

1 *Senate* BILL NO. *61*
 2 INTRODUCED BY *Fasbender* *Hayden* *Grealy*
 3 *Harden* *Law*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING CERTAIN
 5 PROVISIONS OF THE UNIFORM ALCOHOLISM AND INTOXICATION ACT,
 6 AMENDING SECTIONS 11-927 AND 94-8-105, R.C.M. 1947."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 11-927, R.C.M. 1947, is amended to
10 read as follows:

11 "11-927. Prevention of and punishment for disturbing
12 the peace. The city or town council has power: To prevent
13 and punish intoxication (subject to the limits established
14 in section ~~69-6224~~ 69-6226), fights, riots, loud noises,
15 disorderly conduct, obscenity, and acts or conduct
16 calculated to disturb the public peace, or which are
17 offensive to public morals, within the city or town, and
18 within three miles of the limits thereof."

19 Section 2. There is a new R.C.M. section numbered
20 69-6226 that reads as follows:

21 69-6226. Criminal laws limitations. (1) No county,
22 municipality, or other political subdivision may adopt or
23 enforce a local law, ordinance, resolution, or rule having
24 the force of law that includes drinking, being a common
25 drunkard, or being found in an intoxicated condition as one

1 of the elements of the offense giving rise to a criminal or
2 civil penalty or sanction.

3 (2) Nothing in this act affects any law, ordinance,
4 resolution, or rule against drunken driving, driving under
5 the influence of alcohol, or other similar offense involving
6 the operation of a vehicle, aircraft, boat, machinery, or
7 other equipment, or regarding the sale, purchase,
8 dispensing, possessing, or use of alcoholic beverages at
9 stated times and places or by a particular class of persons.

10 Section 3. Section 94-8-105, R.C.M. 1947, is amended
11 to read as follows:

12 "94-8-105. Public intoxication. ~~(1)~~ A person ~~commits~~
13 ~~the--offense--of--public-intoxication-if-he~~ who appears in a
14 public place in a state of visible intoxication as a result
15 of the use of alcohol or any dangerous drug and is

- 16 (a) creating a risk to himself or others, or
- 17 (b) conducting himself in an offensive manner, ~~and~~
 18 commits no criminal offense but may be detained by a peace
 19 officer for the person's own protection. A peace officer
 20 who detains a publicly intoxicated person must take him to a
 21 public treatment facility approved by the department of
 22 health and environmental sciences under section 69-6216. If
 23 there is no approved public treatment facility within a
 24 reasonable distance of the point of detention, the peace
 25 officer must release the person as soon as he is no longer

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1 creating a risk to himself or others.

2 ~~(2)---A person convicted of the offense of public~~
3 ~~intoxication shall be fined not to exceed fifty dollars~~
4 ~~(60) or be imprisoned in the county jail for a term not to~~
5 ~~exceed ten (10) days, or both."~~

-End-

Approved by Committee
on Public Health, Welfare
& Safety

1 SENATE BILL NO. 61

2 INTRODUCED BY FASBENDER, HAZELBAKER, GREELY, WARDEN, TOWE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING CERTAIN
5 PROVISIONS OF THE UNIFORM ALCOHOLISM AND INTOXICATION ACT,
6 AMENDING ~~SECTIONS~~ SECTION 11-927 AND REPEALING 94-8-105,
7 R.C.M. 1947."

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16 disorderly conduct, obscenity, and acts or conduct
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19 within three miles of the limits thereof."

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2 of the elements of the offense giving rise to a criminal or
3 civil penalty or sanction.

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5 resolution, or rule against drunken driving, driving under
6 the influence of alcohol, or other similar offense involving
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8 other equipment, or regarding the sale, purchase,
9 dispensing, possessing, or use of alcoholic beverages at
10 stated times and places or by a particular class of persons.

11 ~~Section 3. Section 94-8-105, R.C.M., 1947, is amended~~
12 ~~to read as follows:~~

13 ~~"94-8-105. Public intoxication. (1) A person commits~~
14 ~~the offense of public intoxication if he who appears in a~~
15 ~~public place in a state of visible intoxication as a result~~
16 ~~of the use of alcohol or any dangerous drug and is~~

17 ~~(a) creating a risk to himself or others, or~~

18 ~~(b) conducting himself in an offensive manner, y~~
19 ~~commits no criminal offense but may be detained by a peace~~
20 ~~officer for the person's own protection. A peace officer~~
21 ~~who detains a publicly intoxicated person must take him to a~~
22 ~~public treatment facility approved by the department of~~
23 ~~health and environmental sciences under section 69-6216. If~~
24 ~~there is no approved public treatment facility within a~~
25 ~~reasonable distance of the point of detention, the peace~~

1 ~~officer must release the person as soon as he is no longer~~
2 ~~creating a risk to himself or others.~~

3 (2) ~~A person convicted of the offense of public~~
4 ~~intoxication shall be fined not to exceed fifty dollars~~
5 ~~(\$50) or be imprisoned in the county jail for a term not to~~
6 ~~exceed ten (10) days, or both.~~

7 SECTION 3. THERE IS A NEW R.C.M. SECTION THAT READS AS
8 FOLLOWS:

9 (1) A PERSON WHO APPEARS TO BE INTOXICATED OR
10 INCAPACITATED BY ALCOHOL IN PUBLIC COMMITS NO CRIMINAL
11 OFFENSE BUT MAY BE DETAINED BY A PEACE OFFICER FOR THE
12 PERSON'S OWN PROTECTION. A PEACE OFFICER WHO DETAINS A
13 PERSON WHO APPEARS TO BE INTOXICATED OR INCAPACITATED BY
14 ALCOHOL IN PUBLIC SHALL PROCEED IN THE MANNER AS PROVIDED BY
15 SECTION 69-6219.

16 (2) IF NONE OF THE ALTERNATIVES IN SECTION 69-6219 IS
17 REASONABLY AVAILABLE, A PEACE OFFICER MAY DETAIN A PERSON
18 WHO APPEARS TO BE INTOXICATED OR INCAPACITATED BY ALCOHOL IN
19 JAIL UNTIL THE PERSON IS NO LONGER CREATING A RISK TO
20 HIMSELF OR OTHERS.

21 (3) A PEACE OFFICER, ACTING WITHIN THE SCOPE OF HIS
22 AUTHORITY UNDER THIS CHAPTER, SHALL NOT BE PERSONALLY LIABLE
23 FOR HIS ACTIONS.

24 SECTION 4. SECTION 94-8-105 IS REPEALED.

-End-

SENATE BILL NO. 61

INTRODUCED BY FASBENDER, HAZELBAKER, GREELY, WARDEN, TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING CERTAIN PROVISIONS OF THE UNIFORM ALCOHOLISM AND INTOXICATION ACT, AMENDING ~~SECTIONS~~ SECTION 11-927 AND REPEALING 94-8-105, R.C.M. 1947."

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Section 2. There is a new R.C.M. section numbered 69-6226 that reads as follows:

69-6226. Criminal laws limitations. (1) No county, municipality, or other political subdivision may adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common

drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

(2) Nothing in this act affects any law, ordinance, resolution, or rule against drunken driving, driving under the influence of alcohol, or other similar offense involving the operation of a vehicle, aircraft, boat, machinery, or other equipment, or regarding the sale, purchase, dispensing, possessing, or use of alcoholic beverages at stated times and places or by a particular class of persons.

~~Section 3. Section 94-8-105, R.C.M. 1947, is amended to read as follows:~~

~~"94-8-105. Public intoxication. (1) A person commits the offense of public intoxication if he who appears in a public place in a state of visible intoxication as a result of the use of alcohol or any dangerous drug and is~~

~~(a) creating a risk to himself or others, or~~

~~(b) conducting himself in an offensive manner, commits no criminal offense but may be detained by a peace officer for the person's own protection. A peace officer who detains a publicly intoxicated person must take him to a public treatment facility approved by the department of health and environmental sciences under section 69-6216. If there is no approved public treatment facility within a reasonable distance of the point of detention, the peace~~

1 ~~officer must release the person as soon as he is no longer~~
2 ~~creating a risk to himself or others.~~

3 ~~(2) --- A person --- convicted --- of --- the --- offense --- of --- public~~
4 ~~intoxication --- shall --- be --- fined --- not --- to --- exceed --- fifty --- dollars~~
5 ~~(650) --- or --- be --- imprisoned --- in --- the --- county --- jail --- for --- a --- term --- not --- to~~
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19 JAIL UNTIL THE PERSON IS NO LONGER CREATING A RISK TO
20 HIMSELF OR OTHERS.

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22 AUTHORITY UNDER THIS CHAPTER, SHALL NOT BE PERSONALLY LIABLE
23 FOR HIS ACTIONS.

24 SECTION 4. SECTION 94-8-105 IS REPEALED.

* -End-

HOUSE OF REPRESENTATIVES

Date: March 17, 1975

HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY AMENDMENTS TO SB 61

1. Amend page 1, section 1, line 15.

Following: "69-6224"

Strike: "69-6226"

Insert: "2 of this act"

2. Amend page 1, section 2, lines 20 and 21.

Following: "R.C.M. section"

Strike: "numbered 69-6226"

3. Amend page 1, section 2, line 22.

Strike: "69-6226."

4. Amend page 2, section 2, subsection (2), line 4.

Following: "this"

Strike: "act"

Insert: "section"

5. Amend page 3, section 3, subsection (1), line 11.

Following: "OFFENSE"

Insert: "solely by reason of being in such condition,"

AND AS SO AMENDED

BE CONCURRED IN

WM/gtw

SENATE BILL NO. 61

INTRODUCED BY FASBENDER, HAZELBAKER, GREELY, WARDEN, TOWE

A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING CERTAIN PROVISIONS OF THE UNIFORM ALCOHOLISM AND INTOXICATION ACT, AMENDING ~~SECTIONS~~ SECTION 11-927 AND REPEALING 94-8-105, R.C.M. 1947."

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drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction.

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14 PROTECTION. A PEACE OFFICER WHO DETAINS A PERSON WHO
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24 AUTHORITY UNDER THIS CHAPTER, SHALL NOT BE PERSONALLY LIABLE
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-End-