

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 9, 1991

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 10, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *668*
 2 INTRODUCED BY *Mark J. Messmore*
 3 *Senate* *Derek J. Beck*

4 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING REVOCATION OF A
 5 DRIVER'S LICENSE MANDATORY FOR A PERSON UNDER 18 YEARS OF
 6 AGE CONVICTED OF MULTIPLE OFFENSES OF POSSESSION OF AN
 7 INTOXICATING SUBSTANCE; AND AMENDING SECTION 45-5-624, MCA."

8
 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.

13 (1) (a) A person under the age of 19 years commits the
 14 offense of possession of an intoxicating substance if he
 15 knowingly consumes or has in his possession an intoxicating
 16 substance. The person need not be consuming or in possession
 17 of the intoxicating substance at the time of his arrest to
 18 violate this subsection.

19 (b) A person under the age of 21 commits the offense of
 20 possession of an intoxicating substance if he knowingly has
 21 in his possession an alcoholic beverage, except as provided
 22 in 16-6-305 and except that he does not commit the offense
 23 if he consumes or gains possession of the beverage because
 24 it was lawfully supplied to him under 16-6-305 or when in
 25 the course of his employment it is necessary to possess

1 alcoholic beverages.

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

4 (a) if the person:
 5 (i) is less than 18 years of age, be fined not to
 6 exceed \$50; and:

7 (i) have his driver's license confiscated by the court
 8 for not more than 90 days and be ordered not to drive during
 9 that period if he was driving or otherwise in actual
 10 physical control of a motor vehicle when the offense
 11 occurred; or

12 (ii) have his driver's license revoked if convicted of
 13 multiple offenses under this section; or

14 (b) is 18 years of age or older, be fined an amount
 15 not to exceed \$50 for a first offense, \$100 for a second
 16 offense, and \$200 for a third offense; ~~for a fourth or~~
 17 ~~subsequent offense a person may~~ or be fined an amount not to
 18 exceed \$300 or be imprisoned in the county jail for a term
 19 not to exceed 6 months, or both, for a fourth or subsequent
 20 offense and:

21 (b)(i) be ordered to complete and pay, either directly
 22 with money or indirectly through court-ordered community
 23 service, all costs of his participation in a community-based
 24 substance abuse information course;

25 (c)(ii) have his driver's license confiscated by the



1 court for not more than 90 days and be ordered not to drive
2 during that period if he was driving or otherwise in actual
3 physical control of a motor vehicle when the offense
4 occurred; or

5 ~~(d)~~(iii) be sentenced to any combination of these
6 penalties.

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

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

-End-

RE-REFERRED AND
APPROVED BY COMMITTEE
ON JUDICIARY AS AMENDED

HOUSE BILL NO. 668

INTRODUCED BY DARKO, J. RICE, FAGG, MESSMORE, STRIZICH,
BROOKE, DOLEZAL, G. BECK

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING REVOCATION OF A
DRIVER'S LICENSE MANDATORY FOR A PERSON UNDER 18 YEARS OF
AGE CONVICTED OF MULTIPLE OFFENSES OF POSSESSION OF AN
INTOXICATING SUBSTANCE; AND AMENDING SECTION 45-5-624, MCA."

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

Section 1. Section 45-5-624, MCA, is amended to read:

***45-5-624. Unlawful possession of an intoxicating
substance -- interference with sentence or court order.**

(1) (a) A person under the age of 19 years commits the
offense of possession of an intoxicating substance if he
knowingly consumes or has in his possession an intoxicating
substance. The person need not be consuming or in possession
of the intoxicating substance at the time of his arrest to
violate this subsection.

(b) A person under the age of 21 commits the offense of
possession of an intoxicating substance if he knowingly has
in his possession an alcoholic beverage, except as provided
in 16-6-305 and except that he does not commit the offense
if he consumes or gains possession of the beverage because
it was lawfully supplied to him under 16-6-305 or when in

alcoholic beverages.

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

~~(a)~~ if the person:

~~(a)~~ is less than 18 years of age, be fined not to
exceed \$50; and:

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

(ii) MAY have his driver's license ~~revoked~~ SUSPENDED if
convicted of ~~multiple--offenses~~ A SECOND OR SUBSEQUENT
OFFENSE under this section; or

~~(b)~~ is 18 years of age or older, be fined an amount
not to exceed \$50 for a first offense, \$100 for a second
offense, and \$200 for a third offense; ~~for a fourth or
subsequent offense a person may or~~ be fined an amount not to
exceed \$300 or be imprisoned in the county jail for a term
not to exceed 6 months, or both, for a fourth or subsequent
offense and;

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



1 ~~(c)~~(ii) have his driver's license confiscated by the
2 court for not more than 90 days and be ordered not to drive
3 during that period if he was driving or otherwise in actual
4 physical control of a motor vehicle when the offense
5 occurred; or

6 ~~(d)~~(iii) be sentenced to any combination of these
7 penalties.

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

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

-End-

1 HOUSE BILL NO. 668

2 INTRODUCED BY DARKO, J. RICE, FAGG, MESSMORE, STRIZICH,

3 BROOKE, DOLEZAL, G. BECK

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING--~~REVOCATION~~ TO
6 ALLOW SUSPENSION OF A DRIVER'S LICENSE MANDATORY FOR A
7 PERSON UNDER 18 YEARS OF AGE CONVICTED OF MULTIPLE OFFENSES
8 OF POSSESSION OF AN INTOXICATING SUBSTANCE; AND AMENDING
9 SECTION 45-5-624, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 45-5-624, MCA, is amended to read:

13 **"45-5-624. Unlawful possession of an intoxicating**
14 **substance -- interference with sentence or court order.**

15 (1) (a) A person under the age of 19 years commits the
16 offense of possession of an intoxicating substance if he
17 knowingly consumes or has in his possession an intoxicating
18 substance. The person need not be consuming or in possession
19 of the intoxicating substance at the time of his arrest to
20 violate this subsection.

21 (b) A person under the age of 21 commits the offense of
22 possession of an intoxicating substance if he knowingly has
23 in his possession an alcoholic beverage, except as provided
24 in 16-6-305 and except that he does not commit the offense
25 if he consumes or gains possession of the beverage because

1 it was lawfully supplied to him under 16-6-305 or when in
2 the course of his employment it is necessary to possess
3 alcoholic beverages.

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

6 (a) if the person:

7 ~~++(a)~~ is less than 18 years of age, be fined not to
8 exceed \$50; and:

9 (i) have his driver's license confiscated by the court
10 for not more than 90 days and be ordered not to drive during
11 that period if he was driving or otherwise in actual
12 physical control of a motor vehicle when the offense
13 occurred; or AND

14 (ii) MAY have his driver's license revoked SUSPENDED if
15 convicted of ~~multiple--offenses~~ A SECOND OR SUBSEQUENT
16 OFFENSE under this section; or

17 ~~+++~~(b) is 18 years of age or older, be fined an amount
18 not to exceed \$50 for a first offense, \$100 for a second
19 offense, and \$200 for a third offense; ~~for a fourth or~~
20 ~~subsequent offense a person may or~~ be fined an amount not to
21 exceed \$300 or be imprisoned in the county jail for a term
22 not to exceed 6 months, or both; for a fourth or subsequent
23 offense and;

24 ~~++~~(i) be ordered to complete and pay, either directly
25 with money or indirectly through court-ordered community

1 service, all costs of his participation in a community-based
2 substance abuse information course;

3 ~~(c)~~(ii) have his driver's license confiscated by the
4 court for not more than 90 days and be ordered not to drive
5 during that period if he was driving or otherwise in actual
6 physical control of a motor vehicle when the offense
7 occurred; or

8 ~~(d)~~(iii) be sentenced to any combination of these
9 penalties.

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

20 (4) A person commits the offense of interference with a
21 sentence or court order if he purposely or knowingly causes
22 his child or ward to fail to comply with a sentence imposed
23 under this section or a youth court disposition order for a
24 youth found to have violated this section and upon
25 conviction shall be fined \$100 or imprisoned in the county

1 jail for 10 days, or both."

-End-

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 668 (third reading copy as amended-- blue), respectfully report that House Bill No. 668 be amended and as so amended be concurred in:

1. Page 2, line 13.

Strike: "AND"

2. Page 2, line 14.

Following: line 13

Insert: "(ii) be ordered to perform community service;"

Renumber: subsequent subsection

3. Page 2, line 14.

Strike: "MAY"

4. Page 2, line 17.

Following: line 16

Insert: "(iv) be sentenced to any combination of the penalties provided for in subsections (2)(a)(i) through (2)(a)(iii); or"

5. Page 3, line 7.

Strike: "or"

6. Page 3, line 8.

Following: line 7

Insert: "(iii) be ordered to perform community service; or"

Renumber: subsequent subsection

7. Page 3, line 8.

Strike: "these"

Insert: "the"

8. Page 3, line 9.

Following: "penalties"

Insert: "provided for in subsections (2)(b)(i) through (2)(b)(iii)"

9. Page 4, line 2.

Following: line 1

Insert: "NEW SECTION. Section 2. Coordination instruction. If Senate Bill No. 398 is passed and approved and if it includes an amendment to 45-5-624 and if [this act] is passed and approved, then Senate Bill No. 398 is void."

Signed: 

Richard Pinsonneault, Chairman

 4-91
Amd. Coord.SJB 4-1 2:00
Sec. of Senate

1 HOUSE BILL NO. 668

2 INTRODUCED BY DARKO, J. RICE, FAGG, MESSMORE, STRIZICH,
3 BROOKE, DOLEZAL, G. BECK

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5 A BILL FOR AN ACT ENTITLED: "AN ACT MAKING--REVOCATION TO
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14 **substance -- interference with sentence or court order.**

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16 offense of possession of an intoxicating substance if he
17 knowingly consumes or has in his possession an intoxicating
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20 violate this subsection.

21 (b) A person under the age of 21 commits the offense of
22 possession of an intoxicating substance if he knowingly has
23 in his possession an alcoholic beverage, except as provided
24 in 16-6-305 and except that he does not commit the offense
25 if he consumes or gains possession of the beverage because

1 it was lawfully supplied to him under 16-6-305 or when in
2 the course of his employment it is necessary to possess
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4 (2) A person convicted of the offense of possession of
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6 ~~(a)~~ if the person:

7 ~~++(a)~~ is less than 18 years of age, be fined not to
8 exceed \$50; and:

9 (i) have his driver's license confiscated by the court
10 for not more than 90 days and be ordered not to drive during
11 that period if he was driving or otherwise in actual
12 physical control of a motor vehicle when the offense
13 occurred; or AND

14 (II) BE ORDERED TO PERFORM COMMUNITY SERVICE;

15 ~~+++~~(III) MAY have his driver's license revoked
16 SUSPENDED if convicted of multiple--offenses A SECOND OR
17 SUBSEQUENT OFFENSE under this section; or

18 (IV) BE SENTENCED TO ANY COMBINATION OF THE PENALTIES
19 PROVIDED FOR IN SUBSECTIONS (2)(A)(I) THROUGH (2)(A)(III);
20 OR

21 ~~+++~~(b) is 18 years of age or older, be fined an amount
22 not to exceed \$50 for a first offense, \$100 for a second
23 offense, and \$200 for a third offense; ~~for a fourth or~~
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25 exceed \$300 or be imprisoned in the county jail for a term

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 4 with money or indirectly through court-ordered community
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 8 court for not more than 90 days and be ordered not to drive
 9 during that period if he was driving or otherwise in actual
 10 physical control of a motor vehicle when the offense
 11 occurred; or

12 (III) BE ORDERED TO PERFORM COMMUNITY SERVICE; OR

13 ~~(d)~~~~(iii)~~(IV) be sentenced to any combination of these
 14 THE penalties PROVIDED FOR IN SUBSECTIONS (2)(B)(I) THROUGH
 15 (2)(B)(III).

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

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 2 sentence or court order if he purposely or knowingly causes
 3 his child or ward to fail to comply with a sentence imposed
 4 under this section or a youth court disposition order for a
 5 youth found to have violated this section and upon
 6 conviction shall be fined \$100 or imprisoned in the county
 7 jail for 10 days, or both."

8 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF
 9 SENATE BILL NO. 398 IS PASSED AND APPROVED AND IF IT
 10 INCLUDES AN AMENDMENT TO 45-5-624 AND IF [THIS ACT] IS
 11 PASSED AND APPROVED, THEN SENATE BILL NO. 398 IS VOID.

-End-