

HOUSE BILL 128

Introduced by Fagg, et al.

1/09	Introduced
1/09	Referred to Judiciary
1/10	First Reading
1/15	hearing
1/15	Tabled in Committee

1 HOUSE BILL NO. 128
 2 INTRODUCED BY Jazz Clark
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE CRIMINAL
 5 OFFENSE OF UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE
 6 BY A PERSON UNDER 21 YEARS OF AGE; AND AMENDING SECTION
 7 45-5-624, MCA."

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

10 **Section 1.** Section 45-5-624, MCA, is amended to read:
 11 "45-5-624. Unlawful possession of an intoxicating
 12 substance -- interference with sentence or court order. (1)
 13 (a) A person under the age of 19 years commits the offense
 14 of possession of an intoxicating substance if he knowingly
 15 consumes or has in his possession an intoxicating substance.
 16 The person need not be consuming or in possession of the
 17 intoxicating substance at the time of his arrest to violate
 18 this subsection.
 19 (b) A person under the age of 21 commits the offense of
 20 possession of an intoxicating substance if he knowingly
 21 consumes or has in his possession an alcoholic beverage
 22 intoxicating substance, except as provided in 16-6-305 and
 23 except that he does not commit the offense if he consumes or
 24 gains possession of the an alcoholic beverage because it was
 25 lawfully supplied to him under 16-6-305 or when in the

1 course of his employment it is necessary to possess
 2 alcoholic beverages. The person need not be consuming or in
 3 possession of the intoxicating substance at the time of his
 4 arrest to violate this subsection.

5 (2) A person convicted of the offense of possession of
 6 an intoxicating substance shall:

7 (a) if the person:

8 (i) is less than 18 years of age, be fined not to
 9 exceed \$50; or

10 (ii) is 18 years or older, be fined an amount not to
 11 exceed \$50 for a first offense, \$100 for a second offense,
 12 and \$200 for a third offense; for a fourth or subsequent
 13 offense a person may be fined an amount not to exceed \$300
 14 or be imprisoned in the county jail for a term not to exceed
 15 6 months, or both; and

16 (b) be ordered to complete and pay, either directly
 17 with money or indirectly through court-ordered community
 18 service, all costs of his participation in a community-based
 19 substance abuse information course;

20 (c) have his driver's license confiscated by the court
 21 for not more than 90 days and be ordered not to drive during
 22 that period if he was driving or otherwise in actual
 23 physical control of a motor vehicle when the offense
 24 occurred; or

25 (d) be sentenced to any combination of these penalties.

1 (3) A defendant who fails to comply with a sentence and
2 is under 21 years of age and was under 18 years of age when
3 he failed to comply must be transferred to the youth court.
4 If proceedings for violation of subsection (1) are held in
5 the youth court, the penalties in subsection (2) do not
6 apply. If proceedings for violation of subsection (1) or for
7 failure to comply with a sentence are held in the youth
8 court, the offender shall be treated as an alleged youth in
9 need of supervision as defined in 41-5-103. The youth court
10 may enter its judgment under 41-5-523.

11 (4) A person commits the offense of interference with a
12 sentence or court order if he purposely or knowingly causes
13 his child or ward to fail to comply with a sentence imposed
14 under this section or a youth court disposition order for a
15 youth found to have violated this section and upon
16 conviction shall be fined \$100 or imprisoned in the county
17 jail for 10 days, or both."

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