penalty. A person violating 2-805 is guilty of a misdemeanor and is subject to penalty as provided in 2-904.

2-913 Violation of tire chain or traction device use -- penalty. (1) A person violating the provisions of 2-805(5) through (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 \$25, and no jail sentence may be imposed. Bond for this offense shall be \$25.

(2) A violation of 2-805(5) through (7) is not a misdemeanor subject to MCA 45-2-101, 2-904, 2-905, or 2-912.

2-914 Violation of engine compression brake device provisions -- penalty. A person who violates the provisions of 2-715 is guilty of a misdemeanor and upon conviction shall be fined not to exceed \$500.

Section 2-1000: Severability: Should any of the provisions of this ordinance be found to be invalid by any Court of competent jurisdiction, the remaining portions of the ordinance shall remain in full force and effect as though such provision was never made a part of this ordinance.

Section 2-1001: Effective Date: This ordinance shall be in full force and effect thirty (30) days after its second reading and final passage.

Section 2-1002: Prior Ordinance: This ordinance shall revoke all previous ordinances or resolutions in conflict with the provision of this ordinance; provided that, this ordinance shall not revoke any prior ordinance or resolution as to any defendant or accused who has been charged, accused, or later is charged or accused with any criminal offense stated in this ordinance committed prior to the effective date of this ordinance.

Section 2-1003: Enforcement: This ordinance shall be enforced by any Law Enforcement Officer of the Town of Broadus, the Powder River County Sheriff Office or any other person so entitled to act pursuant to the laws of the State of Montana and the United States of America.


Read, passed, and approved first reading this 6th day of August, 2024.


Chad Gatlin, Mayor

ATTEST:


Josie Morris, Clerk/Treasurer

Read, passed and approved first reading this 3rd day of September, 2024.


Chad Gatlin, Mayor

ATTEST:


Josie Morris, Clerk/Treasurer



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