

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

February 5, 1987

The twenty-second meeting of the Senate Judiciary Committee was called to order at 10:00 a.m. on February 5, 1987 by the Chairman, Joe Mazurek, in Room 325 of the state Capitol.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE BILL 21: Representative Harry Fritz, Missoula, presented HB 21, which raises the legal drinking age from 19 to 21 and grandfathers in 19 year-olds born before April 1, 1969. He said if South Dakota wins its' Supreme Court battle against the government on the legal drinking age of 19, then Montana's law will revert back to the 19 year-old legal drinking age.

PROPOSERS: Gary Wicks, Department of Highways, said if the bill passes, Montana will have its full highway fund restored.

Mickey Nelson, Lewis and Clark County DUI Task Force, supported the bill.

Jim Manion, AAA, said the drug and alcohol problem is more serious than it ever was. He read a letter from a 1985 Helena High graduate who feels the drinking age should be raised. He gave the committee a study of alcohol related fatal motor accidents. (Exhibit 1) He felt the higher the drinking age, the more likely the age of a beginning drinker will also rise.

Mr. John Loendorf, Montana Medical Association, supported the bill.

OPPOSERS: Mike Males, representing himself, gave the committee a summary of the bill, amendments and a gray bill. (Exhibit 2) He gave an example of a 20 year old homeowner not being able to drink. He also gave statistics on 18 year-olds and 21 year-olds and their drinking habits.

He said out of all his amendments, #19 is the only thing the bill needs. (see exhibit 2) He also presented from the Federal Register, a summary on the Federal rule on the minimum drinking age. (Exhibit 3)

DISCUSSION ON HOUSE BILL 21: Senator Crippen asked the proponents what they thought of the 19th Males' amendment. Representative Fritz said this was not offered in the House, so he had never seen it. Mr. Males said the Federal Register summary will show the amendment will comply with the federal rule. He said a "public place", which is in the 19th amendment is a defined term.

Valencia Lane explained some technical problems. She said sections 11-15 should not be in the bill. She said it would make the bill less complicated. J. Beck, Dept. of Highways, stated the Legislative Council drafted the bill.

Senator Blaylock asked if it bothers anyone that the bill is "nailing" a group that has better records in several areas, according to Mr. Males.

In closing, Representative Fritz said it did bother him that one group is getting hit hard.

CONSIDERATION OF HOUSE BILL 19: Representative John Mercer, House District 50, introduced HB 19. (Exhibit 4) He said it will bring the laws up to date. He mentioned the law now mentions oxes and carts in the liens provision. He explained each section.

PROPONENTS: Jeffry Kirkland, Montana Credit Union League, gave the committee written testimony in support of the bill. (Exhibit 5)

Meg Nelson, Northern Plains Resources, gave written testimony in support of the bill. (Exhibit 6)

OPPONENTS: Joe Brunner, Grange Assn., said in section 4, paragraphs 1, 2, 3, and 4 would not allow a farmer to be able to keep anything of value to maintain a business or job. She said on page 15, lines 5-8, the rationale of putting that in the bill doesn't make sense.

DISCUSSION ON HOUSE BILL 19: Senator Blaylock asked if the Grange Association would accept the bill if the values on page 4 were raised. Joe Brunner said yes, they would.

Senator Blaylock asked if the credit unions would be at a disadvantage if the values were increased to where they were. Mr. Kirkland said they would be, with regret. He said the values in the bill is all the credit unions can take.

Senator Mazurek asked why the probate code was discussed in the spouse's homestead election. Rep. Mercer replied he brought it up in the House Judiciary. He said if a thousand creditors were after him today, he could protect his homestead for \$40,000, but if he dies, the protection dies with him. The House Judiciary Committee felt a man's children should have the right to inherit this protection. Senator Mazurek said it is not clear in the bill that we are playing with the spouse's elective share to the right of a homestead allowance. He asked if the State Bar section on Probate Code knows about this change in the probate law. Representative John Mercer said they didn't. Rep. Mercer said the Homestead allowance is a version of the Homestead Exemption.

In closing the hearing on House Bill 19, Rep. Mercer distributed a copy of the current law. (Exhibit 7)

CONSIDERATION OF HOUSE BILL 13: Representative John Mercer, House District 50, introduced the bill, which is by request of the Joint Interim Subcommittee on Lien Laws. (Exhibit 8)

PROPOSERS: Jeff Kirkland, Montana Credit Union League, supported the bill.

Cort Harrington, representing himself, presented amendments which will cover many more people and the amendments move the effective date from July 1, 1987, to the approval date of the bill by the legislature. (Exhibit 9) He gave an example of a man whose business failed. He pointed out that the man's wife's name was on the debts, so it brought all her assets into the bankruptcy. He said these amendments will help the people that get themselves in a bind with the bankruptcy laws.

Senator Severson, Senate District 32, supported the bill.

OPPOSERS: There were none.

DISCUSSION ON HOUSE BILL 13: Senator Bishop questioned why the bill doesn't exempt private retirement benefits. Rep. Mercer replied that problem covers the whole system.

He said one couldn't fix the problem of private retirement benefits in this bill. Rep. Mercer said the private retirement benefits problem should be addressed in HB 19.

Representative Mercer closed by saying he agreed with the Harrington amendment.

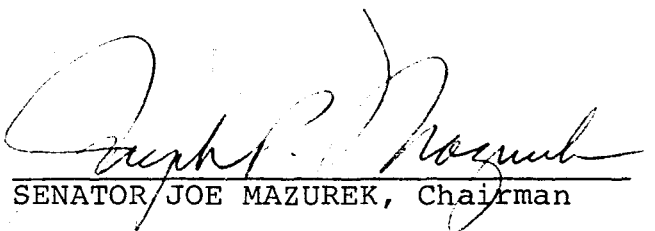
EXECUTIVE ACTION

ACTION ON SENATE BILL 173: Senator Halligan moved the bill DO PASS. The motion CARRIED with Senator Crippen voting no.

ACTION ON SENATE BILL 220: Senator Yellowtail said he had talked to a few clerks of court, and they supported the bill. He suggested striking the "per name" part of the bill. Senator Pinsoneault suggested an hourly charge. Senator Galt said not everyone will use a full hour to look something up. Senator Galt MOVED on page 2, line 3, and page 4, line 8, to strike "per name" and insert a maximum of \$25. Senator Beck suggested a charge for every two hours. Senator Yellowtail explained some people will not take advantage of the records and files if they know it will cost \$25. The motion carried.

Senator Yellowtail moved the bill DO PASS AS AMENDED. The motion carried.

ADJOURNMENT: The meeting adjourned at 12:00 noon.



SENATOR JOE MAZUREK, Chairman

ROLL CALL

Judiciary

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 5, 1987

NAME	PRESENT	ABSENT	EXCUSED
<u>Senator Joe Mazurek, Chairman</u>	X		
<u>Senator Bruce Crippen, Vice Chairman</u>	X		
<u>Senator Tom Beck</u>	X		
<u>Senator Al Bishop</u>	X		
<u>Senator Chet Blaylock</u>	X		
<u>Senator Bob Brown</u>	X		
<u>Senator Jack Galt</u>	X		
<u>Senator Mike Halligan</u>	X		
<u>Senator Dick Pinsoneault</u>	X		
<u>Senator Bill Yellowtail</u>	X		

Each day attach to minutes.

NAME: MIKE A. MALES DATE: 5 FEB 87

ADDRESS: 528 W. F ST. LUNenburg Mt 59047

PHONE: 222-3398, 222-1930 (w)

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: HB 21

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: HB 21 IS TOO PUNITIVE —
GOES FAR BEYOND WHAT IS
NECESSARY TO PRESERVE FEDERAL
HIGHWAY FUNDS — IS UNFAIR TO
YOUNG PEOPLE WHO ARE NOT EVEN
RESPONSIBLE FOR MOST OF MONTANA'S
ALCOHOL-RELATED PROBLEMS.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jesse W Long DATE: 2-5-87

ADDRESS: 515 N Sanders Helena

PHONE: 442-2510

REPRESENTING WHOM? School Administrators of Montana

APPEARING ON WHICH PROPOSAL: HB 21

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: S.A.M has had a long standing
resolution in support of raising the drinking
age from 19 to 21. H.S principals believe
that the further alcohol is removed from H.S.
age students the better the conduct of the
students. When the drinking age was
lowered from 21 to 18 problems in the schools
increased. The frequent actions of changing
from 21 to 18 to 19 seems to keep the problem
in front of the public unnecessarily.

Again we support the change from
19 to 21.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

RAISING THE ALCOHOL PURCHASE AGE:
ITS EFFECTS ON FATAL MOTOR VEHICLE CRASHES IN 26 STATES

William DuMouchel*
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Paul Zador**

December 1985

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**Insurance Institute for Highway Safety, Washington, D.C.

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This work was supported by the Insurance Institute for Highway Safety.

Between 1970 and 1975, more than half the states passed legislation reducing the minimum age for the purchase of alcoholic beverages. The minimum purchase age had been 21 in most of these states; it was reduced to 18, 19, or 20--in most cases 18. All 10 Canadian provinces also reduced the legal age for the purchase of alcoholic beverages. Research studies in both countries indicated that these changes resulted in increased fatal crash involvement among drivers under age 21.¹⁻⁴

Beginning in 1976, there has been a trend toward raising the alcohol purchase age. By the end of 1980, 14 states that had lowered the minimum age in the early 1970's had raised it, although not always back to the previous level. Studies conducted in the early 1980's found that raising the purchase age decreased driver fatal crash involvement in the affected age groups.⁵⁻⁸ ~~Several of these studies were based on the experience of only one state~~ One study that assessed the experience of nine states with increased purchase ages reported reductions in nighttime fatal crashes among youthful drivers; based on all nine states the average fatality reduction was 28 percent.⁵

The trend toward raising the legal minimum alcohol purchase age has continued throughout the 1980s. In 1984 a federal law was enacted withholding five percent of highway aid from states not having a minimum alcohol purchase age of 21 for all alcoholic beverages by October 1, 1986; 10 percent of federal funds would be withheld from states not having a 21 minimum purchase age the following year. This action has prompted additional age change legislation by states.

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The nine-state study conducted in 1981 looked, in most cases, at the early effects of the purchase age law changes. Five of the nine states studied were in the second year of their new law; one was in the first year. The present study was undertaken to assess longer term effects of raising the alcohol purchase age and to include the experience of additional states that have enacted such legislation. The data available for this study include the years 1975-1984, and it was possible to study 26 states that changed their laws during this period.

The present study also investigated the effect of the legislation on "beginning" drinkers of different ages. For example, in a state that raises its age from 18 to 19, 19-year-olds (after a one-year time lag) will be "beginning" drinkers because they will not have been allowed to purchase alcohol legally prior to age 19; in contrast, in states with a minimum age of 18, the 18-year-olds are the "beginning" drinkers and the 19-year-olds will have been allowed to purchase alcohol for one year. It has been suggested that "beginning" drinkers, whatever their age, are a problem and that raising the purchase age for alcohol merely postpones their higher driver fatality experience, which negates some or all of the effects of raising the purchase age.⁹ However, the evidence presented thus far for this hypothesis is inadequate.¹⁰ It could also be argued that "beginning" drinkers and even older drivers could be positively affected by raising the purchase age, because they may drink less than those who have had more prior years of opportunity to purchase alcohol. Also, it is possible that those younger than the affected ages could be positively affected by raising the purchase age, because their access to alcohol through their slightly older peers may be reduced.

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METHODS

The study was based on drivers of ages 16-24 who were in fatal crashes during the years 1975-1984 in the 48 states that comprise the continental United States. The data were extracted from the Fatal Accident Reporting System (FARS), a computerized data base maintained by the National Highway Traffic Safety Administration. Crashes in which a motorcyclist was killed, and crashes involving more than three motor vehicles, were excluded. Also excluded were drivers not residing in the state in which the crash occurred. The results are based on a total of 159,262 driver fatal crash involvements. Population estimates for each state, obtained from the U.S. Bureau of the Census for each of the nine ages 16-24 for each of the calendar years 1975-1984, were used to control for population related changes in fatal crash involvements.

The state-age-year combinations were categorized according to whether or not alcoholic beverages could legally be purchased; proportional adjustments were made if law changes occurred during the calendar year. The 26 states studied, the effective dates of the law changes, and the ages and alcoholic beverages affected are identified in Table 1. By the end of 1984, changes in the minimum purchase age had been in effect for more than two years in 19 of the 26 states and for more than four years in 14 states.

The new laws in some of the states included "grandfather" clauses exempting those who at the time of the effective date already had reached the prior legal minimum purchase age. For example, a law might raise the age from 18 to 21 on January 1, 1980 but exempt those persons already 18-20 years old before that date. Such laws were treated as if a law

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change had occurred whenever half the population at any age were first prohibited from purchasing alcohol. Thus, in the above example, the law would be interpreted as a raise in the purchase age from 18 to 19 on July 1, 1980, another raise from 19 to 20 on July 1, 1981, and a third raise from 20 to 21 on July 1, 1982.

Methods of analysis were devised that enabled the effects of the law changes on fatal crash involvement of law-affected drivers to be estimated, while controlling for the effects of population and other age-related factors on fatalities. In summary, this was done by comparing changes in fatal crash involvement among law-affected drivers before and after the laws with the experience of drivers not affected by the law changes in those same states, and with same-age and other-age drivers in states that did not change their laws in 1975-1984. These comparisons were made for all 48 continental states and separately for 12 four-state geographical regions of the country. The states comprising these regions are given in the following tabulation:

Region	States
Northwest	Washington, Oregon, Idaho, Montana
North Midwest	Wyoming, North Dakota, South Dakota, Nebraska
North Central	Minnesota, Iowa, Wisconsin, Illinois
North Mideast	Michigan, Indiana, Ohio, Pennsylvania
Northeast	New York, New Jersey, Connecticut, Rhode Island
New England	Vermont, New Hampshire, Maine, Massachusetts
Mideast	West Virginia, Virginia, Maryland, Delaware
Southeast	North Carolina, South Carolina, Georgia, Florida
East Central	Kentucky, Tennessee, Missouri, Arkansas
South Central	Alabama, Mississippi, Louisiana, Texas
West Central	Kansas, Oklahoma, Colorado, New Mexico
Southwest	Utah, Arizona, Nevada, California

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None of the four states in the Southwest region changed their purchase age during the study period so the effect of law changes could not be estimated in this region.

Data accurately indicating whether drivers had been drinking prior to their crash, or their blood alcohol concentration (BAC), are not sufficiently available for all states. It is known, however, on the basis of 15 states that report BACs of virtually all fatally injured drivers, that about half are legally intoxicated (BACs of 0.10 percent or greater).¹¹ Drivers fatally injured in nighttime (8 p.m.-5 a.m.) crashes are especially likely to have been drinking; about two-thirds have BACs of 0.10 percent or greater.¹² This subset of crashes was therefore given special attention in the present study. The results were also analyzed for each separate age and for male and female drivers.

The statistical analysis used produces regression coefficients that estimate the proportional reduction in driver fatal crash involvement rates associated with the prohibition of alcohol from drivers in particular state-age-year combinations, and it also provides a quantitative measure of uncertainty for these coefficients. In a slightly modified version, the same method was also used to estimate the combined variation in the crash experience of cohorts (ages 17-21) as a function of the number of years the cohort was permitted legal access to alcohol. The methods of analysis are described in the following section; a more detailed description of the statistics will be provided in a separate publication.

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Statistical Analysis

Definitions. The analyses depended on the deviations of driver involvement counts, N_{say} , from certain baseline counts, denoted by B_{say} .

The following definitions were used in the analyses:

B = baseline frequency of driver fatal involvements;

N = observed number of driver fatal involvements;

s = state;

a = age;

y = year;

Z = standardized driver fatal involvements;

X1 = fractional dummy variable for proportion allowed to purchase alcohol;

X2 = population size;

X3 = age-by-year interaction;

X4, X5 = estimated proportion of age group first allowed to purchase alcohol.

The baseline counts were computed for each state as if the age distribution of driver involvements were the same from year to year within each state. The analyses did not assume that frequencies by age and year were independent within each state; and, in fact, it was found that they were not quite so distributed. However, this definition of a baseline frequency allowed the deviations from this assumption to be modeled and quantified.

The baseline driver involvement count for state, age, and year was defined as:

$$B_{say} = N_{sa} + N_{s+y} \div N_{s++}$$

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where subscript plus sign (+) denotes summation over the missing indices. Next a standardized driver involvement count Z_{say} was defined as the relative deviation of N_{say} from B_{say} :

$$Z_{say} = (N_{say} - B_{say}) \div B_{say}.$$

The analyses of effects were based on treating Z_{say} as a response variable in weighted regression analyses using the values of B_{say} as weights. The regression models should be interpreted as if they were multiplicative models for the original counts, N_{say} . For example, because each Z is a relative deviation of the observed frequency, N , from a baseline, B , an increase in Z of .1 due to some factor is interpreted as a 10 percent increase in N due to that factor. In fact, this is an approximation valid when Z is near zero. As discussed below, a more accurate expression for the percentage effect on N of an increase of Z from Z to Z' is $100(Z'-Z)/(1+Z)$ percent.

Preliminary data analyses were used to fit multiplicative models to the N_{say} directly, using maximum likelihood methods to fit loglinear models to the array of counts. The weighted regressions produced almost exactly the same results whenever the two methods were compared. In addition to being computationally much simpler, inferences based on the weighted regressions have the advantage of not depending on the assumption that the involvement counts, N_{say} , have Poisson distributions.

From the definition of B_{say} , it can be seen that the Z_{say} satisfied the constraints:

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$$\sum_a B_{sa} + Z_{say} = 0, \text{ for every } s \text{ and } y,$$

and

$$\sum_y B_{s+y} Z_{say} = 0, \text{ for every } s \text{ and } a.$$

This fact was utilized in the computation of regression coefficients.

Weighted Analysis of Covariance. The regression model states that for some variables X_1, X_2, \dots , which may depend on (s, a, y) , the expectation of Z_{say} is

$$E \{Z_{say}\} = \beta_1 X_{1say} + \beta_2 X_{2say} + \dots$$

The analyses produce estimates and standard deviations for the parameters β_1, β_2, \dots . Because of the constraints that the Z's obey, the analyses are technically three-way analyses of covariance. To estimate the β parameters by the usual regression formulas, it was necessary to replace each X by its residual from the three-way analysis of variance, weighted by the B's. That is, for each X a U is defined by the formula

$$U_{say} = X_{say} - X_{sa.} - X_{s.y} + X_{s..},$$

$$X_{sa.} = (\sum_y B_{s+y} X_{say}) \div B_{s++},$$

$$X_{s.y} = (\sum_a B_{sa} X_{say}) \div B_{s++},$$

$$X_{s..} = (\sum_a B_{sa} X_{sa.}) \div B_{s++}.$$

Then the β 's are estimated by the regression of Z on the U's.

In the case where there is only one regressor variable, the estimation of β is an especially simple computation:

$$\beta = (\sum B_{say} U_{say} Z_{say}) \div \sum B_{say} (U_{say})^2.$$

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There is a small inaccuracy in interpreting β as the proportional decrease in expected N when X_1 goes from 1 to 0 (i.e., prohibiting an age group from purchasing alcohol). Such an interpretation is strictly correct only if the expected value of Z is 0 when $X_1 = 1$. Suppose that the expected values of Z are Z_0 and Z_1 when X_1 is 0 and 1, respectively. Then, using the formulas, $E[Z] = \beta U$ and $N = B(1 + Z)$, the exact proportional change in $E[N]$ is

$$(Z_0 - Z_1) / (1 + Z_1) = -\beta / (1 + \beta U_1),$$

where U_1 is the value of $U = X_1 - X_{1s.a.} - X_{1s.y} + X_{1x..}$ corresponding to $X_1 = 1$. In this report, the typical value of $U_1 = .5$ was used so that the effect of prohibition was always computed as: percent reduction due to prohibition = $100 \beta / (1 + \beta/2)$ percent. Percentage reductions are reported as decimals, i.e., $0.05 = 5$ percent.

Adjusting for Confounding Variables. The estimated effect of raising the alcohol purchase age could be due to some other cause that resulted in a relative drop in the counts of fatal crash involvements of age-affected drivers in the last decade. For example, the proportion of drivers under 25 years of age who are affected by the legislation may be falling, or some other trend may be producing a similar effect. To rule out these alternative explanations, adjustments were made for these different effects. This was done by creating two more variables and including them as covariates in the weighted analysis of covariances.

First, the U.S. Census estimates P_{say} were standardized by a method similar to that used for N . The following expression was defined:

$$X_{2say} = (P_{say} P_{s++} \div P_{sa} \cdot P_{s+y}) - 1.$$

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Then, X2 is the relative difference between the population size at each age and at each year and the estimate of population size produced by a multiplicative model. For example, if $X2 = .1$ for 19-year olds in 1982, then there are about 10 percent more 19-year olds in the given state in 1982 than in the average year, compared to the other ages 16-24. They might be expected to be involved in roughly 10 percent more crashes than in the average year as well, irrespective of any changes in the drinking law. Therefore, if the variable X2 is used as a covariate in the regressions, its slope is expected to be near unity. In practice, the slope of X2 tends to be less than unity, because the census data are only approximate, and, even if the data were exact, they would not provide a perfect proxy variable for the amount of driving performed by each age group during each year. However, the use of X2 as a covariate does allow for a reasonable adjustment for the effects of shifts in the age distribution of each state's population over time.

Second, to allow for any other secular trends that might differentially affect the crash rate of drivers of different ages, another covariate was added to the model that explicitly allowed for an age-by-year interaction. For each age, a , and each year, y , the variable X3 was defined as

$$X3_{ay} = (a - 20)(y - 1979.5)/100.$$

Another analysis attempted to discover whether the first year of being legally allowed to purchase alcohol is especially hazardous. To test this hypothesis, a new predictor variable X4 was constructed that should be sensitive to such an effect. Let

$$X4_{say} = \max \{0, X1_{say} - X1_{s, a-1, y-1}\}.$$

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Thus, $X4_{say}$ is approximately the proportion at age, a , who can purchase alcohol during year, y , but not during year, $y-1$, when they were a year younger. Therefore, if the first year of legal alcohol purchase is especially hazardous, the coefficient of $X4$ would be large. Variations of this approach were used in order to test modifications of this hypothesis. Whether the first year of being able to purchase alcohol is more dangerous only at certain ages was investigated by using new predictors defined for example as $X5_{say} = X4_{say}$, if $a = 19$ and $X5_{say} = 0$, otherwise, with correspondingly defined predictors focusing on other ages. Similarly, whether any effect of being a "beginning" drinker is concentrated in the law change states was tested by constructing another predictor equal to $X4_{say}$ during all years, y , after a law change in state, s , and equal to zero otherwise. An alternative method for taking into account crash involvement by drivers not directly affected by the changes is provided by cohort analysis.

Analyses by Cohorts. In a cohort analysis, the focus is not on the experience of drivers at particular state-age-year combinations but on the longitudinal history of drivers over several years. In this study, the cohorts were defined in such a way that regardless of law changes the youngest age allowed to purchase was always included. Although the same drivers cannot actually be followed over several years, this approach can be approximated by summing fatal crash involvement counts for approximately the same cohort of drivers. For example, the sum of counts for drivers age 17 in 1980, age 18 in 1981, age 19 in 1982, age 20 in 1983, and age 21 in 1984 in a particular state is approximately the total of crash involvement during ages 17-21 for a single

cohort of drivers born in 1963 and residing in that state. (The exact date of birth and residential mobility of drivers were not known.) This total can be formed for all cohorts by varying state and birthdate. For each of the 48 states there are six such cohorts corresponding to drivers who are aged 17 in the years 1975 through 1980.

This 48-state by six-birthyear table of counts was adjusted for the marginal effects of confounding variables and then compared to each cohort's history of restrictions regarding alcohol purchase. The primary variable of interest is the number of years of legal permission to purchase alcohol that the cohort experienced during ages 17-21 inclusive. This varies from one year, for cohorts with a constant minimum legal purchase age of 21, to four years, for cohorts with a constant minimum legal purchase age of 18.

The cohort analyses were performed by pooling the values of the response variable Z and the covariates X_1 and X_2 in the age-year cells that were pooled for the construction of each cohort's experience. The value of X_3 was not used in the cohort analysis, but other adjustments were made after the data were pooled. Within each region, the pooled values of Z and each X were adjusted for independent effects of state and birthyear.

Discussion of the Method. If the analysis were based on X_1 alone, it would depend solely on the experience within the law-change states. This is because the adjusted variable, U_1 , has no variation ($U_{1,ay} = 0$) in a state that did not experience a law change. The only use of the no-change states was to allow a better estimate of the effects of X_2 and X_3 , which are the proper adjustments to allow for the effects of variation of the age structure of the population and for any other age-related trends in crash experience.

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When the data were analyzed separately by region of the country, all three coefficients were estimated for each block of four states. This analysis was very similar to a matched pairs analysis, except that instead of each block consisting of a pair of states (one with and one without a law change) each block consisted of four states (some with and some without a law change) with an integrated analysis of the effects of prohibition and of possibly confounding trends separately for each block.

RESULTS

The effect of raising the minimum legal alcohol purchase age was estimated to be a 0.13 reduction in nighttime driver fatal crash involvements based on the 87,153 nighttime driver fatal crash involvements that occurred during 1975-1984. At the 95 percent confidence level, there were between 0.08 and 0.18 fewer nighttime driver fatal crash involvements than would otherwise have occurred for the state, age, and year combinations where the legal right to purchase alcohol was removed (see Figure 1).* Results are reported in the present study at the 95 percent confidence level. A change is statistically significant at the conventional level if the confidence interval excludes zero. The effect for daytime crashes, which much less often involve alcohol, was negligible (0.03 ± 0.06). The effect of increasing the purchase age for both nighttime and daytime, based on 159,262 fatal driver crash involvements, was estimated to be 0.09 ± 0.04 .

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Effects by Region

The results of the same analyses repeated for the 11 four-state regions in which one or more states changed their laws were positive for all fatal crash involvements and for nighttime involvements in 10 regions. The estimated effects ranged from -0.04 to 0.27 for nighttime crashes, but there were large standard errors in most cases, introducing uncertainties. Considering these uncertainties, there is no evidence that the true effects of raising the purchase age vary by region, which suggests that the overall estimate is the best estimate available for every state.

Effects Over Time

To address the important question of whether the law changes persist over time, a modified regression model was constructed that provided separate estimates of the relative effect of law changes depending on the number of years the law had been in effect. In those states with several years experience with the raised purchase age law, no significant differences in the effects of the law changes were observed after the first years of the change. For example, using the sample of all nighttime driver crash involvements, the effect of raising the purchase age was estimated to be a 0.13 reduction during the first two years of a new law's taking effect and to be 0.12 during subsequent years. Similarly, there was no evidence of erosion in effects when comparisons in fatal crash experience after one year and after three years of the laws were made.

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Effects on "Beginning" Drinkers

To determine whether the first year of legal alcohol purchase, regardless of age, was especially hazardous, a variable was added to the regression model that represented the proportion of "beginning" drinkers ages 19-21 (those reaching the age when they could first legally purchase alcohol) in the cells (state, age, year). The effect was negligible, 0.02 ± 0.06 . Similar analyses were conducted to assess the effects of first year drinking among 19, 20, and 21 year olds separately. Estimated effects were -0.01 ± 0.08 at age 19, 0.14 ± 0.19 at age 20, and -0.08 ± 0.14 at age 21. Finally these analyses were rerun with the potential effects of first year legal purchase restricted to only the law change states. The results were equally nonsignificant.

Cohort Effects

The estimated change in the overall involvement in fatal crashes by five-year cohorts (ages 17-21) takes into account effects of the legislation on drivers of these ages, some of whom are directly affected by the law changes and some who are not. In this analysis, the response was a proportional increase or decrease in a crash involvement, while the regressor was the number of years of legal permission to purchase alcohol.

For nighttime crashes the reduction of driver fatal crash involvement was estimated to be 0.05 ± 0.04 . This estimate implies that a single additional year of alcohol purchase is associated with an increase in fatal nighttime crash involvements of between 0.01 and 0.09 over an entire five-year period. The 0.05 per year reduction in a cohort's experience in nighttime fatal crashes yields a somewhat larger result than the previously

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estimated 0.13 reduction based on single age groups. That is, prorating the 0.13 reduction for a single age group produces a crude estimate of approximately 0.03 reduction for each cohort for each additional year of prohibition. The difference between the two estimates is not statistically significant; however, the possibility exists that the results of the cohort analysis indicate a positive spillover effect for drivers not affected by the law changes.

The corresponding estimated reduction for all crashes, including both daytime and nighttime involvements, is 0.04 ± 0.03 . The cohort analyses estimates have greater uncertainty associated with them because information is lost when the five years of data for each cohort are grouped. In addition, not all the data available were usable because the earliest and latest cohorts could not be followed for the required five years.

Gender and Age

Most of the drivers involved in fatal crashes (81 percent in the present study) are male. However, the effect of raising the purchase age is proportionately greater for females. The estimates for nighttime fatal crashes, were 0.10 ± 0.06 for males and 0.26 ± 0.11 for females.

The age analysis showed a lessening of the effect at age 20. For nighttime fatal crashes the estimated effects were 0.14 ± 0.06 for age 18, 0.15 ± 0.10 for age 19, and 0.01 ± 0.13 for age 20. However, the uncertainties in these estimates are such that the differential effects by age may be statistical artifacts.

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Reductions in Driver Fatal Crash Involvements

In the 26 states in which the alcohol purchase age was raised, there were 40 state-by-age groups affected: 23 groups for age 18, 11 for age 19, and 6 for age 20.** By cumulating the number of fatal crash involvements of these 40 groups separately for the years preceding each law change and for the years following each law change, and using the estimates of the derived percentage reductions in fatal involvements, the numbers of fatal involvements prevented by the law changes were calculated. During the 1975-1984 period, the law changes resulted in an estimated 586 fewer fatal involvements of 18-20 year old drivers in crashes (370 males, 216 females).

DISCUSSION

The present study confirms the results of earlier work indicating that raising the legal minimum age for purchasing alcoholic beverages reduces fatal crash involvement among youthful drivers. The study was based on a much larger number of states than the earlier work, and it clearly indicates that substantial reductions in fatal crashes occur as a result of the law changes and that the reductions that occur during initial years of the laws are undiminished over time. Larger reductions were found for females than for males. Some evidence was found in the present study that the major positive effects are achieved by raising the purchase age to 20 and that raising it from 20 to 21 has a smaller effect; however, the evidence is not conclusive.

The cohort analysis and the other analyses conducted indicated that the positive effects of the law changes are not negated by increases among those just becoming of legal age to purchase alcohol in law-change states. One possible interpretation of the results of the cohort analysis, which took into

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account the experience of drivers ages 17-21, is that the law changes result in reduced fatality rates not only for drivers whose legal ability to purchase alcohol is affected by the laws, but for younger and older drivers (including "beginning" drinkers) as well.

The reductions in driver fatal crash involvement estimated in the present study are generally smaller than those found in previous work. For example, in the earlier study based on nine states, the reduction in nighttime fatal crash involvement was estimated to be 28 percent,² whereas the estimate in the present study was 13 percent. Given the statistical uncertainty in these estimates, however, they may not be in conflict. That is, the 28 percent estimate had a ± 17 percent confidence interval and could thus range from 11 percent to 45 percent;² the 13 percent estimate could range from 8 to 18 percent. Moreover, the 13 percent estimate, based on single age groups was conservative compared to the estimate based on driver cohorts.

→ Overall, the results of the present study strongly indicate that raising the alcohol purchase age has had, and will continue to have, an important effect on reducing the fatal crash involvement of youthful drivers.

The authors wish to acknowledge Sharon J. Rasmussen for editorial assistance and Marvin Ginsburg for assistance with data processing.

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NOTES

*For nighttime involvements, the coefficient of the relative deviation of the census data was estimated to be 0.67 with a standard error of 0.20. Thus a given increase of the Census Bureau's estimate of the proportional representation of an age group in a given state tends to be accompanied by an increase in proportional crash involvement of just two-thirds as much. The coefficient of the age-by-year interaction variable is 0.38 with a standard error of 0.12. (Recall that this variable is defined as $(age - 20)(year - 1979.5)/100$, so that it ranges from -0.18 to 0.18.) Although this coefficient is significantly different from 0 at the 0.1 percent level, the inclusion or omission of this covariate does not much influence the conclusions of the study regarding the effect of changes in the minimum purchase age law. Because this variable is highly correlated with the census population estimates in most states, dropping the age-by-year interaction variable tends to produce an increase in the coefficient of the census population variable without much of an effect on the estimate of the effect of prohibition. However, dropping both of the covariates does produce a serious bias in the purchase age coefficient, which rises to 0.21 in that case.

**Because the analyses delayed the effective dates for law changes with "grandfather" clauses by six months, 20-year-olds in Maryland, and 19 and 20-year-olds in Tennessee, were treated as not affected by the changes.

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REFERENCES

1. Richard L. Douglass and Lyle D. Filkins, The Effect of the Lower Legal Drinking Ages of Youth Crash Involvement; Final Summary Report, National Highway Traffic Safety Administration, Washington, D.C. (1974).
2. Allan F. Williams, Robert F. Rich, Paul L. Zador, and Leon S. Robertson, The Legal Minimum Drinking Age and Fatal Motor Vehicle Crashes, 4 J. Legal Stud. 219 (1975).
3. Philip J. Cook and George Tauchen, The Effect of Minimum Drinking Age Legislation on Youthful Auto Fatalities, 1970-1977, 13 J. Legal Stud. 169 (1984).
4. Reginald G. Smart and Michael S. Goodstadt, Effects of Reducing the Legal Alcohol-Purchasing Age on Drinking and Drinking Problems; A Review of Empirical Studies, 38 J Studies on Alcohol, 1313 (1977).
5. Allan F. Williams, Paul L. Zador, Sandra S. Harris, and Ronald S. Karpf, The Effect of Raising the Legal Minimum Drinking Age on Involvement in Fatal Crashes, 12 J Legal Studies, 169 (1983).
6. A. C. Wagenaar, Effects of An Increase in the Legal Minimum Drinking Age, 2 J Public Health Policy, 206 (1981).

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7. Robert P. Lillis, Timothy P. Williams, and William R. Williford, The Impact of the 19-Year-Old Drinking Age in New York, in H. Holder (ed.) Control Issues in Alcohol Abuse Prevention: Strategies for States and Communities. JAI Press, Greenwich, CT (in press).
8. P. M. Maxwell, Impact Analysis of the Raised Legal Drinking Age in Illinois. National Highway Traffic Safety Administration, Washington, D.C. (1981).
9. Mike A. Males, The Minimum Purchase Age for Alcohol and Young-Driver Fatal Crashes--A Long-Term View, J Legal Studies (in press).
10. Allan F. Williams, Comments on the paper, "The Minimum Purchase Age for Alcohol and Young-Driver Fatal Crashes--A Long-Term View," by Mike A. Males, J Legal Studies (in press).
11. James C. Fell, Alcohol Involvement in Fatal Accidents 1980-1984, National Center for Statistics and Analysis, U.S. Dept. of Transportation, Washington, D.C. (1985).
12. James C. Fell, Alcohol Involvement in United States Traffic Accidents: Where It Is Changing, National Center for Statistics and Analysis, U.S. Dept. of Transportation, Washington, D.C. (1983).

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TABLE 1
States Changing the Legal Minimum Alcohol
Purchase Age, 1975-1984*

<u>State</u>	<u>Alcohol Purchase Age Changes</u> (<u>From</u> - <u>To</u>)	<u>Effective Date</u>
Connecticut	18 - 19	July 1, 1982
	19 - 20	October 1, 1983
Delaware	20 - 21*	January 1, 1984
Florida	18 - 19	October 1, 1980
Georgia	18 - 19	September 1, 1980
Illinois ¹	19 - 21	January 1, 1980
Iowa	18 - 19*	July 1, 1978
Maine	18 - 20	October 24, 1977
Maryland ¹	18 - 21*	July 1, 1982
Massachusetts	18 - 20	April 16, 1979
Michigan	18 - 21	December 21, 1978
Minnesota	18 - 19*	September 1, 1976
Montana	18 - 19	January 1, 1979
Nebraska	19 - 20*	July 19, 1980
New Hampshire	18 - 20	May 24, 1979
	18 - 19*	January 2, 1980
New Jersey	19 - 21*	January 1, 1983
	18 - 19	December 4, 1982
North Carolina ¹	18 - 19	October 1, 1983
Ohio ²	18 - 19	August 19, 1982
Oklahoma ²	18 - 21	September 22, 1983
Rhode Island	18 - 19	July 1, 1980
	19 - 20	July 1, 1981
	20 - 21	July 1, 1984
South Carolina ¹	18 - 19	January 1, 1984
South Dakota ²	18 - 19	July 1, 1984
Tennessee	18 - 19	June 1, 1979
	19 - 21*	August 1, 1984
Texas	18 - 19	September 1, 1981
Virginia ³	18 - 19	July 1, 1983
West Virginia	18 - 19*	July 1, 1983

* The law changes apply to all alcoholic beverages except where noted.

* Grandfather clause

¹ Applied to beer and wine only

² Applied to beer only

³ Applied to on-premise beer purchase only

Note: Alabama changed the minimum alcohol purchase age from 21 to 19 on July 22, 1975. Wisconsin raised the purchase age from 18 to 19 on July 1, 1984 but grandfathered 18-year-olds so their effective date did not occur in the 1975-1984 period.

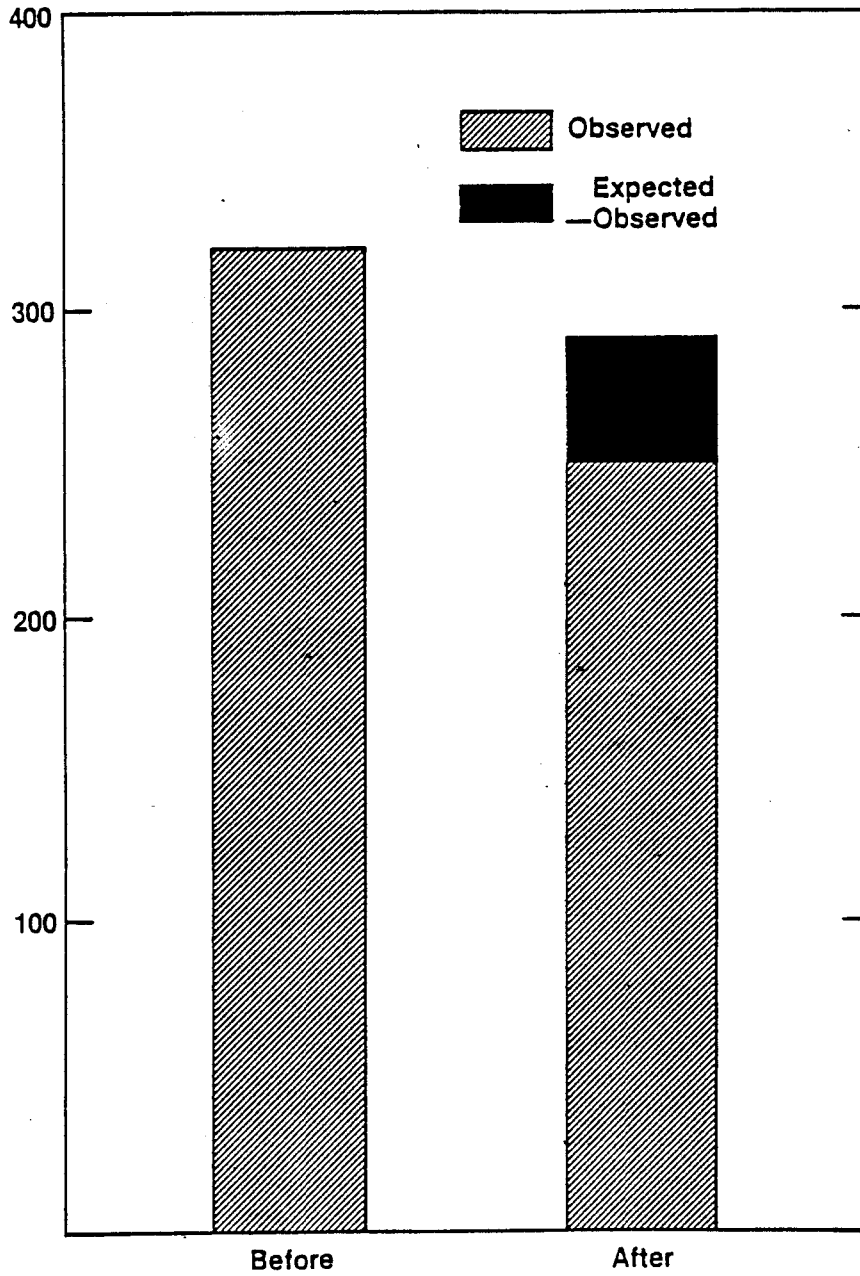
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Figure 1
Estimated Nighttime Fatal Crash Involvement Rates
Per Million Person Years Before and After Increases
in Minimum Legal Purchase Age



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SUMMARY OF FEDERAL REQUIREMENTS FOR STATE 21 DRINKING AGE LAWS

1. Age must be at least 21 for "purchase and public possession" of an alcoholic beverage.
2. Bill must be effective no later than Oct. 1, 1987.
3. States are free to choose their own penalties for underage purchase or possession violations.
4. States are free to permit the sale, provision, of alcohol to underage persons and to permit private use of alcohol by underage persons.
5. Exemptions are allowed for public alcohol consumption and possession by underage people for employment, use with parents, spouse, or legal guardian if over 21, religious use, medical use, and use in private clubs.

(see Federal Register, 26 March 1986, pp 10376ff).

* * * * *

TRAFFIC ACCIDENTS DUE TO ALCOHOL IMPAIRMENT, MONTANA, 1985, BY AGE OF IMPAIRED DRIVER OR PEDESTRIAN

<u>Age</u>	<u>Number of alcohol-impaired accidents</u>	<u>Number of drivers</u>	<u>Alcohol-impaired accident rate per 1,000 drivers</u>
Under 18 1/2	115	52,000	2.2
Under 21	334	81,000	4.1

21 to 24	370	58,000	6.4
21 to 30	771	144,000	5.4
21 to 34	966	204,000	4.7
<u>21 to 40</u>	<u>1,175</u>	<u>270,000</u>	<u>4.4</u>
ALL DRIVERS	1,796	624,000	2.9
Age 21 only	103	14,000	7.4
Age 23 only	108	15,000	7.2

(see Montana Highway Patrol, Annual Report, 1985; U.S. Bureau of the Census, Resident Population by State and Age, 1984).

Conclusion: Drivers under the age of 21, and particularly high school age drivers, have significantly lower rates of alcohol-impaired traffic accidents per 1,000 drivers than drivers age 21 to 40. Drivers age 21 to 40 comprise only 42% of all drivers but cause two-thirds of all alcohol-impaired crashes in Montana.

PERCENTAGE OF ALL TRAFFIC ACCIDENTS WHICH ARE ATTRIBUTED TO DRINKING,
BY AGE GROUP, MONTANA, 1985

<u>Age</u>	<u>Number of alcohol- impaired accidents</u>	<u>Total accidents (impaired + sober)</u>	<u>Percentage of total accidents due to drinking</u>
Under 18-1/2	115	3,557	3.2 %
Under 21	334	6,245	5.3 %

21 to 24	370	3,925	9.4 %
21 to 30	771	8,032	9.6 %
21 to 34	966	11,550	8.4 %
<u>21 to 40</u>	<u>1,175</u>	<u>14,563</u>	<u>8.1 %</u>
ALL DRIVERS	1,796	28,221	6.4 %

(see MHP Annual Report, 1985)

Conclusions: Drivers under the age of 21 are 6% less likely to be involved in an alcohol-impaired crash, and 35% less likely to have drinking as the cause of a given crash, than drivers age 21 to 40.

* * * * *

NET CHANGE IN ALCOHOL-IMPAIRED CRASHES BY AGE, MONTANA, 1982-85

<u>Age</u>	<u>Number of alcohol-impaired crashes:</u>				<u>Change in rate 1982-1985</u>
	<u>1982</u>		<u>1985</u>		
	<u>Number</u>	<u>Rate/000</u>	<u>Number</u>	<u>Rate/000</u>	
Under 18 ¹ / ₂	160	3.0	115	2.2	- 27 %
Under 21	463	5.4	334	4.1	- 24 %

21 to 24	386	6.5	370	6.4	- 2 %
21 to 30	777	5.6	771	5.4	- 4 %
21 to 34	937	4.8	966	4.7	- 1 %
<u>21 to 40</u>	<u>1,102</u>	<u>4.2</u>	<u>1,175</u>	<u>4.4</u>	<u>+ 3 %</u>
ALL DRIV.	1,913	3.2	1,796	2.9	- 9 %

(see MHP Annual Reports, 1982, 1985)

Conclusion: Nearly all of the decrease in drunken driving accidents in Montana is creditable to drivers under the age of 21.

ARRESTS FOR DRUNKEN DRIVING AND ILLEGAL PER SE, MONTANA, 1985

Age	Number of DUI/ per se arrests	Percent of all drivers	Percent of all DUI arrests	+/-
Under 18 ^{1/2}	501	8.3 %	6.2 %	- 26 %
Under 21	973	13.0 %	12.0 %	- 8 %

21 to 24	1,491	9.3 %	18.4 %	+ 98 %
21 to 34	4,302	32.7 %	53.1 %	+ 62 %
<u>21 to 44</u>	<u>5,793</u>	<u>49.7 %</u>	<u>71.5 %</u>	<u>+ 44 %</u>
ALL DRIVERS	8,102	100. %	100. %	0
Age 21 only	375	2.2 %	4.6 %	+109 %

(see Montana Highway Traffic Safety Division, 1985 DUI arrests)

Conclusion: Drivers under the age of 21 are less likely to be arrested for DUI than any age group. Drivers age 21-44 make up only half of the drivers in the state but account for 71% of all DUI's.

* * * * *

MONTANA/NORTH DAKOTA COMPARISONS -- TRAFFIC ACCIDENTS, 1984-85

Age	Montana (drinking age 19) <u>Net accident rates</u>	North Dakota (drinking age 21) <u>Net accident rates</u>
Injury accidents -- rate per 1,000 drivers:		
14 to 20	24.2	20.7
<u>21 to 44</u>	<u>16.2</u>	<u>12.7</u>
NET RATE, 14-20	+ 49 %	+ 63 %
Fatal accidents -- rate per 1,000 drivers:		
14 to 20	0.60	0.34
<u>21 to 44</u>	<u>0.48</u>	<u>0.26</u>
NET RATE, 14-20	+ 25 %	+ 30 %
Percent of fatal accidents due to drinking:		
14 to 20	47.7%*	72.2%*
<u>21 to 44</u>	<u>54.1%</u>	<u>74.1%</u>
NET RATE, 14-20	- 12 %	- 3 %

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*See MHP, Annual Report (alcohol-related accidents) NDHP (D&G 611)

MONTANA/NORTH DAKOTA COMPARISONS -- REPORTED INCIDENTS OF IN-SCHOOL STUDENT INTOXICATION DISCIPLINARY ACTIONS, 1985-86

<u>Montana school</u>	<u>Number of intox. incidents</u>	<u>Total Enrollment</u>	<u>Intox. rate per 1,000 students</u>
Billings Senior	7	2,000	
Bozeman Senior	5*	1,050	
Butte Senior	8	1,809	
Custer County	1	620	
Fergus County	6	485	
Flathead High	4*	1,500	
Gardiner High	0	89	
Great Falls	1	1,900	
Great Falls Russell	0	1,700	
Havre High	2	750	
Helena Capitol	6	1,300	
Helena High	5	1,400	
Missoula Hellgate	4	1,300	
Park County	6	615	
<u>Shelby High</u>	<u>0</u>	<u>195</u>	
TOTAL MONTANA	55	16,773	3.3
<u>North Dakota school</u>			
Bismarck Senior	6	1,300	
Devil's Lake	1	475	
Dickinson Senior	0	875	
Jamestown Senior	7*	775	
Mandan Senior	5	1,200	
Minot Central	15	1,125	
Minot Magic City	6	1,100	
<u>Valley City</u>	<u>0</u>	<u>470</u>	
TOTAL NORTH DAKOTA	40	7,320	5.5

(Survey, 23 Montana and North Dakota schools, excluding schools near border of state with lower drinking age, November 1985).

*Identified as estimate

Conclusions: North Dakota's drinking age of 21 does not appear to reduce the number or rate of alcohol-related incidents among persons under 21. North Dakota teens have higher net rates of injury traffic accidents, fatal traffic accidents, proportion of fatal accidents blamed on drinking, and school intoxication incidents due to drinking than Montana teens.

EFFECTS OF RAISING MONTANA'S DRINKING AGE FROM 18 TO 19, JAN. 1, 1979

State	Net changes in nighttime fatal crashes among drivers age 18 and younger compared to drivers age 19 to 24*		
	1975-78 (before)	1979-82 (after)	Net change
Montana (18-19)	.66	.68	+ 3.4 %
Utah (21)	.76	.73	- 4.1 %
Idaho (19)	.76	.69	- 9.2 %
Wyoming (19)	.63	.56	- 11.3 %
North Dakota (21)	.88	.71	- 18.8 %
South Dakota (18b)	.99	.75	- 24.0 %
Colorado (18b)	.76	.53	- 30.3 %
<u>Nevada (21)</u>	<u>1.00</u>	<u>.62</u>	<u>- 38.3 %</u>
AVERAGE CHANGE, REGION			- 16.6 %
<u>CHANGE, MONTANA</u>			<u>+ 3.4 %</u>
NET CHANGE, MONTANA vs. REGION			+ 20.0 %

(See National Highway Traffic Safety Administration, Nighttime Fatal Crashes by State and Age, 1975-82).

*Nighttime fatal crashes are those most likely (65-75%) involve drinking. The rates expressed are relative to drivers age 19 to 24 and should be read, "In Montana during 1975-78, drivers age 18 and younger were only .68 (68%) as likely to get into a nighttime fatal crash as drivers age 19 to 24 in Montana over the same period," etc.

Conclusions: Montana was the only state in the 8-state Northern Intermountain and Great Plains region to raise its drinking age during the 1975-82 period and was the only state to experience a net increase (averaging 20%) in nighttime fatal crashes involving drivers age 18 and younger.

* * * * *

COMPARISON OF DRINKING AGE EFFECTS ON YOUNG-DRIVER TRAFFIC ACCIDENTS IN MONTANA AND NORTHERN INTERMOUNTAIN/GREAT PLAINS REGION, 1985

Percentage of all fatal nighttime crashes in state attributed to drivers under the age of 21, 1985, population adjusted

"21" drinking age states

Nevada	15 %
North Dakota	31 %
Utah	32 %

"18-19" drinking age states

Montana	21 %	SENATE JUDICIARY
Colorado	18 %	EXHIBIT NO. <u>2</u>
Idaho	24 %	DATE <u>2-5-87</u>
South Dakota	35 %	
Wyoming	20 %	BILL NO. <u>117</u>

Average percentage in 21 drinking age states: 26 %

Average percentage in 18-19 drinking age states: 24 %

(See NHTSA, Drivers Involved in Nighttime Fatal Crashes by State and Age, 1985).

Conclusions: State-to-state comparisons are dubious due to the myriad factors on highway traffic tolls by age group. Nevertheless, drivers under the age of 21 cause fewer nighttime fatal crashes (those most likely to cause drinking) on a net basis in states with lower drinking ages than in states with drinking ages of 21.

* * * * *

ALCOHOLISM AND ALCOHOL DISEASE DEATH RATES, LONG-TERM, BY DRINKING AGE

	<u>Average alcoholism rates per 100,000 pop.</u>	<u>Alcohol deaths as percent of all deaths</u>
States with drinking ages of 21	5,510	1.21 %
<u>States with drinking ages of 18-19</u>	<u>4,625</u>	<u>0.93 %</u>
NET, STATES 18-19	- 16 %	- 23 %

(See National Institute on Alcohol Abuse and Alcoholism, Alcoholism Rates by State, 1981).

Conclusion: Myriad factors affect state alcoholism rates. Nevertheless, states with drinking ages of 21 for at least 25 years have somewhat higher alcoholism rates and alcohol disease death rates than states with lower drinking ages for at least 25 years. A 21 drinking age offers no protection against alcoholism or alcohol disease.

* * * * *

Conclusions:

1. By every measurable index, persons under 21 years of age handle alcohol as well or better than persons age 21 to 44. (In addition to traffic accidents and school intoxication rates, persons under 21 have lower rates of alcohol incidences in crime and lower rates of referral to state treatment centers for alcohol-related problems than persons age 21 to 44).
2. A punitive approach to raising the drinking age, as was tried in 1979 in Montana, is likely to worsen problems among those young people who abuse alcohol by transferring their drinking to clandestine, unsupervised locations. The effects of drinking age changes are, however, very slight in any case.
3. A punitive approach to securing federal highway funds by means of raising the drinking age is not necessary; funds can be secured using non-punitive approaches.

PROPOSED AMENDMENTS TO HB 21 (MULES)

1. Title, lines 10 and 11.

Following: "AMENDING"

Strike: "SECTIONS 16-3-301, ~~16-3-305~~ 16-6-305, 16-6-314, 45-5-623, AND"

Insert: "SECTION"

2. Page 1, lines 15 through 25.

Strike: lines 15 through 25

3. Page 2, lines 1 through 25.

Strike: lines 1 through 25

4. Page 3, lines 1 through 25.

Strike: lines 1 through 25

5. Page 4, lines 1 through 25.

Strike: lines 1 through 25

6. Page 5, lines 1 through 6.

Strike: lines 1 through 6

7. Page 5, line 7.

Following: first "Section"

Strike: "5"

Insert: "1"

8. Page 5, line 9.

Following: "order"

Insert: "-- purchase or possession of alcohol by persons age 19 to 21"

9. Page 5, lines 13 and 14.

Following: "person"

Strike: "~~under the age of 19~~ born after July APRIL 1, 1968,"

Insert: "under the age of 19"

10. Page 6, following line 23.

Insert: "(5) A person over 19 but under 21 years of age who was born after April 1, 1968, commits the offense of unlawful possession of an alcoholic beverage by a person over 19 if he knowingly purchases or possesses in a public place an alcoholic beverage and, upon conviction, shall be fined not to exceed \$5, except that possession of an alcoholic beverage pursuant to employment is lawful."

11. Page 6, lines 24 and 25.

Strike: lines 24 and 25

12. Page 7, lines 1 through 25.

Strike: lines 1 through 25

13. Page 8, lines 1 through 25.

Strike: lines 1 through 25

14. Page 9, lines 1 through 25.

Strike: lines 1 through 25.

15. Page 10, lines 1 through 12.

Strike: lines 1 through 12

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16. Page 10, line 13.

Following: first "Section"

Strike: "10"

Insert: "2"

17. Page 10, line 15.

Following: "order"

Insert: "-- purchase or possession of alcohol by persons age 19 to 21"

18. Page 10, line 19.

Following: "of"

Strike: "19 21"

Insert: "19"

19. Page 12, following line 4.

Insert: "(5) A person over 19 but under 21 years of age commits the offense of unlawful possession of an alcoholic beverage by a person over 19 if he knowingly purchases or possesses in a public place an alcoholic beverage and, upon conviction, shall be fined not to exceed \$5, except that possession of an alcoholic beverage pursuant to employment is lawful."

20. Page 12, lines 5 through 25.

Strike: lines 5 through 25

21. Page 13, lines 1 through 25.

Strike: lines 1 through 25

22. Page 14, lines 1 through 25.

Strike: lines 1 through 25

23. Page 15, lines 1 through 16.

Strike: lines 1 through 16

24. Page 15, line 17.

Following: first "SECTION"

Strike: "15"

Insert: "3"

25. Page 17, line 9.

Following: second "SECTION"

Strike: "16"

Insert: "4"

26. Page 17, lines 9 and 10.

Following: "1"

Strike: "THROUGH 10"

Insert: "AND 2"

27. Page 17, line 11.

Following: second "SECTION"

Strike: "17"

Insert: "5"

28. Page 17, line 15.

Following: second "SECTION"

Strike: "18"

Insert: "6"

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29. Page 17, line 21.

Following: "Section"

Strike: "19"

Insert: "7"

30. Page 17, line 22.

Following: "1"

Strike: "through 5, 17, 18"

Insert: ", 5, 6"

31. Page 17, lines 23 and 24.

Following: "and"

Strike: ", EXCEPT FOR SECTIONS 17, 18, AND THIS SECTION, terminate"

Insert: "section 1 terminates"

32. Page 18, line 1.

Following: "(2)"

Strike: "Sections 6 through 10 are"

Insert: "Section 2 is"

33. Page 18, line 3.

Following: "STATES"

Insert: "CONGRESS OR"

34. Page 18, line 5.

Following: "AND"

Insert: "PUBLICLY"

35. Page 18, lines 9 and 10.

Following: "SECTIONS"

Strike: "11 THROUGH 16"

Insert: "3 AND 4"

Respectfully submitted by:

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Livingston, MT 59047
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SENATE JUDICIARY

EXHIBIT NO. 2

DATE 2-5-87

BILL NO. H.B. 21

A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE LEGAL DRINKING AGE FROM 19 TO 21; ALLOWING THOSE PERSONS OF LEGAL DRINKING AGE TO CONTINUE TO DRINK; RETURNING THE LEGAL DRINKING AGE TO 19 IF THE UNITED STATES CONGRESS OR SUPREME COURT INVALIDATES THE PROVISION OF FEDERAL LAW REQUIRING STATES TO RAISE THE AGE TO 21 OR LOSE A PORTION OF FEDERAL HIGHWAY FUNDS; AMENDING SECTION 45-5-624, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

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 -- purchase or possession of alcohol by persons age 19 to 21. (1) A person under the age of 18 years commits the offense of possession of an intoxicating substance if he knowingly has in his possession an intoxicating substance other than an alcoholic beverage. A person under the age of 19 commits the offense of possession of an intoxicating substance if he knowingly has in his possession an alcoholic beverage, except that he does not commit the offense when in the course of his employment it is necessary to possess alcoholic beverages.

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

(a) be fined not to exceed \$50;

(b) be ordered to complete and, if financially able, pay all costs of his participation in a community-based substance abuse information course;

(c) have his drivers' 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

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

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

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

(5) A person over 19 but under 21 years of age who was born after April 1, 1968, commits the offense of unlawful possession of an alcoholic beverage by a person over 19 if he knowingly purchases or possesses in a public place an alcoholic beverage and, upon conviction, shall be fined not to exceed \$5, except that possession of an alcoholic beverage pursuant to employment is lawful."

Section 2. Section 45-5-624, MCA, is amended to read:

"45-5-624. Unlawful possession of an intoxicating substance -- interference with a sentence or court order -- purchase or possession of alcohol by persons age 19 to 21. (1) A person under the age of 18 years commits the offense of possession of an intoxicating substance if he knowingly has in his possession an intoxicating substance other than an alcoholic beverage. A person under the age of 19 commits the offense of possession of an intoxicating substance if he knowingly has in his possession an alcoholic beverage, except that he does not commit the offense when in the course of his employment it is necessary to possess alcoholic beverages.

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

(a) be fined not to exceed \$50;

(b) be ordered to complete and, if financially able, pay all costs of his participation in a community-based substance abuse information course;

(c) 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

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

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

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

(5) A person over 19 but under 21 years of age commits the offense of unlawful possession of an alcoholic beverage by a person over 19 if he knowingly purchases or possesses in a public place an alcoholic beverage and, upon conviction, shall be fined not to exceed \$5, except that possession of an alcoholic beverage pursuant to employment is lawful."

Section 3. Section 45-5-624, MCA, is amended to read:

"45-5-624. Unlawful possession of an intoxicating substance -- interference with a sentence or court order. (1) A person under the age of 18 years commits the offense of possession of an intoxicating substance if he knowingly has in his possession an intoxicating substance other than an alcoholic beverage. A person under the age of 19 commits the offense of possession of an intoxicating substance if he knowingly has in his possession an alcoholic beverage, except that he does not commit the offense when in the course of his employment it is necessary to possess alcoholic beverages.

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

(a) be fined not to exceed \$50;

(b) be ordered to complete and, if financially able, pay all costs of his participation in a community-based substance abuse information course;

(c) 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

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

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

(4) A person commits the offense of interference with a sentence or court order if he purposely or knowingly causes his child or ward to fail to comply

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with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both."

NEW SECTION. Section 4. Repealer. Sections 1 and 2 of this act are repealed.

NEW SECTION. Section 5. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 6. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 7. Effective dates -- termination. (1) Sections 1, 5, 6, and this section are effective April 1, 1987, and section 1 terminates April 1, 1989.

(2) Section 2 is effective April 1, 1989.

(3) If the United States Congress or Supreme Court invalidates the provisions of federal law that require states to raise the legal age for purchasing and publicly possessing alcoholic beverages to 21 as a condition of full receipt of federal highway funds, the governor of Montana shall immediately certify to the fact of the invalidation to the secretary of state of Montana. Sections 3 and 4 are effective upon certification.

- End -

Proposed by:

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By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-6559 Filed 3-25-86; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1208

[Docket No. 85-12; Notice 2]

National Minimum Drinking Age

AGENCIES: National Highway Traffic Safety Administration (NHTSA), Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This rule clarifies the provisions which a State must incorporate or have incorporated into its laws in order to prevent the withholding of a portion of its Federal-aid highway funds for noncompliance with the National Minimum Drinking Age. This rule implements section 6 of Pub. L. 98-363.

EFFECTIVE DATE: This rule becomes effective March 26, 1986.

FOR FURTHER INFORMATION CONTACT:

NHTSA: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0837) or Kathleen C. DeMeter, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1834).

FHWA: Mr. R. Clarke Bennett, Director, Office of Highway Safety, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-1153) or Mr. David Oliver, Office of Chief Counsel, Federal Highway Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0825).

SUPPLEMENTARY INFORMATION: On July 17, 1984, the President signed Public Law 98-363, which strongly encourages States to have laws prohibiting the purchase and public possession of alcoholic beverages by anyone under 21 years of age by withholding a portion of Federal-aid highway funds from States without such laws (23 U.S.C. 158, hereinafter called the National Minimum Drinking Age). The statute requires the Secretary of Transportation to withhold

a portion of Federal-aid highway funds from any State whose laws permit the purchase or public possession of any alcoholic beverage by a person who is less than 21 years of age. If any such State does not enact a new law or amend its existing laws to make age 21 the legal minimum drinking age by October 1, 1986 (fiscal year 1987), five percent of its Federal-aid highway apportionment under 23 U.S.C. 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6), which are primary system, secondary system, Interstate system (including resurfacing, restoring, rehabilitating and reconstructing funds) and urban system funds, shall be withheld. If by October 1, 1987 (fiscal year 1988) no such law is adopted or amendments made, ten percent of its fiscal year 1988 Federal-aid highway apportionment under these sections will be withheld. Responsibility for administering the program has been delegated jointly to the National Highway Traffic Safety Administration and the Federal Highway Administration (the "Agencies"). 50 FR 43165 (October 24, 1985).

The Notice of Proposed Rulemaking (NPRM), which was issued on September 24, 1985 (50 FR 39140, September 27, 1985), sought comments on several issues that the Agencies were considering adopting in the final rule. The Agencies received comments from 17 States, State agencies and private organizations. Although most of the commenters support a national minimum drinking age of 21, many of those comments raised serious concerns about the ability of States that already have age 21 statutes to satisfy various particular provisions contained in the NPRM. As a result of these comments, and as a result of the Agencies' preliminary review of existing State minimum drinking age statutes, the Agencies have made several amendments to the proposal as it appeared in the NPRM. The issues which were addressed in the NPRM and additional changes made in the final rule are discussed below.

In analyzing the legislative history of the National Minimum Drinking Age, the Agencies believe that Congress did not intend to cause States, especially those that already had a minimum drinking age of 21, to lose a portion of their Federal-aid highway funds merely because of a technical, non-substantive difference between a State law and the literal language of the Federal law. Indeed, the legislative history of the statute suggests that Congress did not believe that this law would generally have any adverse effect on States which had already enacted 21 drinking age laws.

For example, Representative [Name] the sponsor of the age-21 legislation in the House of Representatives, said in amendment 1 am offering would encourage those States that have not done so to raise their minimum drinking age to 21." (Emphasis supplied.) (130 Cong. Rec. H5395, daily ed. June 7, 1984). During the Senate consideration of the age-21 legislation, Senator Danforth, one of the sponsors in the Senate, was engaged in a colloquy with Senator Leahy. Senator Leahy said, "But the Senator's amendment is not penalizing any State which is already at 21. It penalizes those below [21]." Senator Danforth responded, "Right." Senator Leahy then stated, "To that extent, the benefit of it, the not being penalized, goes automatically to any State at 21." (Emphasis supplied.) (130 Cong. Rec. S8219, daily ed., June 28, 1984). This sentiment was echoed several more times during the debates in both Houses of Congress.

Other comments made during the debate in both the House and Senate strongly support the agencies' conclusion that Congress considered it unlikely that the highway fund withholding sanctions would ever need to be applied. For example, Representative Anderson, who chairs the Surface Transportation Subcommittee of the House Public Works and Transportation Committee, discussed the highway funds withholding sanctions provided by the Clean Air Act and the National Maximum Speed Limit law as analogies to the age-21 legislation, and noted, "To date, the sanctioning process has never been used, indicating its effectiveness and the unlikelihood that it will have to be employed." (Emphasis supplied.) (130 Cong. Rec. H5395, daily ed., June 7, 1984). Senator Lautenberg, one of the Senate sponsors of the age-21 legislation, said in response to a question from Senator Baucus, "As the Senator is aware, the Department of Transportation is always most reluctant to impose sanctions upon States whenever it can be reasonably avoided. If in fact, by fiscal year 1987, . . . if the State could not practically comply through the use of its normal and general procedures for amending its constitution and its statutes, then all evidence would suggest that the Department should take this into account in its imposition of sanctions." (Emphasis supplied.) (130 Cong. Rec., S8214, daily ed., June 26, 1984). Thus, both House and Senate debates reflect a sense that Congress did not think it likely that the sanctions would need to be imposed and, in any event, that the

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Department should administer the sanctions reasonably and flexibly.

Therefore, the Agencies are adopting the position that States which can demonstrate that their non-conformities are technical and non-substantive and which are otherwise in compliance, or that through actual practice provide compliance, will satisfy the requirements of the regulation and not have any of their Federal-aid funds withheld for such non-conformities. The procedure to be followed by States that believe they have technical, non-substantive non-conformities is set forth in Section 1208.6(b) of the final rule and is further described below under the subsection entitled "Technical Non-conformities".

Additionally, several New York State agencies (the Governor's Traffic Safety Committee, the Division of Alcoholism and Alcohol Abuse, the Department of Transportation and the Department of Motor Vehicles) requested an interpretation that any State which adopted a minimum drinking age of 21 prior to the adoption of the final rule be "grandfathered" from its application, without further consideration of the provisions in the rule. The NHTSA and FHWA recognize that a number of States acted promptly and decisively before the issuance of this rule to address the problem of drinking by individuals under age 21, and that others have age 21 laws that predate the Federal statute. Despite the fact that some Congressmen assumed that these States would comply with the Federal statute, the NHTSA and FHWA are constrained by the language of the statute and, where there are substantive non-conformities, cannot exempt from its application those States that do not meet its provisions.

Alcoholic Beverage

As noted in the NPRM, the definition of "alcoholic beverage" is prescribed in the Federal statute itself and that definition is incorporated into the final rule. No commenters addressed the definition; however, a review of existing State statutes revealed that a number of States have variations in their definitions that may not satisfy the Federal statute. Some State statutes are considerably out of compliance, such as those that appear to allow individuals under age 21 to purchase or possess 3.2 beer. Other State laws reflect technical drafting differences, such as defining an alcoholic beverage as having an alcoholic content of "more than one-half of one percent", whereas the Federal statute definition includes those beverages with an alcoholic content of

"not less than one-half of one percent" by volume. (Emphasis added.)

Since the definition is prescribed by Federal statute and not subject to regulatory amendment, the Agencies do not have the authority to change the definition. However, the Agencies believe that certain definitional differences are technical and non-substantive. For example, the Agencies do not believe that a State law that defines alcohol as *more than* one-half of one percent is substantively different from the statutory definition of one-half of one percent *or more*. Therefore, the Agencies will consider a State law that defines alcohol as more than one-half of one percent to be in compliance with the statutory definition of alcohol without any need for further submissions by the State. However, if a State does not define 3.2 beer, for instance, as an alcoholic beverage, and permits individuals under age 21 to purchase or publicly possess 3.2 beer, this difference is substantive and would result in a withholding of Federal-aid highway funds for noncompliance.

However, the Agencies also believe that while some State statutes have substantive definitional differences from the Federal statute, their practices may in fact serve to prohibit the purchase or public possession of all "alcoholic beverages" by persons under age 21. The Agencies will, therefore, accept additional documentation from States to indicate whether their actual practices are in conformance with the Federal statute. Actual practice may be demonstrated by regulation, Attorney General opinions or appropriate evidence, as provided in § 1208.6 of the regulation. It should be noted that any finding of compliance based on actual practice rather than statutory language will be conditioned on that practice being continued.

Public Possession

The phrase "public possession" was not defined in the statute and the Agencies defined it in the NPRM to mean "the possession of any alcoholic beverage for any reason, including consumption, on any street or highway or in any public place or in any place open to the public." The Agencies specifically excluded from that proposed definition the possession of alcohol for an established religious purpose and the selling, transporting, delivering, serving or other handling of an alcoholic beverage in pursuance of a person's employment. No commercial objected to the exemption for employment purposes.

Two commenters, however, expressed concern over the religious exemption. The Wholesale Beer Distributors of

Texas feared that the exemption would lead to subterfuge applications by allegedly religious institutions; and the Texas Alcoholic Beverage Commission was concerned that the rule contained no definition of "religious purpose." The Agencies are not convinced that individuals or groups would use this exemption to circumvent the statute's application, nor do they believe that the lack of a definition in the rule will defeat the exemption's application. For years States have enforced statutes that define religion for purposes of tax exemption with relatively little difficulty, and the Agencies expect they will apply similar definitions to "established religious purpose" for enforcement of their laws under this rule. Moreover, States concerned about an exemption for an "established religious purpose" are not required by the Federal statute to provide such an exemption and should not feel compelled to adopt such an exemption. The Texas Alcoholic Beverage Commission also asked whether a religious purpose could take place in a public facility. The exemption in the final rule for an "established religious purpose" is a blanket exemption, not limited to private facilities.

Furthermore, the Agencies requested comments on other parameters of the phrase "public possession." For example, they noted that several States have statutes that regulate private clubs similarly to other licensed business establishments and that some States permit minors to drink in public when accompanied by a parent, spouse or legal guardian age 21 or older.

Of the six organizations and individuals that commented on this issue, four (the Governor of Texas, Wholesale Beer Distributors of Texas, Texas Alcoholic Beverage Commission and the National Licensed Beverage Association) indicated their support for a provision exempting minors when accompanied by a parent, spouse or guardian of legal drinking age. The Agencies' preliminary review of State laws indicated that Texas is one of 17 States that have such an exemption. Several of these 17 States had enacted their age-21 laws prior to the enactment of the Federal statute, and, as noted above, the legislative history suggests that Congress did not anticipate sanctions against existing age-21 laws. For example, Senator Evans of Washington stated during the debate on the age-21 legislation, "Now, we will not be affected by either of these proposals in the State of Washington. We already have a 21-year-old drinking law." (130 Cong. Rec. S8226, daily ed., June 26,

1984). Washington has had a 21 drinking age since 1934, which provides an exemption for minors accompanying a parent, guardian or spouse. The National Licensed Beverage Association further asserted that to adopt an exemption for religious purposes but not for this purpose would be arbitrary. Likewise, the Texas Alcoholic Beverage Commission (TABC) stated that the deliberate inclusion of certain exemptions and exclusion of other potential exemptions is capricious and unrelated to the intent of the statute. The TABC stated that strict inflexible adherence to the language of the Federal statute is not necessary to further legislative intent, which was to reduce drunk driving. The State of Florida and Senator Frank Lautenberg of New Jersey, one of the sponsors of the National Minimum Drinking Age, both supported the provision as it appeared in the NPRM.

As noted above, the Agencies have reviewed the legislative history of the National Minimum Drinking Age, and concluded that Congress passed the statute not to withhold funds but rather to reduce the deaths and crippling injuries attributed to drunk driving by individuals under age 21 (130 Cong. Rec. S8206-8248 (daily ed. June 28, 1984) and H5394-5408 (daily ed. June 7, 1984)). Congress clearly envisioned that, with a few exceptions, such as the military exemption, those States which had already established 21 as the minimum legal drinking age were complying with the spirit of the Federal law. Therefore, the Agencies are providing certain exemptions that a State may allow under its laws without risking the loss of Federal-aid highway funds.

As proposed in the NPRM, the Agencies are exempting the public possession of alcoholic beverages for religious purposes and for job-related purposes when the selling, transporting, delivery, serving or other handling of an alcoholic beverage is in pursuance of a person's employment by a duly licensed manufacturer, wholesale or retailer of alcoholic beverages. Additionally, the Agencies are exempting the public possession of alcoholic beverages by minors when accompanied by a parent, spouse or legal guardian age 21 or older. Although the agencies had proposed not to adopt such an exemption, they have reconsidered their position in light of the comments and their preliminary review of State statutes. Since the purpose of the Federal statute is to control drunk driving, the Agencies believe that this purpose will continue to be served because those individuals over 21 who have some responsibility toward the

underage individual can ensure that the younger person in their company will not drive. Further, as noted above, many States providing such an exemption enacted their age-21 statutes prior to enactment of the Federal statute, and the Agencies do not believe that Congress intended to apply sanctions to those States because of such an exemption. A preliminary review of State statutes revealed that some States also have an exemption for the use of alcoholic beverage when administered by a licensed physician or pharmacist for medicinal purposes. The Agencies see the validity in allowing such an exemption when medical judgment dictates that the use of an alcoholic beverage is a valid treatment for a medical condition and are, therefore, providing an exemption for "public possession" related to such use.

The Statute's use of the word "public" indicates that Congress chose not to require drinking age restrictions on possession in private settings. Consequently, the Agencies believe that Congress did not intend to extend the provisions of the Federal statute to cover possession in private establishments such as clubs. The Agencies emphasize, however, that any place which is *de facto* open to the public, such as a private club which admits persons upon the role requirement of payment of a nominal monetary membership fee or other equivalent consideration, is not considered private for purposes of this rule. Furthermore, the Agencies do not encourage such exemptions and remind States that they are not required by the Federal statute to permit a private club exemption (or any other exemption allowed by this rule).

The Agencies note that although Congress used the word "public" to modify the word "possession", it did not use a similar modification for "purchase". The Agencies, therefore, believe that Congress intended to extend the provisions of the Federal statute to include the purchase of alcoholic beverages in private clubs. In support of this, the Agencies preliminary review of State statutes indicates that many States apply their liquor laws to private clubs and these clubs operate much the same as public establishments that serve alcohol. Compliance with this requirement should not, therefore, create any difficulties for the States.

A preliminary review of the State laws also uncovered two States that have exemptions for educational purposes. The Agencies are unclear as to what is encompassed by those statutes; however, the Agencies will

afford those States the opportunity to submit additional justification demonstrating the validity of the exemption. Two additional States have exemptions for the possession and transport for personal use; family and guests. Those States will also be afforded the opportunity to demonstrate the validity of that exemption. This information should be submitted in accordance with the procedures set forth in section 1208.6(b) of the final rule.

The NPRM noted that the legislative debate on this statute in both the House and the Senate included extensive discussions of whether individuals serving in the Armed Forces of the United States should be exempt from the provisions of the National Minimum Drinking Age. As expressed in the NPRM, the legislative history is clear that Congress views both drinking and driving to be privileges which are subject to reasonable regulation in the interests of public health and safety. Furthermore, there was concern that permitting a blanket exclusion within a State for members of the military would continue the problem of "blood borders". Consequently, the final rule, like the NPRM, contains no exemption for military personnel. It should be noted that State drinking age laws do not generally apply to alcohol consumed on premises controlled by the military and the scope of this rule extends only to State laws concerning those jurisdictions within the control of the States. The Agencies are, however, encouraged that the Department of Defense has taken substantial steps toward limiting the consumption of alcoholic beverages on military premises by individuals under age 21.

One commenter opposed excluding homes from the coverage of the regulation, but the Agencies would like to reiterate that homes are not covered by the plain language of the statute itself, which refers to "public possession". In response to a concern raised by the Texas Alcoholic Beverage Commission which indicated that Texas law prohibits drinking by minors in private homes when parents are not there, the Agencies would like to point out that the States should not feel limited to the parameters set forth in this rule, but that they may include additional prohibitions.

Purchase

One commenter noted that the definition of "purchase" as used in the NPRM was meaningless because of the use of the word "purchase" in defining the word. The Agencies agree and have

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redefined "purchase" in the final rule to mean "to acquire by the payment of money or other consideration."

The American Medical Association indicated that the definition of "purchase" should also include "sale". The Agencies considered the issue of whether the Statute requires that State law prohibit "sale" as well as "purchase." The Agencies also considered whether the statutory requirement that "purchase" be prohibited was satisfied if "sale" of alcoholic beverages to minors was prohibited.

On its face, the Federal statutory phrase does not include "sale" and there is no legislative history suggesting that "sale" must be prohibited. Additionally, the Agencies are aware of no State with 21 as the legal minimum drinking age which has a statute prohibiting the purchase of alcoholic beverages, but not the sale, thus rendering this addition unnecessary. In view of the language and legislative history of the statute, the Agencies have determined that it is neither necessary nor appropriate to require States to prohibit "sale" as well as "purchase and public possession." However, the Agencies will consider a statute that prohibits sale of an alcoholic beverage to an underage person, instead of purchase by such a person, to be in compliance with the Federal statute's requirement to prohibit purchase.

Purchase or Public Possession

As noted by the commenters from New York, section 158(a) of the Federal statute states that funds shall be withheld if the "purchase or public possession" by someone under age 21 is lawful, thus implying that both purchase and public possession must be prohibited in order to be in compliance and avoid a withholding of funds. However, section 158(b) states that any withheld funds are to be returned if a State makes unlawful the "purchase or public possession," which could be read as implying that if a State makes unlawful either the purchase or public possession it will have all withheld funds returned. These commenters support the disjunctive requirements as expressed in section 158(b), stressing that it should be up to each individual State as to how to achieve an acceptable age-21 drinking law. The commenters expressed their belief that Congress did not intend to dictate the specific manner in which States should control access to alcoholic beverages.

In light of Congress' apparent preference for a prohibition on both purchase and public possession, as evidenced by the withholding provisions

of section 158(a), the Agencies believe that Congress did not intend to accept statutes that prohibit only one but not the other. Therefore, the final rule automatically accepts statutes requiring both. However, because of the ambiguity of the statute and the Agencies' desire to be as flexible as possible, the final rule also permits States to submit additional justification of either-or laws.

In view of the comments submitted to the NPRM, the Agencies appreciate that some States may be able to effectively control drinking by underage individuals with statutes that prohibit only the possession of alcoholic beverages. An individual cannot purchase an alcoholic beverage without also being in possession of it, therefore, possession appears to reach both aspects of the underage drinking problem that Congress wanted to eliminate. The Agencies are, however, requiring additional justification from those States which regulate possession and not purchase to show that their statutes are interpreted and enforced in such a manner that this limitation does not pose a detriment to controlling underage drinking. Such justification should be submitted in accordance with § 1208.6(b) of the final rule.

As to the converse situation, the Agencies are not convinced that statutes which prohibit only purchase, but not public possession, are sufficient to effectively control underage drinking. An individual in such a State could consume an alcoholic beverage in public, provided he or she did not purchase it. Thus, a major problem which Congress intended to control would still exist. However, the Agencies will entertain additional support for such laws on a State-by-State basis pursuant to the procedure set forth in § 1208.6(b) of the final rule.

Technical Non-conformities

If a State receives an initial notification of non-compliance pursuant to § 1208.6(a) of the final rule and believes that the items identified are technical non-conformities only, the State will have the opportunity to submit documentation demonstrating that the technical non-conformity is non-substantive and has little, if any, impact on the goal of prohibiting purchase and public possession of alcoholic beverages by those under 21. This information should be submitted in accordance with the procedures set forth in § 1208.6(b) of the final rule.

Apportionment of Withheld Funds

In the NPRM the Agencies noted that they sought the advice of the Office of

Management and Budget (OMB) on the issue of how long the withheld funds would remain available for apportionment. OMB interpreted the interaction of the laws governing the National Minimum Drinking Age (23 U.S.C. 158) and the Federal-aid highway program funding (23 U.S.C. 118(b)) to mean that withheld funds would be subject to the standard periods of availability for Federal-aid highway funds. The Florida Department of Community Affairs expressed its belief that section 118(b) should not apply and that Congress intended for the funds to be returned at any time a State came into compliance. The National Licensed Beverage Association stated its belief that legislative intent was to make the funds available for a six-year period (four-year availability subsequent to the two fiscal years during which withholdings can take place). Senator Lautenberg, on the other hand, supported the NPRM's reading of the availability of funds and noted that the Senate on July 31, 1985, approved legislation (S. 1529) clarifying and confirming this interpretation. (The Agencies note, however, that the legislation has not been enacted into law as of the issuance of this rule.) The Agencies are retaining in the final rule the language as it appeared in the NPRM.

Grandfathering

The question was raised whether a State which adopts a minimum drinking age of 21 prior to the adoption of the final rule, but which also provides "grandfather" rights to continue drinking privileges for those persons under age 21, could in turn be "grandfathered" from the absolute age-21 requirement in the Federal statute. The statute provides that the Secretary "shall withhold" funds if the purchase or public possession of alcoholic beverages by a person under age 21 is lawful on October 1, 1986, and October 1, 1987, which would at first indicate that a State with under-21 "grandfather" rights in effect on those dates would be subject to withholding. However, the statute also provides that withheld funds are to be restored to the States as soon as all under-21 drinking is prohibited (i.e., when those "grandfather" rights expire).

The agencies have determined that no useful purpose would be served by withholding funds from an otherwise complying State merely by the presence of such "grandfather" rights, if the scheduled expiration of those rights would automatically trigger the restoration of funds. A preliminary

review of the five States which currently have "grandfather" provisions in the age-21 laws indicates that in all but one State all such rights will have expired—i.e., no further under-21 drinking would be permitted—by October 1, 1987. Since no withheld funds would have lapsed by that date for those four States, any withheld funds would at that point be restored, as long as the State was otherwise in compliance. The Agencies have determined that such withholding and subsequent return of funds would not further the purposes of the statute, and would also result in unnecessary administrative burdens on both the Federal government and the States. The Agencies do not, however, believe that it is consistent with the intent of Congress to allow States to retain funds which would have lapsed prior to the date on which the funds are to be restored.

Accordingly, the Agencies will consider any State which has enacted a grandfather provision whose scheduled expiration would result in full restoration of funds to be in compliance, provided the State is otherwise in compliance with the National Minimum Drinking Age.

Notification of Compliance

The NPRM specified that each State would be notified of the Agencies' preliminary reviews of State statutes by March 1, 1986, and March 1, 1987, and of their final determinations of compliance by May 1, 1986 and May 1, 1987. Three commenters recommended changes in this time schedule to allow States to demonstrate compliance at later dates. The Agencies believe that the request to permit a State to demonstrate compliance at any time is reasonable. However, they also recognize some lead time is needed to review all State laws in the degree of detail necessary to make determinations of compliance. Therefore, States will be notified of the Agencies' preliminary reviews by March 28, 1986, and March 28, 1987, and of their final determinations by May 30, 1986 and May 30, 1987. Any State that has been notified of compliance in 1986 will not again be notified in 1987, provided its statute remains unchanged. Should any State found not to be in compliance subsequently change its laws or regulations such that it feels it is in compliance, that state may submit substantiating documentation at any time.

Every effort will be made to work closely with States that have apparent compliance problems in order that they will have adequate opportunity to

comply with the rule before the withholding of any funds is required to take place.

Regulatory Evaluation

The Agencies have determined that this rulemaking should be classified as significant under the Department's regulatory policies and procedures. The Agencies have not prepared a regulatory evaluation because the regulatory impact is not greater than \$100 million. In addition, any economic impact that may occur is not attributable to this regulation, but will be instead the result of the Federal statute and of State decisions on whether to conform with the Federal Statute. The Agencies have determined that since this rule will not have an annual impact of \$100 million on the economy, it is not a major rule within the meaning of Executive Order 12291.

Regulatory Flexibility Act

The Texas Alcoholic Beverage Commission requested that the Agencies prepare a Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act (Public Law 98-354). The Agencies, however, certify that this rulemaking action will not have a significant economic impact on a substantial number of small entities. Any economic impact on liquor stores or other establishments will be the result of State decisions on whether to enact statutes that conform with the Federal statute. Such decisions are not mandated by this regulation. Therefore, preparation of a Regulatory Flexibility analysis is not necessary.

List of Subjects in 23 CFR Part 1208

Alcohol, Highway safety. In consideration of the foregoing, a new Part 1208 is added to Title 23 of the Code of Federal Regulations to read as follows:

PART 1208—NATIONAL MINIMUM DRINKING AGE

- Sec.
- 1208.1 Scope.
- 1208.2 Purpose.
- 1208.3 Definitions.
- 1208.4 Adoption of National Minimum Drinking Age.
- 1208.5 Apportionment of withheld funds.
- 1208.6 Notification of compliance.

Authority: 23 U.S.C. 158

§ 1208.1 Scope.

This part prescribes the requirements necessary to implement 23 U.S.C. 158, which establishes the National Minimum Drinking Age.

§ 1208.2 Purpose.

The purpose of this part is to clarify the provisions which a State must have incorporated into its laws in order to prevent the withholding of Federal-aid highway funds for noncompliance with the National Minimum Drinking Age.

§ 1208.3 Definitions.

As used in this part: "Alcoholic beverage" means beer, distilled spirits and wine containing one-half of one percent or more of alcohol by volume. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part or from any substitute therefor. Distilled spirits include alcohol, ethanol or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

"Public possession" means the possession of any alcoholic beverage for any reason, including consumption on any street or highway or in any public place or in any place open to the public (including a club which is *de facto* open to the public). The term does not apply to the possession of alcohol for an established religious purpose; when accompanied by a parent, spouse or legal guardian age 21 or older; for medical purposes when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital or medical institution; in private clubs or establishments; or to the sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful employment of a person under the age of twenty-one years by a duly licensed manufacturer, wholesaler, or retailer of alcoholic beverages.

"Purchase" means to acquire by the payment of money or other consideration.

§ 1208.4 Adoption of National Minimum Drinking Age.

(a) The Secretary shall withhold five percent of the amount required to be apportioned to any State under each of sections 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of title 23 of the United States Code on the first day of the fiscal year succeeding the fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

(b) The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of

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sections 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of title 23 of the United States Code on the first day of the fiscal year succeeding the second fiscal year beginning after September 30, 1985, in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

§ 1208.5 Apportionment of withheld funds.

Funds withheld pursuant to § 1208.4 shall be apportioned to a State, subject to the availability of such funds under 23 U.S.C. 118(b), if such State makes unlawful the purchase and public possession of any alcoholic beverage by a person who is less than twenty-one years of age.

§ 1208.6 Notification of compliance.

(a) Each State will be notified by certified mail of NHTSA's and FHWA's preliminary review of its statutes for compliance or non-compliance with 23 U.S.C. 158 for fiscal year 1987 by March 28, 1986. States with apparent compliance problems for fiscal year 1987 will be notified of NHTSA's and FHWA's preliminary review of their statutes for compliance or non-compliance for fiscal year 1988 by March 28, 1987.

(b) If NHTSA and FHWA initially find the State has apparent compliance problems, the notice shall state the reasons for those problems and shall inform the State that it may, within 30 days of its receipt of the notification, submit documentation showing why it is in compliance. Such documentation shall be submitted to the Director, Office of Alcohol and State Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590.

(c) Each State will be notified by certified mail of NHTSA's and FHWA's final determination of the State's compliance or non-compliance with 23 U.S.C. 158 for fiscal year 1987 by May 30, 1986. States found in non-compliance for fiscal year 1987 will be notified of NHTSA's and FHWA's final determination of compliance or non-compliance for fiscal year 1988 by May 30, 1987.

Issued on: March 24, 1986.

Diane K. Steed,

National Highway Traffic Safety Administrator.

R.A. Barnhart,

Federal Highway Administrator.

[FR Doc. 86-6576 Filed 3-24-86; 4:00 pm]

BILLING CODE 4910-60-M

S-074999 0025(01)(25-MAR-86-11:12:59)

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8068]

Income Taxes; Stock Acquisitions; Temporary Regulations Under Section 338(h)(10) of the Internal Revenue Code of 1954 and Extension of Time To Make Certain Elections

Correction

In the issue of Thursday, March 13, 1986, on page 8671 in the second column, a correction to FR Doc. 86-60 appeared. Make the following changes in correction 2c. In the third line, "5" should read "7" and in the third and fourth lines, the section symbol should have been a dollar sign.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 252

Outer Continental Shelf (OCS) Oil and Gas Information Program

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This rule amends the definition of "area adjacent to a State" to deem the States of New York and Rhode Island adjacent to the North Atlantic Planning Area even though the States do not physically border that particular planning area.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT:

David A. Schuenke, Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 946; Reston, Virginia 22091; Telephone (703) 860-7916 or (FTS) 928-7916.

SUPPLEMENTARY INFORMATION: Section 26 of the Outer Continental Shelf Lands Act (OCSLA) permits the Governor of any affected State to designate an official to inspect any privileged data and information received by the Department of the Interior (DOI) regarding activity adjacent to the State. The information is used to evaluate any impacts on the State caused by the offshore activity. The OCSLA does not define the phrase "area adjacent to a State"; therefore, the rules were amended effective April 23, 1984

(published March 22, 1984, 49 FR 10686), to deem a State adjacent to an OCS planning area for the purpose of inspection of privileged data and information within the planning area if the State borders on any portion of the planning area. The 1984 definition also deemed the Navarin Basin Planning Area as adjacent to the State of Alaska even though it does not physically border on Alaska because Alaska is the first State landward of the planning area.

Comments were received in response to the 1984 solicitation and in separate communications to DOI that certain States would be affected by activity in planning areas on which they do not border and, therefore, would not be permitted to inspect data and information from those areas under the 1984 rule. It is anticipated that Rhode Island will be used as an onshore support area for activities in the North Atlantic Planning Area and would be affected, and New York would be affected because of tankering into New York harbor. Therefore, on October 24, 1985 (50 FR 43256), the Minerals Management Service (MMS) proposed to deem them adjacent to the North Atlantic Planning Area as well as the Mid-Atlantic Planning Area on which they do border.

Comments

Three timely comments were received in response to the notice of proposed rulemaking. Two were from the regulated industry, and one was from an affected State.

Difference Between Proposed and Final rule

There is no difference between the proposed rule and the final rule.

Discussion of Comments

The commenters represented opposite views. The industry commenters disagreed with the inclusion of the two States into the definition of area adjacent while the State agreed. The industry expressed the opinion that the provisions of the OCSLA were designed to protect the confidentiality of proprietary and privileged data and information with very circumscribed methods under which they could be disseminated. While DOI agrees that such data and information should only be disseminated under protective conditions, States that might be affected by offshore activities need to be apprised of those activities. States need to be able to prepare for onshore impacts on the community and on public services. The States' need to know and

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SUMMARY HB19 (MERCER)

(Prepared by Senate Judiciary Committee staff)

HB19 is by request of the Joint Interim Subcommittee on Lien Laws and generally revises the laws relating to property exempt from execution.

The bill addresses the following areas:

Homestead exemption: There is no longer a homestead allowance for the surviving family but instead there is a homestead election on behalf of the estate (to be made by the personal representative). Repeals area limitation on homestead.

Wages and salaries: Conforms to federal law's provisions for exemption equal to 30 times federal minimum wage with garnishment allowed of lesser of 25% of disposable earnings or of the amount by which earnings exceed 30 times the minimum wage. Not a change from former state law, just sets federal law out in statute rather than just referring to federal statute.

Personal and Household Possessions: \$6,000 aggregate but not more than \$600 per item including all wearing apparel, wedding ring, and jewelry. Professionally prescribed health aids exempt without limit. Life insurance exempt up to \$4,000 cash value in unmatured policy.

Tools of trade, implements: exempt up to \$3,000 value.

Truck or automobile: one motor vehicle up to \$1,200 value.

Tracing proceeds of sales: allow exemption of money identifiable as generated from the sale of exempt real property up to 18 months and from sale of exempt personal property for up to 6 months.

COMMENTS: None.

Title 25, ch. 13, part 6 -- property exempt from execution of judgment.

33-7-511 -- benefits from fraternal benefit societies.

33-15-512 through 33-15-514 --proceeds of group life and disability insurance and annuity contracts.

35-10-502 --partner's rights in specific partnership property.

39-51-3105 -- unemployment insurance benefits.

39-71-743 -- Workers' Compensation benefits.

39-73-110 -- Silicosis benefits.

53-2-607 -- Public assistance benefits.

53-9-129 -- Crime Victims' Compensation Act benefits.

Title 70, ch. 32 -- Homesteads.

80-2-245 -- Hail insurance benefits.

COMMENTS: None.

C:\LANE\WP\SUMHB13.

NAME: Jeffrey M. Kirkland DATE: 5 February 1987

ADDRESS: 2424 Teakwood Lane Helena

PHONE: 443-5546

REPRESENTING WHOM? Montana Credit Unions League

APPEARING ON WHICH PROPOSAL: HB 19

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY

EXHIBIT NO. 5

DATE FEB. 5, 1987

BILL NO. HB 19

HOUSE BILL 19

TESTIMONY OF JEFFRY M. KIRKLAND
EXECUTIVE VICE PRESIDENT
MONTANA CREDIT UNIONS LEAGUE

BEFORE THE SENATE JUDICIARY COMMITTEE

5 FEBRUARY 1987

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, FOR THE RECORD I AM JEFF KIRKLAND, EXECUTIVE VICE PRESIDENT OF THE MONTANA CREDIT UNIONS LEAGUE. THE LEAGUE IS A TRADE ASSOCIATION REPRESENTING 108 OF MONTANA'S 110 CONSUMER-OWNED FINANCIAL COOPERATIVES, CREDIT UNIONS.

WE APPEAR IN SUPPORT OF HOUSE BILL 19 AS AMENDED AND PASSED BY THE HOUSE OF REPRESENTATIVES.

WE PRAISE THE WORK OF THE INTERIM STUDY COMMITTEE ON LIEN LAWS, THE MEMBERS OF WHICH MET NUMEROUS TIMES DURING THE INTERIM TO DEVELOP THE SUBSTANCE OF THE BILL YOU HAVE BEFORE YOU. HB 19 REPRESENTS A TRUE MODERNIZATION OF MONTANA'S ARCHAIC EXEMPTION LAWS.

THE BILL REMOVES MANY UNFAIR, CONFUSING, AND INEQUITABLE LISTINGS OF SPECIFIC EXEMPT PROPERTY AND SUBSTITUTES GENERAL CATEGORIES WITH DOLLAR LIMITATIONS. WE APPLAUD THIS APPROACH TO MODERNIZING THE EXISTING LAW.

WE DID HAVE SOME PROBLEMS WITH THE INTERIM STUDY COMMITTEE'S EXEMPTION AMOUNTS FOR EACH CATEGORY OF EXEMPTION BEING TOO HIGH. OUR RECOMMENDATION DURING THE STUDY PROCESS WAS THAT THE EXEMPTION AMOUNTS BE LESS THAN--OR CERTAINLY NO MORE THAN--EXEMPTION LIMITATIONS IN THE FEDERAL BANKRUPTCY CODE, LIMITATIONS THAT ARE CONSIDERED QUITE LIBERAL AMONG THE VARIOUS STATES.

IN FACT, MOST STATES HAVE OPTED OUT OF THE FEDERAL EXEMPTIONS AND FOR THEIR OWN EXEMPTIONS, BECAUSE THE FEDERAL

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EXEMPTIONS ARE CONSIDERED TOO LIBERAL. THOSE EXEMPTIONS WERE MOST RECENTLY REVIEWED AND UPDATED BY CONGRESS IN 1984.

GENERALLY, BANKRUPTCY IS GOVERNED BY FEDERAL LAW, AND STATE LEGISLATURES ARE PROHIBITED FROM ACTING IN THIS AREA-- WITH ONE EXCEPTION. FEDERAL BANKRUPTCY LAW DOES ALLOW THE STATES TO OPT TO USE THEIR OWN EXEMPT PROPERTY LAWS IN BANKRUPTCY PROCEEDINGS IN LIEU OF THE FEDERAL BANKRUPTCY CODE EXEMPTIONS. AND, AS I MENTIONED, MOST STATES HAVE OPTED OUT OF THE FEDERAL EXEMPTIONS AND FOR THEIR OWN. THE MONTANA LEGISLATURE MADE THE DECISION TO DO SO IN 1981.

NEVERTHELESS, THE INTERIM STUDY COMMITTEE'S EXEMPTION LIMITATIONS CAME IN HIGHER THAN THOSE OF THE FEDERAL BANKRUPTCY CODE.

WE KNOW THAT THE BANKRUPTCY CODE AND HIGH EXEMPTIONS HURT CONSUMERS AND SMALL BUSINESS PEOPLE, BECAUSE THE AVAILABILITY OF CREDIT IS AFFECTED. DOUG JAMES, A BILLINGS BANKRUPTCY ATTORNEY, GIVES THE EXAMPLE THAT A NON-PURCHASE MONEY SECURITY INTEREST IN EXEMPT PROPERTY IS NO GOOD IN A BANKRUPTCY PROCEEDING. HE THEREFORE ADVISES HIS LENDER-CLIENTS NOT TO MAKE SUCH LOANS. MONTANA'S PRESENT ECONOMY BEING WHAT IT IS, WE FELT NOW IS NOT THE TIME TO FURTHER HAMPER THE AVAILABILITY OF CREDIT.

HOWEVER, ALTHOUGH WE OBJECTED TO THE HIGHER DOLLAR AMOUNTS PROPOSED BY THE INTERIM STUDY COMMITTEE, WE ALSO FELT THE BILL DID A GENERALLY GOOD JOB OF MODERNIZING EXISTING LAW

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AND PROVIDING A GENERALLY POSITIVE SOLUTION TO A PROBLEM THE LEGISLATURE HAS ATTEMPTED TO ADDRESS SINCE 1981--WITH TWO EXCEPTIONS: THE EXEMPTION LIMITATIONS FOR PERSONAL HOUSEHOLD ITEMS AND FOR MOTOR VEHICLES.

HB 19 WAS AMENDED IN THE HOUSE TO RECTIFY THOSE TWO CATEGORIES WHICH WE FELT WERE THE MOST TROUBLESOME. AND ALTHOUGH THE EXEMPTION AMOUNTS FOR PERSONAL HOUSEHOLD GOODS, TOOLS OF THE TRADE, AND THE HOMESTEAD ARE STILL HIGHER THAN THOSE OF THE FEDERAL BANKRUPTCY CODE, WE FEEL THE BILL AS AMENDED IN AND PASSED BY THE HOUSE IS A GOOD BILL AND ONE THAT WE CAN WHOLEHEARTEDLY SUPPORT.

WHY HAVE MONTANA'S CREDIT UNIONS TAKEN SUCH A HIGH PROFILE IN THE PROCESS? THERE IS A GENERAL SENSE OF FRUSTRATION AMONG CREDIT UNIONS THAT ENCOUNTER BANKRUPTCIES. CREDIT UNIONS TRY ESPECIALLY HARD TO ACCOMMODATE MEMBERS WHO ARE HAVING FINANCIAL DIFFICULTIES. THAT'S BECAUSE THEIR MEMBERS ARE ALSO THEIR OWNERS.

CREDIT UNIONS ARE DIRECTED BY UNCOMPENSATED VOLUNTEER DIRECTORS WHO ARE ELECTED BY THE MEMBER-OWNERS. LOSSES DON'T JUST AFFECT A SELECT GROUP OF STOCKHOLDERS. LOSSES AFFECT ALL CONSUMER-MEMBERS OF THE CREDIT UNION BY DEPLETING UNDIVIDED EARNINGS AND CAPITAL. SUCH LOSSES COULD DRASTICALLY AFFECT FUTURE SERVICES TO MEMBERS.

UNDER THE FEDERAL BANKRUPTCY CODE, THERE IS VIRTUALLY NO INSOLVENCY REQUIREMENT FOR BANKRUPTCY. AND TO REAFFIRM A DEBT

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TO THE CREDIT UNION, THE DEBTOR'S ATTORNEY MUST APPROVE THE REAFFIRMATION. HIGH EXEMPTIONS SERVE TO AGGRAVATE THIS FRUSTRATION.

NEVERTHELESS, WE FEEL THE "GIVE AND TAKE" OF THE LEGISLATIVE PROCESS HAS CREATED A BILL THAT ACCOMPLISHES MUCH IN STRIKING A BALANCE BETWEEN THE RIGHTS OF CONSUMERS IN FINANCIAL DIFFICULTIES AND THOSE OF CREDITORS TRYING TO MAINTAIN THE THE OPTIMUM IN FINANCIAL SERVICES AND THE AVAILABILITY OF CREDIT FOR THOSE CONSUMERS.

THE MONTANA CREDIT UNIONS LEAGUE AND OUR 108 MEMBER CREDIT UNIONS RESPECTFULLY URGE THIS COMMITTEE'S CONCURRENCE WITH HOUSE BILL 19.

SENATE JUDICIARY

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BILL NO. 11 R 19

Chairman, Members of the Committee.

For the record,

I'm Meg Nelson, testifying ^{in support of HB 19.} on behalf

of Northern Plains Resource Council.

SENATE JUDICIARY

EXHIBIT NO. 6

DATE FEB. 5TH, 1981

BILL NO. HB 19

We commend the work of the Interim Subcommittee on Civil Laws for their work on revising what were in many instances, antiquated laws relating to property exempt from execution.

I like to address ~~to~~ Section 4, which deals with the value limitations on property exempt from

execution. Originally the committee ~~set~~ allowed ^{an exemption of} \$1,000 in aggregate value ~~and a \$3,500 value~~ and a \$3,500 value in 1 motor vehicle.

These values were amended ~~to~~ on the floor to \$4,500 and \$1,200 respectively.

that as amended
 We believe these value limitations are
 too low. ~~and~~ ~~we~~ urge the committee to

amend this bill to reflect the original
 value limitations as ~~set~~ ^{set} by the Interim

Subcommittee. ~~We also urge the committee to eliminate the~~
~~\$100 value limitation set for any one item.~~

~~our~~'s

our major concern deals with Section 4

part (3) which limits the judgment debtor's

interest to \$3,000 in any implements

professional books or tools of the trade.

~~The judgment debtor~~ The idea behind

having personal property exempt from execution is

to enable a person to remain or get back on his

feet after the execution of a judgment. \$3000

is ~~an~~ an unreasonably low figure ~~to~~ ~~achieve~~

to achieve this goal. depending on the profession

~~Make the ability of~~

~~excess~~

~~It effectively takes the~~

~~it~~ ~~elim.~~ A \$3000 value limitation

effectively eliminates the judgment debtor's ability to ~~exempt~~ exempt tools of

the trade ~~and~~ thus eliminating the

ability of the judgment debtor to

produce income and ~~maintain the means~~

emerge from the bankruptcy or foreclosure

as a productive member of society.

Current law generally provides allows a

judgment debtor the implements, professional

to carry on his profession.

§ We urge the committee to strike the

\$3000 value limitation in this section

and substitute it with ~~more~~ flexible

language which would ^{enable} ~~allow~~ the judgment

debtor to continue his profession. ~~and~~

Thank you

25-13-601

CIVIL PROCEDURE

Sheriffs' retirement benefits exempt from execution, 19-7-705.

Game Wardens' retirement benefits exempt from execution, 19-8-805.

Police retirement benefits exempt from execution, 19-9-1006, 19-10-504.

Firefighters' retirement benefits exempt from execution, 19-11-612.

Exempt property not passed by general assignment, 31-2-227.

Fraternal benefit society payments exempt from execution, 33-7-511.

What partnership interest not subject to attachment, 35-10-502.

Cooperative share exempt from execution, 35-15-404.

Nonliability of members of rural cooperative utilities for debts of cooperative, 35-18-302.

Cemetery association property exempt from execution, 35-20-217.

Unemployment insurance benefits exempt from execution, 39-51-3105.

Workers' compensation benefits not liable for debts, 39-71-743.

Hail insurance benefits exempt from execution, 80-2-245.

25-13-601. Waiver of exemptions in unsecured note unenforceable. Any waiver of statutory exemption from execution in an unsecured promissory note shall be unenforceable.

History: En. Sec. 1, Ch. 172, L. 1965; R.C.M. 1947, 93-5813.1.

Cross-References

Uniform Commercial Code — commercial paper, Title 30, ch. 3.

25-13-602. Repealed. Sec. 6, Ch. 210, L. 1985.

History: En. Sec. 1, Ch. 120, L. 1933; re-en. Sec. 9430.1, R.C.M. 1935; R.C.M. 1947, 93-5819.

25-13-603 through 25-13-610 reserved.

25-13-611. Necessary household property. (1) The following property is exempt from execution, except as herein otherwise provided:

- (a) all wearing apparel of the judgment debtor and family;
- (b) all chairs, tables, desks, and books to the value of \$200;
- (c) all necessary household, table, and kitchen furniture of the judgment debtor, including one sewing machine, stoves, stovepipes, and stove furniture heating apparatus, beds, bedding, and bedsteads, and provisions and fuel provided for individual or family use sufficient for 3 months;
- (d) 1 horse, saddle, and bridle; 2 cows and their calves; 4 hogs; 50 domestic fowls, and feed for such animals for 3 months;
- (e) one clock; and
- (f) all family pictures.

(2) None of the property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage lien thereon, and no person not a bona fide resident of this state shall have the benefit of these exemptions.

History: En. Sec. 1, Ch. 8, L. 1905; re-en. Sec. 6824, Rev. C. 1907; amd. Sec. 1, Ch. 232, L. 1921; re-en. Sec. 9427, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 690; re-en. Sec. 9427, R.C.M. 1935; R.C.M. 1947, 93-5813; amd. Sec. 1, Ch. 210, L. 1985.

Compiler's Comments

1985 Amendment: Deleted former (2) that read: "An unmarried person who is not the head

of a family is not entitled to any of the exemptions herein mentioned, except that of the wearing apparel of the judgment debtor."

25-13-612. Property necessary to carry on trade or profession. (1) In addition to the property mentioned in 25-13-611, there shall be exempt to all judgment debtors the following property:

(a) to a farmer: farming utensils or implements of husbandry, not exceeding in value \$600; two oxen or two horses or mules and their harness, one cart or wagon, set of sleds, and food for such oxen, horses, cows, or mules for 3 months; all seed, grain, or vegetables actually provided or on hand for the purpose of planting or sowing the following spring, not exceeding in value \$200;

(b) to a mechanic or artisan: tools or implements necessary to carry on his trade;

(c) to a surgeon, physician, or dentist: the instruments and chest necessary to the exercise of his profession, with his scientific and professional libraries and necessary office furniture;

(d) to attorneys at law and ministers of the gospel, etc.: the professional libraries of attorneys, counselors, judges, ministers of the gospel, editors, schoolteachers, and music teachers and their necessary office furniture; the musical instruments of music teachers; the notarial seal, records, and office furniture of a notary public;

(e) to a miner: his cabin or dwelling, sluices, and pipes, hose, windlass, derricks, cars, pumps, tools, implements, and appliances necessary for carrying on any kind of mining operations, not exceeding in value the aggregate sum of \$1,000; and one horse or mule with harness and food for such horse or mule for 3 months, when such horse or mule is used in working his mine or mining claim;

(f) to a civil, mining, or mechanical engineer: instruments, tools, books, and records necessary to carry on his profession;

(g) to a chemist or assayer: the tools, instruments, and supplies necessary to carry on his profession;

(h) to a cartman, hackman, huckster, peddler, teamster, or laborer: one horse or mule and harness for two animals or two oxen and harness, and one cart or wagon, one dray or truck, one hack or carriage by the use of which such person habitually earns his living;

(i) one vehicle and harness or other equipment used by a physician or surgeon or minister of the gospel in making his professional visits, with food for such horse, mule, or oxen for 3 months;

(j) to an osteopath or chiropractor: the instruments and equipment necessary to the exercise of his profession, with his scientific and professional library and necessary office furniture.

(2) No article, however, or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage lien thereon, and no person not a bona fide resident of this state shall have the benefit of these exemptions. No person can claim more than one of the exemptions mentioned in subsections (1)(a) through (1)(j) of this section.

History: Ap. p. Sec. 1222; C. Civ. Proc. 1895; amd. Sec. 2, Ch. 8, L. 1905; re-en. Sec. 6825, Rev. C. 1907; re-en. Sec. 9428, R.C.M. 1921; re-en. Sec. 9428, R.C.M. 1935; Sec. 93-5814, R.C.M. 1947; Ap. p. Sec. 1, Ch. 127, L. 1937; re-en. Sec. 9428.1, R.C.M. 1935; Sec. 93-5815, R.C.M. 1947; R.C.M. 1947, 93-5814(part), 93-5815; amd. Sec. 2, Ch. 210, L. 1935.

Compiler's Comments

1985 Amendment: Near beginning of (1) after "judgment debtors", deleted "who are married or who are heads of families".

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(b) every person who resides with the judgment debtor under his care or maintenance and who is:

- (i) a minor child of the judgment debtor or of his spouse or former spouse;
- (ii) a minor grandchild, brother, or sister or minor child of a brother or sister of the judgment debtor or of his spouse;
- (iii) a father, mother, grandfather, or grandmother of the judgment debtor or of his spouse or former spouse;
- (iv) an unmarried sister, brother, or any other relative of the judgment debtor mentioned in this section who has attained the age of majority and is unable to care for or support himself.

History: En. Sec. 1222, C. Civ. Proc. 1895; re-en. Sec. 6825, Rev. C. 1907; amd. Sec. 1, Ch. 48, L. 1913; re-en. Sec. 9429, R.C.M. 1921; amd. Sec. 1, Ch. 3, L. 1933; re-en. Sec. 9429, R.C.M. 1935; amd. Sec. 1, Ch. 77, L. 1939; R.C.M. 1947, 93-5816; amd. Sec. 7, Ch. 370, L. 1981; amd. Sec. 1, Ch. 153, L. 1983; amd. Sec. 1, Ch. 538, L. 1985.

Compiler's Comments

1985 Amendment: In (1) substituted present language for "Except as provided in this section, the earnings of the judgment debtor for his personal services rendered at any time within 45 days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise that such earnings are necessary for the use of his family supported in whole or in part by his labor, are exempt"; inserted (2)(a); in (2)(b) after "Earnings" deleted "for personal services"; and substituted present (2)(c) for former (3) that read: "Whenever debts are incurred by any such person or his wife or

family for gasoline and for the common necessities of life, then the one-half of such earnings are nevertheless subject to execution, garnishment, and attachment to satisfy debts so incurred."

1983 Amendment: At beginning of (1), inserted exception clause; at end of (1), deleted "but where"; inserted (2) (now (2)(b)); at beginning of (3) (now (2)(c)), inserted "Whenever"; and in (4) (now (3)), inserted exception clause referring to (2).

1981 Amendment: Substituted (2) (now (3)) for "the words 'his family', as used in this section, are to be construed with the words 'head of family', as used in 70-32-102."

25-13-615. Homestead. The homestead of a judgment debtor exempt from execution is provided for in Title 70, chapter 32.

History: En. Sec. 1223, C. Civ. Proc. 1895; re-en. Sec. 6826, Rev. C. 1907; re-en. Sec. 9430, R.C.M. 1921; re-en. Sec. 9430, R.C.M. 1935; R.C.M. 1947, 93-5818.

25-13-616. Life insurance benefits. (1) In addition to the property mentioned in 25-13-611, there shall be exempt to all judgment debtors all moneys, benefits, privileges, or immunities accruing or in any manner growing out of any life insurance on the life of the debtor if the annual premiums paid do not exceed \$500.

(2) No article, however, or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage lien thereon, and no person not a bona fide resident of this state shall have the benefit of these exemptions.

History: En. Sec. 1222, C. Civ. Proc. 1895; amd. Sec. 2, Ch. 8, L. 1905; re-en. Sec. 6825, Rev. C. 1907; re-en. Sec. 9423, R.C.M. 1921; re-en. Sec. 9428, R.C.M. 1935; R.C.M. 1947, 93-5814(part); amd. Sec. 4, Ch. 210, L. 1985.

Compiler's Comments

1985 Amendment: Near beginning of (1) after "judgment debtors", deleted "who are married or who are heads of families".

25-13-617. Truck or automobile. (1) In addition to all other exemptions, one truck or automobile of the value of not more than \$1,000 is exempt from attachment or execution; but where debts are incurred by any such

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debtor or his wife or family for the common necessities of life, then such truck or automobile is nevertheless subject to attachment and execution to satisfy debts so incurred.

(2) The words "his family", as used in this section, are to be construed to include:

- (a) the debtor's spouse;
- (b) every person who resides with the debtor under his care or maintenance and who is:
 - (i) a minor child of the debtor or of his spouse or former spouse;
 - (ii) a minor grandchild, brother, or sister or minor child of a brother or sister of the debtor or of his spouse;
 - (iii) a father, mother, grandfather, or grandmother of the debtor or of his spouse or former spouse;
 - (iv) an unmarried sister, brother, or any other relative of the debtor mentioned in this section who has attained the age of majority and is unable to care for or support himself.

History: En. Sec. 2, Ch. 120, L. 1933; re-en. Sec. 9430.2, R.C.M. 1935; amd. Sec. 1, Ch. 48, L. 1941; R.C.M. 1947, 23-5320; amd. Sec. 8, Ch. 370, L. 1981; amd. Sec. 5, Ch. 210, L. 1985.

Compiler's Comments

1985 Amendment: Near middle of (1) after "is exempt from attachment or execution", deleted "where the debtor is the head of a family or over 60 years of age".

1981 Amendment: Increased the auto exemption from \$300 to \$1,000 in (1); substituted (2) for "The words "his family", as used in this section, are to be construed with the words "head of family", as used in 70-32-102."

Part 7

Sale on Execution

Part Cross-References

Return of damaged property for sale by officer, 27-17-404.

Sale of attached property, Title 27, ch. 18, part 8.

Warranty upon judicial sale, 30-11-222.

Sale of abandoned vehicles in manner of sale on execution, 61-12-404.

25-13-701. Notice of sale on execution. (1) Before the sale of the property on execution, notice thereof must be given as follows:

(a) in case of perishable property, by posting written notice of the time and place of the sale in three public places of the township or city where the sale is to take place, for such time as may be reasonable considering the character and condition of the property;

(b) in case of other personal property, by posting a similar notice in three public places in the township or city where the sale is to take place, for not less than 5 days or more than 10 days, and by publishing a copy of the notice at least 1 week before the sale in a newspaper of general circulation published in the county, if there be one;

(c) in case of real property, by posting a similar notice, particularly describing the property, for 20 days in three public places of the township or city where the property is situated and also where the property is to be sold, which may be either at the courthouse or on the premises, and publishing a copy thereof once a week for the same period in some newspaper published in the county, if there be one, which notice shall be substantially as follows:

SENATE JUDICIARY

EXHIBIT NO. 7

DATE 2-5-8

BILL NO. H.B. 1

SUMMARY OF HB13 (MERCER)

(Prepared by Senate Judiciary Committee staff)

HB13 is by request of the Joint Interim Subcommittee on Lien Laws. It amends state law to comply with a federal bankruptcy law requirement that state law exemptions from bankruptcy must be specifically listed (rather than just generally referred to in state law). Bankruptcy proceedings are handled in a special bankruptcy court of the federal court system. Apparently, federal bankruptcy law allows states a choice between using the exemptions (for property that is exempt from bankruptcy proceedings) in the federal law or using the exemptions in state law. However, if a states chooses to use the exemptions used in state law, the exemptions must be clearly stated in one section or have all exemption statutes clearly referred to one statute. The following state statutes relating to property exempt from execution of judgments are now listed in the state statute (Section 31-2-106, MCA):

19-3-105 -- PERS benefits.

19-4-706 -- Teachers' retirement benefits.

19-5-704 -- Judges' retirement benefits.

19-6-705 -- Highway Patrol retirement benefits.

19-7-705 -- Sheriffs' retirement benefits.

19-8-805 -- Game Wardens' retirement benefits.

19-9-1006 -- Police retirement benefits (statewide).

19-10-504 -- Police retirement benefits (local).

19-11-612 -- Firefighters' retirement benefits (unincorporated cities and towns).

19-13-1004 -- Firefighters' Unified retirement benefits.

AMENDMENT TO HOUSE BILL 13

SENATE JUDICIARY

EXHIBIT NO. 9

DATE Feb. 5th, 1987

BILL NO. HB 13

1. Page 2, Line 1

Following: "is effective"

Strike: "July 1, 1987"

Insert: "on passage and approval"

2. Page 2, Line 2

Following: "applies"

Strike: "only"

3. Page 2, Line 2

Following: "bankruptcy petitions"

Strike through line 3

Insert: "in which discharge takes place on or after the effective date of this act."

Section 2 could then read:

This act is effective on passage and approval and applies to bankruptcy petitions in which discharge takes place on or after the effective date of the act.

STANDING COMMITTEE REPORT

February 5 19 87

MR. PRESIDENT

We, your committee on **SENATE JUDICIARY**

having had under consideration **SENATE BILL** No. **173**

first reading copy (white)
color

Revise spousal privilege.

Respectfully report as follows: That **SENATE BILL** No. **173**

DO PASS

~~DO NOT PASS~~

Chairman.

STANDING COMMITTEE REPORT

February 5

19 87

MR. PRESIDENT

SENATE JUDICIARY

We, your committee on

SENATE BILL

220

having had under consideration

No.

first

white

reading copy ()

color

Revise district court fees for incidental charges.

Respectfully report as follows: That

SENATE BILL

No. 220

BE AMENDED AS FOLLOWS:

1. Page 2, line 3.

Following: "cents"

Strike: "per name"

Following: "searched"

Insert: ", not to exceed a total of \$25"

2. Page 4, line 8.

Following: "cents"

Strike: "per name"

Following: "searched"

Insert: ", not to exceed a total of \$25"

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

Chairman.