

MARCH 25, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *398*
 2 INTRODUCED BY *Sen. HARP*
 3 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE
 4 *Castfield* *Mrazub*

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR
 6 CONVICTED OF UNLAWFUL POSSESSION OF AN INTOXICATING
 7 SUBSTANCE MAY BE SENTENCED TO PERFORM COURT-ORDERED
 8 COMMUNITY SERVICE; AND AMENDING SECTION 45-5-624, MCA."

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

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

12 **"45-5-624. Unlawful possession of an intoxicating**
 13 **substance -- interference with sentence or court order.**

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

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

1 the course of his employment it is necessary to possess
 2 alcoholic beverages.

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

5 (a) if the person:

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

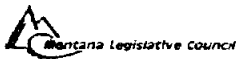
8 (ii) is 18 years or older, be fined an amount not to
 9 exceed \$50 for a first offense, \$100 for a second offense,
 10 and \$200 for a third offense; for a fourth or subsequent
 11 offense a person may be fined an amount not to exceed \$300
 12 or be imprisoned in the county jail for a term not to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

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

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

23 (d) be ordered to perform community service; or

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



INTRODUCED BILL
SB 398

LC 2003/01

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."

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 *Senate* BILL NO. 398
 2 INTRODUCED BY *Sen. HARP*
 3 BY REQUEST OF THE SENATE JUDICIARY COMMITTEE
 4 *Castell* *Mazumbar*

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR
 6 CONVICTED OF UNLAWFUL POSSESSION OF AN INTOXICATING
 7 SUBSTANCE MAY BE SENTENCED TO PERFORM COURT-ORDERED
 8 COMMUNITY SERVICE; AND AMENDING SECTION 45-5-624, MCA."

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

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

12 "45-5-624. Unlawful possession of an intoxicating
 13 substance -- interference with sentence or court order.

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

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

1 the course of his employment it is necessary to possess
 2 alcoholic beverages.

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

5 (a) if the person:

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

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

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

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

23 (d) be ordered to perform community service; or

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

SECOND READING

-2- SB 398



LC 2003/01

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."

-End-

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Senat BILL NO. *398*
INTRODUCED BY *Sen. HARRY D. DUBOIS*
BY REQUEST OF THE SENATE JUDICIARY COMMITTEE
Yellowhead
Gasfield *Mazouzi* *Op* *Smith*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR CONVICTED OF UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE MAY BE SENTENCED TO PERFORM COURT-ORDERED COMMUNITY SERVICE; 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

1 the course of his employment it is necessary to possess
2 alcoholic beverages.

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

5 (a) if the person:

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

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

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

18 (c) have his driver's license confiscated by the court
19 for not more than 90 days and be ordered not to drive during
20 that period if he was driving or otherwise in actual
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THIRD READING

SB 398



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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.
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5 the youth court, the penalties in subsection (2) do not
6 apply. If proceedings for violation of subsection (1) or for
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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
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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."


-End-

HOUSE STANDING COMMITTEE REPORT

March 12, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 398 (third reading copy -- blue) be concurred in as amended.

Signed: 

Bill Strizich, Chairman

Carried by: Rep. Lee

And, that such amendments read:

1. Page 3, line 18.

Following: line 17

Insert: "NEW SECTION. Section 2. Coordination instruction. If House Bill No. 668 is passed and approved, then the amendment in [this act] must be codified both as 45-5-624(2)(a)(iii) and 45-5-624(2)(b)(iii) and relate both to persons less than 18 years of age and persons 18 years of age or older."

HOUSE

SB 398

531150SC.HSF

SENATE BILL NO. 398

INTRODUCED BY TOWE, HARP, DOHERTY, PINSONEAULT,
HALLIGAN, YELLOWTAIL, RYE, GROSFIELD,
MAZUREK, CRIPPEN, SVRCEK

BY REQUEST OF THE SENATE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A MINOR
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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
the course of his employment it is necessary to possess
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(2) A person convicted of the offense of possession of
an intoxicating substance shall:

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exceed \$50; or

(ii) is 18 years 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 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; and

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with money or indirectly through court-ordered community
service, all costs of his participation in a community-based
substance abuse information course;

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for not more than 90 days and be ordered not to drive during
that period if he was driving or otherwise in actual
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15 his child or ward to fail to comply with a sentence imposed
16 under this section or a youth court disposition order for a
17 youth found to have violated this section and upon
18 conviction shall be fined \$100 or imprisoned in the county
19 jail for 10 days, or both."

20 NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF
21 HOUSE BILL NO. 668 IS PASSED AND APPROVED, THEN THE
22 AMENDMENT IN [THIS ACT] MUST BE CODIFIED BOTH AS
23 45-5-624(2)(A)(III) AND 45-5-624(2)(B)(III) AND RELATE BOTH
24 TO PERSONS LESS THAN 18 YEARS OF AGE AND PERSONS 18 YEARS OF
25 AGE OR OLDER.

-End-

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SB 398