45th Legislature LC 0618/01

INTRODUCED BY Kull, bugust

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE DIVISION OF MOTOR VEHICLES TO ISSUE A SPECIAL PERMIT TO OPERATE A MOTOR VEHICLE TO A PERSON WHOSE DRIVER'S LICENSE HAS BEEN REVOKED FOR VIOLATION OF DRIVING UNDER THE INFLUENCE OF AN INTOXICATING LIQUOR OR DRUG WHEN THAT PERSON'S EMPLOYMENT REQUIRES THE POSSESSION OF A DRIVER'S LICENSE; AMENDING SECTION 32-2142, Recamble 1947."

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

Section 1. Section 32-2142, R.C.M. 1947, is amended to read as follows:

#32-2142. Persons under the influence of intoxicating liquor or of drugs. (a) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any motor vehicle upon the highways of this state.

(b) In any criminal prosecution for a violation of paragraph (a) of this section relating to driving a venicle while under the influence of intoxicating liquor, the amount of alcohol in the defendant's blood at the time alleged as snown by chemical analysis of the defendant's blood, urine,

breath or other bodily substance, shall give rise to the
following presumptions:

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1. If there was at that time 0.05 per cent or less by weight of alcohol in the defendant's blood it shall be presumed that the defendant was not under the influence of intoxicating liquor:

7 2. If there was at that time in excess of 0.05 per 8 cent but less than 0.10 per cent by weight of alcohol in the 9 defendant's blood, such fact shall not give rise to any 10 presumption that the defendant was or was not under tha 11 influence of intoxicating liquor, but such fact may be 12 considered with other competent evidence in determining the 13 guilt or innocence of the defendant:

14 3. If there was at that time 0.10 per cent or more by
15 weight of alcohol in the defendant's blood, it shall be
16 presumed that the defendant was under the influence of
17 intoxicating liquor:

13 4. Per cent by weight of alcohol in the blood small be
19 based upon grams of alcohol per one hundred (100) cubic
20 centimeters of blood:

5. The foregoing provisions of paragraph (b) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

(c) It is unlawful and punishable as provided in paragraph (d) of this section for any person who is an habitual user of or under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive a motor vehicle within this state. The fact that any person charged with a violation of this paragraph is or has been entitled to use such a drug under the laws of this state shall not constitute a defense against any charge of violating this paragraph.

(d) Every person who is convicted of a violation of this section shall be punished by imprisonment in the county or city jail for not more than six (6) months or by a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or by both such fine and imprisonment. On a second conviction he shall be punished by imprisonment in the county or city jail for not less than ten (10) days nor more than six (6) months, to which may be added, at the discretion of the court a fine of not less than three hundred dollars (\$300.00) nor more than five hundred dollars (\$500.00). On the chira or subsequent conviction he shall be punished by imprisonment for a term of not less than thirty (30) days nor more than one (1) year, to which may be added at the discretion of the court a fine of not less than five hundred dollars (\$500.00) nor

more than one thousand gollars (\$1.000.00).

- (e) Each and every municipality in this state is hereby given authority to enact the foregoing paragraphs (a), (b), (c) and (d) of this section, with the word "state" in the first sentence of paragraphs (a) and (c) changed in each instance to read "municipality," as an ordinance, and is hereby given jurisdiction of the enforcement of said ordinance, and of the imposition of the fines and penalties therein provided.
- (f) The board shall forthwith revoke the license or permit to drive and operating privilege and any nonresident operating privilege of any person upon receiving a record of such person's conviction or forfeiture of bail not vacated under this section.
- 15 (g) Upon application and proof by a person who has
 16 lost a license under this section that a license or permit
 17 to drive and operating privilege are conditions of his
 18 employments the division of motor venicles shall issue to
 19 that person a special permit allowing the person to drive in
 20 the course of his employments."

-End-

SECOND READING

MISSING

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approval.

1	HOUSE BILL NO. 243
2	INTRODUCED BY KIMBLE. BY REQUEST
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE DIVISION
5	OF MOTOR VEHICLES. UPON COURT ORDER. TO ISSUE A SPECIAL
6	PERMIT TO OPERATE A MOTOR VEHICLE TO A PERSON WHOSE DRIVER*S
7	LICENSE HAS BEEN REVOKED FOR VIOLATION OF DRIVING UNDER THE
8	INFLUENCE OF AN INTOXICATING LIQUOR OR DRUG WHEN THAT
9	PERSON'S EMPLOYMENT OR SCHOOL ATTENDANCE REQUIRES THE
0	POSSESSION OF A DRIVER'S LICENSE; AMENDING-SECTION32-2142+
.1	RECEMBE-1947 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.
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.3	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
4	Refer to Introduced Bill
15	(Strike everything after the enacting clause and insert:)
6	Section 1. There is a new R.C.M. section numbered
17	31-146.1 that reads as follows:
8	31-146.1. Permit to drive in course of employment or
19	school attendance. (1) A person whose license has been
20	revoked under 31-146(2) may petition the court of conviction
21	for a permit to drive to and from work or school or in the
??	course of his employment. PROVIDED HE OR SHE QUALIFIES FOR
23	AUTOMOBILE_INSURANCE.
24	(2) Upon proof that driving is a condition of a
) E	possests omployments or attending schools the court may

order the permit issued. THE COURT SHALL NOT ISSUE A SPECIAL 1 PERMIT FOLLOWING A SECOND OR SUBSEQUENT CONVICTION WITHIN 5 2 YEARS OF THE FIRST CONVICTION. 4 (3) Upon receipt of the court's order, the division of motor vehicles shall issue a special permit allowing the holder to drive to and from work or school or in the course 7 of his employment, as ordered by the court. Section 2. This act is effective on its passage and

-End+