

1 H BILL NO. 251  
 2 INTRODUCED BY Harper Smith, Democrat, Sheldon  
 3 Hepler (by request - ASS. of  
County Attorneys)

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN  
 5 ALTERNATIVE TO IMPRISONMENT FOR PERSONS CONVICTED OF DRIVING  
 6 WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; TO PROVIDE  
 7 FOR SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES; TO  
 8 CLARIFY THAT HABITUAL USERS WHO DRIVE ARE NOT SUBJECT TO  
 9 CRIMINAL PENALTIES UNLESS THEY ARE UNDER THE INFLUENCE WHEN  
 10 THEY DRIVE; TO PROVIDE FOR SUSPENDED EXECUTION OF SENTENCE  
 11 CONDITIONED UPON COUNSELING OR TREATMENT; AND TO PROVIDE A  
 12 PENALTY FOR DRIVING DURING A PERIOD OF SUSPENSION OR  
 13 REVOCATION OF DRIVING PRIVILEGES; AMENDING SECTIONS 31-146  
 14 AND 32-2142, R.C.M. 1947."

15  
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

19 "32-2142. Persons under the influence of intoxicating  
 20 ~~liquor alcohol~~ or of drugs. ~~(a)--it-is-unlawful--and~~  
 21 ~~punishable--as-provided-in-paragraph-(d)-of-this-section-for~~  
 22 ~~any-person-who-is-under-the-influence-of-intoxicating-liquor~~  
 23 ~~to-drive-or-be-in-actual-physical-control-of-any-motor~~  
 24 ~~vehicle-upon-the-highways-of-this-state~~

25 ~~(b)(1)~~ In any criminal prosecution for a violation of

1 ~~paragraph-(a) subsection (2)~~ of this section relating to  
 2 driving a vehicle while under the influence of ~~intoxicating~~  
 3 ~~liquor alcohol~~, the amount of alcohol in the defendant's  
 4 blood at the time alleged, as shown by chemical analysis of  
 5 the defendant's blood, urine, breath, or other bodily  
 6 substance, shall give rise to the following presumptions:

7 ~~1-(a)~~ If there was at that time 0.05 per cent or less  
 8 by weight of alcohol in the defendant's blood, it shall be  
 9 presumed that the defendant was not under the influence of  
 10 ~~intoxicating-liquor alcohol.~~

11 ~~2-(b)~~ If there was at that time in excess of 0.05 per  
 12 cent but less than 0.10 per cent by weight of alcohol in the  
 13 defendant's blood, such fact shall not give rise to any  
 14 presumption that the defendant was or was not under the  
 15 influence of ~~intoxicating-liquor alcohol~~, but such fact may  
 16 be considered with other competent evidence in determining  
 17 the guilt or innocence of the defendant.

18 ~~3-(c)~~ If there was at that time 0.10 per cent or more  
 19 by weight of alcohol in the defendant's blood, it shall be  
 20 presumed that the defendant was under the influence of  
 21 ~~intoxicating-liquor alcohol.~~

22 ~~4-~~ Per cent by weight of alcohol in the blood shall be  
 23 based upon grams of alcohol per one hundred (100) cubic  
 24 centimeters of blood.

25 ~~5-~~ The foregoing provisions of ~~paragraph-(a) this~~

1 subsection (1) shall not be construed as limiting the  
 2 introduction of any other competent evidence bearing upon  
 3 the question whether or not the defendant was under the  
 4 influence of ~~intoxicating-liquor~~ alcohol.

5 ~~(c)(2)~~ It is unlawful and punishable as provided in  
 6 ~~paragraph (d)~~ subsection (3) of this section for any person  
 7 who is ~~an habitual user of or~~ under the influence of alcohol  
 8 ~~or any narcotic drug or who is under the influence of~~ any  
 9 other drug to a degree which renders him incapable of safely  
 10 driving a motor vehicle to drive or be in actual physical  
 11 control of a motor vehicle within this state. The fact that  
 12 any person charged with a violation of this paragraph  
 13 subsection is or has been entitled to use such a drug under  
 14 the laws of this state ~~shall~~ does not constitute a defense  
 15 against any charge of violating this paragraph subsection.

16 ~~(d)(3)~~ Every person who is convicted of a violation of  
 17 this section shall be punished by ~~imprisonment in the county~~  
 18 ~~or city jail for not more than six (6) months~~ a suspension  
 19 of his operator's license or nonresident's operating  
 20 privilege for not more than 6 months, to which may be added,  
 21 in the discretion of the court, or by a fine of not less  
 22 than ~~one hundred dollars (\$100.00)~~ or more than ~~five hundred~~  
 23 ~~dollars (\$500.00) or by both such fine and imprisonment.~~ On  
 24 a second conviction, he shall be punished by ~~imprisonment in~~  
 25 ~~the county or city jail for not less than ten (10) days nor~~

1 ~~more than six (6) months~~ a suspension of his operator's  
 2 license or nonresident's operating privilege for not less  
 3 than 3 months or more than 6 months, to which may be added,  
 4 ~~at in~~ in the discretion of the court, a fine of not less than  
 5 ~~three hundred dollars (\$300.00) nor or~~ more than ~~five~~  
 6 ~~hundred dollars (\$500.00).~~ On the third or subsequent  
 7 conviction, he shall be punished by imprisonment for a term  
 8 of not less than ~~thirty (30) days~~ nor ~~or~~ more than ~~one (1)~~  
 9 ~~year~~ and a revocation of his operator's license or  
 10 nonresident's operating privilege for not less than 1 year,  
 11 to which may be added, ~~at in~~ in the discretion of the court, a  
 12 fine of not less than ~~five hundred dollars (\$500.00) nor or~~  
 13 more than ~~one thousand dollars (\$1,000.00).~~

14 (4) The court may, in its discretion, suspend the  
 15 execution of any sentence imposed under subsection (3) on  
 16 the condition that the defendant obtain counseling approved  
 17 by the court or that he submit to medical treatment in a  
 18 suitable public or private institution. Each individual or  
 19 institution providing such counseling or treatment shall, at  
 20 the commencement of the counseling or treatment, notify the  
 21 court that the defendant has been accepted for counseling or  
 22 treatment. If the defendant fails to attend the counseling  
 23 sessions or the treatment program, the counselor or  
 24 institution shall notify the court of the failure.

25 (5) A person whose operator's license or nonresident's

1 operating privilege has been suspended or revoked under  
 2 subsection (3) of this section and who, during such  
 3 suspension or revocation, drives a motor vehicle shall be  
 4 punished by a fine of not more than \$500 or imprisonment for  
 5 not more than 6 months, or both.

6 ~~(e)~~(6) Each and--every municipality in this state is  
 7 hereby given authority to enact the--foregoing--paragraphs  
 8 ~~(a)~~--~~(b)~~--~~(c)~~--and--~~(d)~~ subsections (1) through (5) of this  
 9 section, with the word "state" in the first sentence of  
 10 paragraphs--~~(a)~~--and--~~(c)~~ subsection (2) changed in each  
 11 instance to read "municipality", as an ordinance, and is  
 12 hereby given jurisdiction of the enforcement of said the  
 13 ordinance and of the imposition of the fines and penalties  
 14 therein provided.

15 ~~(f)~~(7) The court or clerk of court shall notify the  
 16 division of motor vehicles of the department of justice of  
 17 all convictions and forfeitures of bail not vacated under  
 18 subsection (3) involving an order of suspension or  
 19 revocation of the defendant's operator's license or  
 20 nonresident's operating privilege. Upon receiving such  
 21 notice, the--board the division shall forthwith suspend or  
 22 revoke the operator's license or permit--to--drive--and  
 23 operating--privilege--and--any--nonresident nonresident's  
 24 operating privilege of any person upon receiving a record of  
 25 such person's conviction or forfeiture of bail not vacated

1 under--this--section for the period of time ordered by the  
 2 court."

3 Section 2. Section 31-146, R.C.M. 1947, is amended to  
 4 read as follows:

5 "31-146. Mandatory revocation of license by board or  
 6 chief upon proper authority. The board or chief upon proper  
 7 authority shall forthwith revoke the license or operating  
 8 privilege of any operator or chauffeur upon receiving a  
 9 record of such operator's or chauffeur's conviction or  
 10 forfeiture of bail not vacated of any of the following  
 11 offenses, when such conviction or forfeiture has become  
 12 final:

13 1. Manslaughter resulting from the operation of a  
 14 motor vehicle;

15 2. Driving a motor vehicle while under the influence  
 16 of intoxicating liquor or narcotic drug, or willfully or  
 17 knowingly under the influence of any other drug to a degree  
 18 which renders him incapable of safely driving a motor  
 19 vehicle or a combination thereof, except as provided in  
 20 32-2142;

21 3. Any felony in the commission of which a motor  
 22 vehicle is used;

23 4. Failure to stop and render aid as required under  
 24 the laws of this state in the event of a motor-vehicle  
 25 accident resulting in the death or personal injury of

1 another;

2 5. Perjury or the making of a false affidavit or  
3 statement under oath to the board under this act or under  
4 any other law relating to the ownership or operation of  
5 motor vehicles;

6 6. Conviction, or forfeiture of bail not vacated, upon  
7 three (3) charges of reckless driving committed within a  
8 period of twelve (12) months."

-End-

STATE OF MONTANA

REQUEST NO. 479-77

FISCAL NOTE

Form BD-15

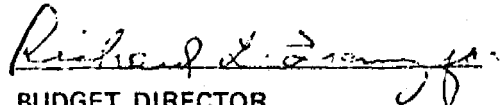
In compliance with a written request received February 8, 19 77, there is hereby submitted a Fiscal Note for House Bill 251 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide an alternative to imprisonment for persons convicted of driving while under the influence of alcohol or drugs; to provide for suspension or revocation of driving privileges; to clarify that habitual users who drive are not subject to criminal penalties unless they are under the influence when they drive; to provide for suspended execution of sentence conditioned upon counseling or treatment; and to provide a penalty for driving during a period of suspension or revocation of driving privileges.

FISCAL IMPACT:

It is assumed that the main objective of this bill is to suspend the driving privilege of first and second offenders of this act, rather than punishment by imprisonment. It is further assumed that the imposition of a fine will remain in the discretion of the court. This being the case, it is impossible to determine any change in revenue. There should be no increase in expenses to the State of Montana by the passage of this bill. No realistic estimate of the effect on local government can be provided.

  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-18-77

Approved by Committee  
on Judiciary

HOUSE BILL NO. 251

INTRODUCED BY HARPER, SCULLY, DUSSAULT, SHELDEN, KEYSER

BY REQUEST OF ASSOCIATION OF COUNTY ATTORNEYS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN ALTERNATIVE TO IMPRISONMENT FOR PERSONS CONVICTED OF DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; TO PROVIDE FOR SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES; TO CLARIFY THAT HABITUAL USERS WHO DRIVE ARE NOT SUBJECT TO CRIMINAL PENALTIES UNLESS THEY ARE UNDER THE INFLUENCE WHEN THEY DRIVE; TO PROVIDE FOR MANDATORY DRIVER IMPROVEMENT SCHOOL AND ALCOHOL TREATMENT PROGRAM; TO PROVIDE FOR SUSPENDED EXECUTION OF SENTENCE CONDITIONED UPON COUNSELING OR TREATMENT; ~~AND TO PROVIDE A PENALTY FOR DRIVING DURING A PERIOD OF SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES;~~ AMENDING SECTIONS 31-145, 31-146, 31-149, AND 32-2142, R.C.M. 1947."

BE 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 alcohol 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)(1)~~ In any criminal prosecution for a violation of ~~paragraph (a)~~ subsection (2) of this section relating to driving a vehicle while under the influence of ~~intoxicating liquor alcohol,~~ the amount of alcohol in the defendant's blood at the time alleged, as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions:

~~(a)~~ 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 alcohol.~~

~~(b)~~ If there was at that time in excess of 0.05 per cent but less than 0.10 per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of ~~intoxicating liquor alcohol,~~ but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

~~(c)~~ If there was at that time 0.10 per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of ~~intoxicating liquor alcohol.~~

~~4.~~ Per cent by weight of alcohol in the blood shall be

SECOND READING

1 based upon grams of alcohol per one hundred (100) cubic  
 2 centimeters of blood.

3 ~~5.~~ The foregoing provisions of ~~paragraph (b)~~ this  
 4 subsection (1) shall not be construed as limiting the  
 5 introduction of any other competent evidence bearing upon  
 6 the question whether or not the defendant was under the  
 7 influence of ~~intoxicating liquor~~ alcohol.

8 ~~(c)(2)~~ It is unlawful and punishable as provided in  
 9 ~~paragraph (d)~~ subsection (3) of this section for any person  
 10 who is ~~an habitual user of or~~ under the influence of alcohol  
 11 ~~or any narcotic drug or who is under the influence of~~ any  
 12 other drug to a degree which renders him incapable of safely  
 13 driving a motor vehicle to drive or be in actual physical  
 14 control of a motor vehicle within this state. The fact that  
 15 any person charged with a violation of this ~~paragraph~~  
 16 subsection is or has been entitled to use such a drug under  
 17 the laws of this state ~~shall~~ does not constitute a defense  
 18 against any charge of violating this ~~paragraph~~ subsection.

19 ~~(d)(3)~~ Every person who is convicted of a violation of  
 20 this section shall be punished by ~~imprisonment in the county~~  
 21 ~~or city jail for not more than six (6) months~~ a suspension  
 22 of his operator's license or nonresident's operating  
 23 privilege for not more than 6 months, to which may be added,  
 24 in the discretion of the court, or by a fine of not less  
 25 than ~~one hundred dollars (\$100.00)~~ or more than five hundred

1 ~~dollars (\$500.00) or by both such fine and imprisonment. ON~~  
 2 A FIRST CONVICTION UNDER THIS SECTION, THE DEFENDANT SHALL  
 3 BE REQUIRED TO ATTEND A COURT-APPROVED, ALCOHOL RELATED  
 4 DRIVER IMPROVEMENT SCHOOL. On a second conviction, he shall  
 5 be punished by ~~imprisonment in the county or city jail for~~  
 6 ~~not less than ten (10) days nor more than six (6) months~~ a  
 7 suspension of his operator's license or nonresident's  
 8 operating privilege for not less than 3 months or more than  
 9 6 months 1 YEAR, to which may be added, ~~at in~~ the discretion  
 10 of the court, a fine of not less than ~~three hundred~~ three hundred  
 11 dollars (\$300.00) nor ~~or~~ more than five hundred dollars (\$500.00).  
 12 On the third or subsequent conviction, he shall be punished  
 13 by imprisonment for a term of not less than ~~thirty (30) days~~  
 14 ~~nor or~~ more than one (1) year and a revocation of his  
 15 operator's license or nonresident's operating privilege for  
 16 not less than 1 year, to which may be added, ~~at in~~ the  
 17 discretion of the court, a fine of not less than ~~five~~  
 18 ~~hundred~~ dollars (\$500.00) nor ~~or~~ more than one thousand  
 19 dollars (\$1,000.00). UPON A SECOND OR SUBSEQUENT CONVICTION  
 20 OF A VIOLATION OF THIS SECTION, THE DEFENDANT SHALL BE  
 21 REQUIRED TO ENROLL IN AN ALCOHOL TREATMENT PROGRAM APPROVED  
 22 BY THE DEPARTMENT OF INSTITUTIONS.

23 (4) The court may, in its discretion, suspend the  
 24 execution of any sentence imposed under subsection (3) on  
 25 the condition that the defendant obtain ~~counseling approved~~

1 ~~by the court or that he submit to medical treatment in a~~  
 2 ~~suitable public or private institution SUCCESSFULLY COMPLETE~~  
 3 ~~THE DRIVER IMPROVEMENT SCHOOL OR ALCOHOL TREATMENT PROGRAM~~  
 4 ~~ORDERED BY THE COURT. Each individual or institution~~  
 5 ~~providing such counseling or treatment shall, at the~~  
 6 ~~commencement of the counseling or treatment, notify the~~  
 7 ~~court that the defendant has been accepted for counseling or~~  
 8 ~~treatment. If the defendant fails to attend the counseling~~  
 9 ~~sessions or the treatment program, the counselor or~~  
 10 ~~institution shall notify the court of the failure.~~

11 ~~(5) A person whose operator's license or nonresident's~~  
 12 ~~operating privilege has been suspended or revoked under~~  
 13 ~~subsection (3) of this section and who, during such~~  
 14 ~~suspension or revocation, drives a motor vehicle shall be~~  
 15 ~~punished by a fine of not more than \$500 or imprisonment for~~  
 16 ~~not more than 6 months, or both.~~

17 ~~(e) (5) Each and every municipality in this state is~~  
 18 ~~hereby given authority to enact the foregoing paragraphs~~  
 19 ~~(a), (b), (c) and (d) subsections (1) through (5) of this~~  
 20 ~~section, with the word "state" in the first sentence of~~  
 21 ~~paragraphs (a) and (c) subsection (2) changed in each~~  
 22 ~~instance to read "municipality," as an ordinance, and is~~  
 23 ~~hereby given jurisdiction of the enforcement of said the~~  
 24 ~~ordinance, and of the imposition of the fines and penalties~~  
 25 ~~therein provided.~~

1 ~~(f) (1) The court or clerk of court shall notify the~~  
 2 ~~division of motor vehicles of the department of justice of~~  
 3 ~~all convictions and forfeitures of bail not vacated under~~  
 4 ~~subsection (3) involving an order of suspension or~~  
 5 ~~revocation of the defendant's operator's license or~~  
 6 ~~nonresident's operating privilege. Upon receiving such~~  
 7 ~~notice the board the division shall forthwith suspend or~~  
 8 ~~revoke the operator's license or permit to drive and~~  
 9 ~~operating privilege and any nonresident nonresident's~~  
 10 ~~operating privilege of any person upon receiving a record of~~  
 11 ~~such person's conviction or forfeiture of bail not vacated~~  
 12 ~~under this section for the period of time ordered by the~~  
 13 ~~court."~~

14 Section 2. Section 31-146, R.C.M. 1947, is amended to  
 15 read as follows:

16 "31-146. Mandatory revocation of license by board or  
 17 chief upon proper authority. The board or chief upon proper  
 18 authority shall forthwith revoke the license or operating  
 19 privilege of any operator or chauffeur upon receiving a  
 20 record of such operator's or chauffeur's conviction or  
 21 forfeiture of bail not vacated of any of the following  
 22 offenses, when such conviction or forfeiture has become  
 23 final:

- 24 1. Manslaughter resulting from the operation of a
- 25 motor vehicle;



1           2. Driving a motor vehicle while under the influence  
2 of ~~intoxicating--liquor~~ ALCOHOL or narcotic drug, or  
3 willfully or knowingly under the influence of any other drug  
4 to a degree which renders him incapable of safely driving a  
5 motor vehicle or a combination thereof, except as provided  
6 in 32-2142;

7           3. Any felony in the commission of which a motor  
8 vehicle is used;

9           4. Failure to stop and render aid as required under  
10 the laws of this state in the event of a motor-vehicle  
11 accident resulting in the death or personal injury of  
12 another;

13           5. Perjury or the making of a false affidavit or  
14 statement under oath to the board under this act or under  
15 any other law relating to the ownership or operation of  
16 motor vehicles;

17           6. Conviction, or forfeiture of bail not vacated, upon  
18 three (3) charges of reckless driving committed within a  
19 period of twelve (12) months."

20           SECTION 3. SECTION 31-145, R.C.M., 1947, IS AMENDED TO  
21 READ AS FOLLOWS:

22           "31-145. When court to forward license to board  
23 division and report convictions. (a) Whenever any person is  
24 convicted of any offense for which this act makes mandatory  
25 the revocation of the operator's or chauffeur's license of

1 such person by the board division of motor vehicles of the  
2 department of justice, the court in which such conviction is  
3 had shall require the surrender to it of all operator's and  
4 chauffeur's licenses then held by the person so convicted.  
5 The court shall thereupon, within ~~five--(5)~~ days, forward  
6 ~~said the~~ license to the board division and at the same time  
7 forward a record of such conviction to the board division,  
8 providing that if such person does not possess a driver's  
9 license the court shall so indicate in its report to the  
10 board division.

11           (b) Every court having jurisdiction over offenses  
12 committed under ~~this act~~ or any other act of this state or  
13 municipal ordinance regulating the operation of motor  
14 vehicles on highways, shall forward, within ~~five--(5)~~ days,  
15 to the board division a record of the conviction or  
16 forfeiture of bail, not vacated, of any person in ~~said the~~  
17 court for a violation of any ~~said such laws~~, other than  
18 regulations governing standing or parking, and may recommend  
19 the suspension of the operator's or chauffeur's license of  
20 the person so convicted. The court or clerk of court shall  
21 notify the division of all convictions and forfeitures of  
22 bail not vacated under 32-2142(3) involving an order of  
23 suspension or revocation of the defendant's operator's  
24 license or nonresident's operating privilege. Upon  
25 receiving such notice, the division shall immediately

1 suspend or revoke the operator's license or nonresident's  
 2 operating privilege for the period of time ordered by the  
 3 court.

4 (c) For the purposes of this act the term "conviction"  
 5 shall mean a final conviction. Also, for the purposes of  
 6 this act a forfeiture of bail or collateral deposited to  
 7 secure a defendant's appearance in court, which forfeiture  
 8 has not been vacated, shall be equivalent to a conviction.

9 (d) Any person convicted of any offense which makes  
 10 mandatory the revocation of the operator's or chauffeur's  
 11 license, such period of revocation shall commence from date  
 12 of conviction or forfeiture of bail."

13 SECTION 4. SECTION 31-149, R.C.M. 1947, IS AMENDED TO  
 14 READ AS FOLLOWS:

15 "31-149. Period of suspension or revocation. (a) The  
 16 ~~board--shall~~ division may not suspend or revoke a driver's  
 17 license or privilege to drive a motor vehicle on the public  
 18 highways for a period of more than one (1) year, except as  
 19 permitted under sections 31-148, 31-155, 53-424, and 53-430,  
 20 and 52-2142, R. C. M. 1947.

21 (b) Any person whose license or privilege to drive a  
 22 motor vehicle on the public highways has been suspended or  
 23 revoked shall not be entitled to have such license or  
 24 privilege renewed or restored unless the revocation was for  
 25 a cause which has been removed, except that after the

1 expiration of the period of such revocation or suspension,  
 2 such person may make application for a new license as  
 3 provided by law, but the ~~board shall~~ division may not then  
 4 issue a new license unless and until it is satisfied after  
 5 investigation of character, habits, and driving ability of  
 6 such person that it will be safe to grant the privilege of  
 7 driving a motor vehicle on the public highways. Provided,  
 8 however, when any person is convicted or forfeits bail or  
 9 collateral not vacated for the offense of operating or being  
 10 in actual physical control of a motor vehicle while under  
 11 the influence of ~~intoxicating--liquor~~ alcohol or narcotic  
 12 drug, or knowingly or willingly under the influence of any  
 13 other drug to a degree which renders him incapable of safely  
 14 driving a motor vehicle or a combination thereof, the ~~board~~  
 15 division shall, upon receiving a report of such conviction  
 16 or forfeiture of bail or collateral not vacated, suspend or  
 17 revoke the license or driving privilege of such person for a  
 18 period of ~~sixty--(60)--days~~ not more than 6 months. Upon  
 19 receiving a report of a conviction or forfeiture of bail or  
 20 collateral for a ~~subsequent--such~~ second, third, or  
 21 subsequent offense, within ~~five--(5)~~ thereof of the  
 22 first offense, the ~~board~~ division shall suspend or revoke  
 23 the license or driving privilege of such person for a period  
 24 of ~~one--(1)~~ year.

25 (c) The revocation period for all revocations made

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1 mandatory by section 31-146, R. C. M. 1947, shall be one (1)  
2 year, except as provided in subsection (b) of this section."

-End-

HOUSE BILL NO. 251

INTRODUCED BY HARPER, SCULLY, DUSSAULT, SHELDEN, KEYSER

BY REQUEST OF ASSOCIATION OF COUNTY ATTORNEYS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE AN ALTERNATIVE TO IMPRISONMENT FOR PERSONS CONVICTED OF DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; TO PROVIDE FOR SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES; TO CLARIFY THAT HABITUAL USERS WHO DRIVE ARE NOT SUBJECT TO CRIMINAL PENALTIES UNLESS THEY ARE UNDER THE INFLUENCE WHEN THEY DRIVE; TO PROVIDE FOR MANDATORY DRIVER IMPROVEMENT SCHOOL AND ALCOHOL TREATMENT PROGRAM; TO PROVIDE FOR SUSPENDED EXECUTION OF SENTENCE CONDITIONED UPON COUNSELING OR TREATMENT; AND TO PROVIDE A PENALTY FOR DRIVING DURING A PERIOD OF SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES; AMENDING SECTIONS 31-145, 31-146, 31-149, AND 32-2142, R.C.M. 1947."

BE 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 alcohol 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)(1) In any criminal prosecution for a violation of paragraph (a) subsection (2) of this section relating to driving a vehicle while under the influence of intoxicating liquor alcohol, the amount of alcohol in the defendant's blood at the time alleged, as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions:

(a) 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 alcohol.

(b) If there was at that time in excess of 0.05 per cent but less than 0.10 per cent by weight of alcohol in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of intoxicating liquor alcohol, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(c) If there was at that time 0.10 per cent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor alcohol.

4. Per cent by weight of alcohol in the blood shall be

1 based upon grams of alcohol per one hundred (100) cubic  
2 centimeters of blood.

3 5. The foregoing provisions of paragraph ~~(b)~~ this  
4 subsection (1) shall not be construed as limiting the  
5 introduction of any other competent evidence bearing upon  
6 the question whether or not the defendant was under the  
7 influence of ~~intoxicating liquor~~ alcohol.

8 ~~(c)(2)~~ It is unlawful and punishable as provided in  
9 ~~paragraph (d)~~ subsection (3) of this section for any person  
10 who is ~~an habitual user of or~~ under the influence of alcohol  
11 or any narcotic drug or ~~who is under the influence of~~ any  
12 other drug to a degree which renders him incapable of safely  
13 driving a motor vehicle to drive or be in actual physical  
14 control of a motor vehicle within this state. The fact that  
15 any person charged with a violation of this paragraph  
16 subsection is or has been entitled to use such a drug under  
17 the laws of this state ~~shall~~ does not constitute a defense  
18 against any charge of violating this paragraph subsection.

19 ~~(d)(3)~~ Every person who is convicted of a violation of  
20 this section shall be punished by ~~imprisonment in the county~~  
21 ~~or city jail for not more than six (6) months~~ a suspension  
22 of his operator's license or nonresident's operating  
23 privilege for not more than 6 months, to which may be added,  
24 in the discretion of the court, or by a fine of not less  
25 than one hundred dollars ~~(\$100.00)~~ or more than five hundred

1 ~~dollars (\$500.00) or by both such fine and imprisonment. ON~~  
2 A FIRST CONVICTION UNDER THIS SECTION, THE DEFENDANT SHALL  
3 BE REQUIRED TO ATTEND A COURT-APPROVED, ALCOHOL RELATED  
4 DRIVER IMPROVEMENT SCHOOL. On a second conviction, he shall  
5 be punished by ~~imprisonment in the county or city jail for~~  
6 ~~not less than ten (10) days nor more than six (6) months~~ a  
7 suspension of his operator's license or nonresident's  
8 operating privilege for not less than 3 months or more than  
9 6 months 1 YEAR, to which may be added, at in the discretion  
10 of the court, a fine of not less than three hundred ~~dollars~~  
11 ~~(\$300.00) nor~~ or more than five hundred ~~dollars (\$500.00).~~  
12 On the third or subsequent conviction, he shall be punished  
13 by imprisonment for a term of not less than thirty ~~(30)~~ days  
14 ~~nor~~ or more than one ~~(1)~~ year and a revocation of his  
15 operator's license or nonresident's operating privilege for  
16 not less than 1 year, to which may be added, at in the  
17 discretion of the court, a fine of not less than five  
18 hundred ~~dollars (\$500.00) nor~~ or more than one thousand  
19 ~~dollars (\$1,000.00).~~ UPON A SECOND OR SUBSEQUENT CONVICTION  
20 OF A VIOLATION OF THIS SECTION, THE DEFENDANT SHALL BE  
21 REQUIRED TO ENROLL IN AN ALCOHOL TREATMENT PROGRAM APPROVED  
22 BY THE DEPARTMENT OF INSTITUTIONS.

23 (4) The court may, in its discretion, suspend the  
24 execution of any sentence imposed under subsection (3) on  
25 the condition that the defendant obtain ~~counseling approved~~

1 ~~by the court or that he submit to medical treatment in a~~  
 2 ~~suitable public or private institution SUCCESSFULLY COMPLETE~~  
 3 ~~THE DRIVER IMPROVEMENT SCHOOL OR ALCONCL TREATMENT PROGRAM~~  
 4 ~~ORDERED BY THE COURT. Each individual or institution~~  
 5 ~~providing such counseling or treatment shall, at the~~  
 6 ~~commencement of the counseling or treatment, notify the~~  
 7 ~~court that the defendant has been accepted for counseling or~~  
 8 ~~treatment. If the defendant fails to attend the counseling~~  
 9 ~~sessions or the treatment program, the counselor or~~  
 10 ~~institution shall notify the court of the failure.~~

11 ~~(5) A person whose operator's license or nonresident's~~  
 12 ~~operating privilege has been suspended or revoked under~~  
 13 ~~subsection (3) of this section and who, during such~~  
 14 ~~suspension or revocation, drives a motor vehicle shall be~~  
 15 ~~punished by a fine of not more than \$500 or imprisonment for~~  
 16 ~~not more than 6 months, or both.~~

17 ~~(c) (6) (5) Each and every municipality in this state is~~  
 18 ~~hereby given authority to enact the foregoing paragraphs~~  
 19 ~~(a), (b), (c) and (d) subsections (1) through (5) of this~~  
 20 ~~section, with the word "state" in the first sentence of~~  
 21 ~~paragraphs (a) and (c) subsection (2) changed in each~~  
 22 ~~instance to read "municipality," as an ordinance, and is~~  
 23 ~~hereby given jurisdiction of the enforcement of said the~~  
 24 ~~ordinance, and of the imposition of the fines and penalties~~  
 25 ~~therein provided.~~

1 ~~((1)) The court or clerk of court shall notify the~~  
 2 ~~division of motor vehicles of the department of justice of~~  
 3 ~~all convictions and forfeitures of bail not vacated under~~  
 4 ~~subsection (3) involving an order of suspension or~~  
 5 ~~revocation of the defendant's operator's license or~~  
 6 ~~nonresident's operating privilege. Upon receiving such~~  
 7 ~~notice, the board the division shall forthwith suspend or~~  
 8 ~~revoke the operator's license or permit to drive and~~  
 9 ~~operating privilege and any nonresident nonresident's~~  
 10 ~~operating privilege of any person upon receiving a record of~~  
 11 ~~such person's conviction or forfeiture of bail not vacated~~  
 12 ~~under this section for the period of time ordered by the~~  
 13 ~~court."~~

14 Section 2. Section 31-146, R.C.M. 1947, is amended to  
 15 read as follows:

16 "31-146. Mandatory revocation of license by board or  
 17 chief upon proper authority. The board or chief upon proper  
 18 authority shall forthwith revoke the license or operating  
 19 privilege of any operator or chauffeur upon receiving a  
 20 record of such operator's or chauffeur's conviction or  
 21 forfeiture of bail not vacated of any of the following  
 22 offenses, when such conviction or forfeiture has become  
 23 final:

- 24 1. Manslaughter resulting from the operation of a
- 25 motor vehicle;

1        2. Driving a motor vehicle while under the influence  
 2 of intoxicating--liquor ALCOHOL or narcotic drug, or  
 3 willfully or knowingly under the influence of any other drug  
 4 to a degree which renders him incapable of safely driving a  
 5 motor vehicle or a combination thereof, except as provided  
 6 in 32-2142;

7        3. Any felony in the commission of which a motor  
 8 vehicle is used;

9        4. Failure to stop and render aid as required under  
 10 the laws of this state in the event of a motor-vehicle  
 11 accident resulting in the death or personal injury of  
 12 another;

13        5. Perjury or the making of a false affidavit or  
 14 statement under oath to the board under this act or under  
 15 any other law relating to the ownership or operation of  
 16 motor vehicles;

17        6. Conviction, or forfeiture of bail not vacated, upon  
 18 three (3) charges of reckless driving committed within a  
 19 period of twelve (12) months."

20        SECTION 3. SECTION 31-145, R.C.M. 1947, IS AMENDED TO  
 21 READ AS FOLLOWS:

22        "31-145. When court to forward license to board  
 23 division and report convictions. (a) Whenever any person is  
 24 convicted of any offense for which this act makes mandatory  
 25 the revocation of the operator's or chauffeur's license of

1 such person by the board division of motor vehicles of the  
 2 department of justice, the court in which such conviction is  
 3 had shall require the surrender to it of all operator's and  
 4 chauffeur's licenses then held by the person so convicted.  
 5 The court shall thereupon, within ~~five--(5)~~ days, forward  
 6 ~~and~~ the license to the board division and at the same time  
 7 forward a record of such conviction to the board division,  
 8 providing that if such person does not possess a driver's  
 9 license the court shall so indicate in its report to the  
 10 board division.

11        (b) Every court having jurisdiction over offenses  
 12 committed under ~~this act~~ or any other act of this state or  
 13 municipal ordinance regulating the operation of motor  
 14 vehicles on highways, shall forward, within ~~five--(5)~~ days,  
 15 to the board division a record of the conviction or  
 16 forfeiture of bail, not vacated, of any person in ~~and~~ the  
 17 court for a violation of any ~~and~~ such laws, other than  
 18 regulations governing standing or parking, and may recommend  
 19 the suspension of the operator's or chauffeur's license of  
 20 the person so convicted. The court or clerk of court shall  
 21 notify the division of all convictions and forfeitures of  
 22 bail not vacated under 32-2142(3) involving an order of  
 23 suspension or revocation of the defendant's operator's  
 24 license or nonresident's operating privileges. Upon  
 25 receiving such notice, the division shall immediately

1 suspend or revoke the operator's license or nonresident's  
2 operating privilege for the period of time ordered by the  
3 court.

4 (c) For the purposes of this act the term "conviction"  
5 shall mean a final conviction. Also, for the purposes of  
6 this act a forfeiture of bail or collateral deposited to  
7 secure a defendant's appearance in court, which forfeiture  
8 has not been vacated, shall be equivalent to a conviction.

9 (d) Any person convicted of any offense which makes  
10 mandatory the revocation of the operator's or chauffeur's  
11 license, such period of revocation shall commence from date  
12 of conviction or forfeiture of bail."

13 SECTION 4. SECTION 31-149, R.C.M. 1947, IS AMENDED TO  
14 READ AS FOLLOWS:

15 "31-149. Period of suspension or revocation. (a) The  
16 ~~board--shall~~ division may not suspend or revoke a driver's  
17 license or privilege to drive a motor vehicle on the public  
18 highways for a period of more than one (1) year, except as  
19 permitted under sections 31-148, 31-155, 53-424, and 53-430,  
20 ~~and 32-2142,~~ R. C. M. 1947.

21 (b) Any person whose license or privilege to drive a  
22 motor vehicle on the public highways has been suspended or  
23 revoked shall not be entitled to have such license or  
24 privilege renewed or restored unless the revocation was for  
25 a cause which has been removed, except that after the

1 expiration of the period of such revocation or suspension,  
2 such person may make application for a new license as  
3 provided by law, but the ~~board--shall~~ division may not then  
4 issue a new license unless and until it is satisfied after  
5 investigation of character, habits, and driving ability of  
6 such person that it will be safe to grant the privilege of  
7 driving a motor vehicle on the public highways. Provided,  
8 however, when any person is convicted or forfeits bail or  
9 collateral not vacated for the offense of operating or being  
10 in actual physical control of a motor vehicle while under  
11 the influence of ~~intoxicating--liquor~~ alcohol or narcotic  
12 drug, or knowingly or willingly under the influence of any  
13 other drug to a degree which renders him incapable of safely  
14 driving a motor vehicle or a combination thereof, the ~~board~~  
15 division shall, upon receiving a report of such conviction  
16 or forfeiture of bail or collateral not vacated, suspend or  
17 revoke the license or driving privilege of such person for a  
18 period of ~~sixty--(60)--days~~ not more than 6 months. Upon  
19 receiving a report of a conviction or forfeiture of bail or  
20 collateral for a ~~subsequent--such~~ second, third, or  
21 subsequent offense within ~~five--(5)--years~~ thereof of the  
22 first offense, the ~~board~~ division shall suspend or revoke  
23 the license or driving privilege of such person for a period  
24 of ~~one--(1)--year~~.

25 (c) The revocation period for all revocations made



HB 0251/02

1 mandatory by section 31-146, R. C. M. 1947, shall be one (1)  
2 year, except as provided in subsection (b) of this section.\*

-End-

April 2, 1977

STANDING COMMITTEE REPORT  
Senate Committee on Judiciary

That House Bill No. 251 be amended as follows:

1. Amend title, lines 5 and 6.  
Following: "ACT TO"  
Strike: "PROVIDE AN ALTERNATIVE TO IMPRISONMENT FOR PERSONS CONVICTED OF"  
Insert: "REVISE THE PENALTIES FOR"
2. Amend title, lines 7 and 8.  
Following: "DRUGS;"  
Strike: "TO PROVIDE FOR SUSPENSION OR REVOCATION OF DRIVING PRIVILEGES;"
3. Amend title, lines 11 and 12.  
Following: "DRIVE;"  
Strike: "TO PROVIDE FOR MANDATORY DRIVER IMPROVEMENT SCHOOL AND ALCOHOL TREATMENT PROGRAM;"
4. Amend title, line 13.  
Following: "UPON"  
Strike: "COUNSELING"  
Insert: "EDUCATION"
5. Amend page 3, section 1, lines 21 through 24.  
Following: "months"  
Strike: "a suspension of his operator's license or nonresident's operating privilege for not more than 6 months, to which may be added, in the discretion of the court,"
6. Amend page 4, section 1, lines 1 through 4.  
Following: "imprisonment."  
Strike: "ON A FIRST CONVICTION UNDER THIS SECTION, THE DEFENDANT SHALL BE REQUIRED TO ATTEND A COURT-APPROVED, ALCOHOL RELATED DRIVER IMPROVEMENT SCHOOL."
7. Amend page 4, section 1, lines 6 through 10.  
Following: "months"  
Strike: "a suspension of his operator's license or nonresident's operating privilege for not less than 1 YEAR, to which may be added, in the discretion of the court,"
8. Amend page 4, section 1, lines 14 through 16.  
Following: "year"  
Strike: "and a revocation of his operator's license or nonresident's operating privilege for not less than 1 year."
9. Amend page 4, section 1, lines 19 through 22.  
Following: "{\$1,000-00}\$"  
Strike: "UPON A SECOND OR SUBSEQUENT CONVICTION OF A VIOLATION OF THIS SECTION, THE DEFENDANT SHALL BE REQUIRED TO ENROLL IN AN ALCOHOL TREATMENT PROGRAM APPROVED BY THE DEPARTMENT OF INSTITUTIONS."

10. Amend page 4, section 1, line 23.  
Following: "(4)"  
Strike: "The"  
Insert: "Except as otherwise provided in this section, the"
11. Amend page 5, section 1, line 3.  
Following: line 2.  
Strike: "THE"  
Insert: "a course in a"  
Following: "SCHOOL"  
Insert: "approved by the court"  
Following: "OR"  
Insert: "an"  
Following: "PROGRAM"  
Insert: "approved by the department of institutions"
12. Amend page 5, section 1, line 4.  
Following: line 3  
Strike: "ORDERED BY THE COURT"  
Following: "Each"  
Strike: "individual"  
Insert: "school"
13. Amend page 5, section 1, line 5.  
Following: "such"  
Strike: "counseling"  
Insert: "education"
14. Amend page 5, section 1, line 6.  
Following: "of the"  
Strike: "counseling"  
Insert: "education"
15. Amend page 5, section 1, line 7.  
Following: "accepted"  
Strike: "for counseling"  
Insert: "by the school"
16. Amend page 5, section 1, lines 8 and 9.  
Following: "treatment"  
Insert: "program"  
Following: "attend the"  
Strike: "counseling sessions"  
Insert: "school"  
Following: ", the"  
Strike: "counselor"  
Insert: "school"
17. Amend page 5, section 1, line 19.  
Following: "through"  
Strike: "(5)"  
Insert: "(4)"

18. Amend page 7, section 2, lines 5 and 6.

Following: "thereof"

Strike: ", except as provided in 32-2142"

Insert: "except as provided in 31-149"

19. Amend page 8, section 3, line 20 through line 3 on page 9.

Following: "convicted."

Strike: line 20 through line 3 on page 9 in their entirety

Insert: "The court may also recommend that the division issue a restricted probationary license in lieu of the suspension required in 31-149(b) on the condition that the individual attend a driver improvement school or an alcohol treatment program if one is available. The division shall issue a restricted probationary license unless the person otherwise is not entitled to a Montana operator's or chauffeur's license."

20. Amend page 9, section 4, line 19.

Following: "31-155,"

Insert: "31-184.1,"

Following: "and"

Insert: "and"

21. Amend page 9, section 4, line 20.

Following: line 19

Strike: "and 32-2142,"

22. Amend page 10, section 4, lines 16 and 17.

Following: "suspend"

Strike: "or revoke"

23. Amend page 10, section 4, line 18.

Following: "days"

Strike: "not more than"

24. Amend page 10, section 4, line 22.

Following: "shall"

Strike: "suspend or"

1 HOUSE BILL NO. 251  
 2 INTRODUCED BY HARPER, SCULLY, DUSSAULT, SHELDEN, KEYSER  
 3 BY REQUEST OF ASSOCIATION OF COUNTY ATTORNEYS  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ~~PROVIDE AN~~  
 6 ~~ALTERNATIVE TO IMPRISONMENT FOR PERSONS CONVICTED OF~~ REVISE  
 7 THE PENALTIES FOR DRIVING WHILE UNDER THE INFLUENCE OF  
 8 ALCOHOL OR DRUGS; ~~TO PROVIDE FOR SUSPENSION OR REVOCATION OF~~  
 9 ~~DRIVING PRIVILEGES~~; TO CLARIFY THAT HABITUAL USERS WHO DRIVE  
 10 ARE NOT SUBJECT TO CRIMINAL PENALTIES UNLESS THEY ARE UNDER  
 11 THE INFLUENCE WHEN THEY DRIVE; ~~TO PROVIDE FOR MANDATORY~~  
 12 ~~DRIVER IMPROVEMENT SCHOOL AND ALCOHOL TREATMENT PROGRAM~~; TO  
 13 PROVIDE FOR SUSPENDED EXECUTION OF SENTENCE CONDITIONED UPON  
 14 COUNSELING EDUCATION OR TREATMENT; ~~AND TO PROVIDE A PENALTY~~  
 15 ~~FOR DRIVING DURING A PERIOD OF SUSPENSION OR REVOCATION OF~~  
 16 ~~DRIVING PRIVILEGES~~; AMENDING SECTIONS 31-145, 31-146,  
 17 31-149, AND 32-2142, R.C.M. 1947."  
 18  
 19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 20 Section 1. Section 32-2142, R.C.M. 1947, is amended to  
 21 read as follows:  
 22 "32-2142. Persons under the influence of intoxicating  
 23 liquor alcohol or of drugs. ~~(a) It is unlawful and~~  
 24 ~~punishable as provided in paragraph (d) of this section for~~  
 25 ~~any person who is under the influence of intoxicating liquor~~

REFERENCE BILL

1 ~~to drive or be in actual physical control of any motor~~  
 2 ~~vehicle upon the highways of this state~~  
 3 ~~(b)(1)~~ In any criminal prosecution for a violation of  
 4 ~~paragraph (a) subsection (2)~~ of this section relating to  
 5 driving a vehicle while under the influence of ~~intoxicating~~  
 6 ~~liquor alcohol~~, the amount of alcohol in the defendant's  
 7 blood at the time alleged, as shown by chemical analysis of  
 8 the defendant's blood, urine, breath, or other bodily  
 9 substance, shall give rise to the following presumptions:  
 10 ~~1(a)~~ If there was at that time 0.05 per cent or less  
 11 by weight of alcohol in the defendant's blood, it shall be  
 12 presumed that the defendant was not under the influence of  
 13 ~~intoxicating liquor alcohol~~.  
 14 ~~2(b)~~ If there was at that time in excess of 0.05 per  
 15 cent but less than 0.10 per cent by weight of alcohol in the  
 16 defendant's blood, such fact shall not give rise to any  
 17 presumption that the defendant was or was not under the  
 18 influence of ~~intoxicating liquor alcohol~~, but such fact may  
 19 be considered with other competent evidence in determining  
 20 the guilt or innocence of the defendant.  
 21 ~~3(c)~~ If there was at that time 0.10 per cent or more  
 22 by weight of alcohol in the defendant's blood, it shall be  
 23 presumed that the defendant was under the influence of  
 24 ~~intoxicating liquor alcohol~~.  
 25 ~~4~~ Per cent by weight of alcohol in the blood shall be

1 based upon grams of alcohol per one hundred (100) cubic  
 2 centimeters of blood;\_

3 5. The foregoing provisions of paragraph--(b) ~~this~~  
 4 subsection (1) shall not be construed as limiting the  
 5 introduction of any other competent evidence bearing upon  
 6 the question whether or not the defendant was under the  
 7 influence of ~~intoxicating liquor~~ alcohol.

8 (c)(2) It is unlawful and punishable as provided in  
 9 paragraph--(d) subsection (3) of this section for any person  
 10 who is ~~an habitual user of or~~ under the influence of alcohol  
 11 ~~or~~ any narcotic drug or ~~who is under the influence of~~ any  
 12 other drug to a degree which renders him incapable of safely  
 13 driving a motor vehicle to drive or be in actual physical  
 14 control of a motor vehicle within this state. The fact that  
 15 any person charged with a violation of this paragraph  
 16 subsection is or has been entitled to use such a drug under  
 17 the laws of this state ~~shall~~ does not constitute a defense  
 18 against any charge of violating this paragraph subsection.

19 (d)(3) Every person who is convicted of a violation of  
 20 this section shall be punished by ~~imprisonment in the county~~  
 21 ~~or city jail for not more than six (6) months~~ a suspension  
 22 ~~of his operator's license or nonresident's operating~~  
 23 ~~privilege for not more than 6 months, to which may be added,~~  
 24 ~~in the discretion of the court,~~ or by a fine of not less  
 25 than one hundred dollars--(\$100.00) or more than five hundred

1 dollars--(\$500.00)--or by both such fine and imprisonment. ~~ON~~  
 2 ~~A FIRST CONVICTION UNDER THIS SECTION, THE DEFENDANT SHALL~~  
 3 ~~BE REQUIRED TO ATTEND A COURT APPROVED, ALCOHOL RELATED~~  
 4 ~~DRIVER IMPROVEMENT SCHOOL.~~ On a second conviction, he shall  
 5 be punished by ~~imprisonment in the county or city jail for~~  
 6 ~~not less than ten (10) days nor more than six (6) months~~ a  
 7 ~~suspension of his operator's license or nonresident's~~  
 8 ~~operating privilege for not less than 3 months or more than~~  
 9 ~~6 months 1 YEAR,~~ to which may be added, ~~at in~~ the discretion  
 10 of the court, a fine of not less than three hundred dollars  
 11 (\$300.00)--~~or~~ or more than five hundred dollars--(\$500.00).  
 12 On the third or subsequent conviction, he shall be punished  
 13 by imprisonment for a term of not less than thirty (30) days  
 14 ~~nor~~ or more than one--(1) year and a revocation of his  
 15 ~~operator's license or nonresident's operating privilege for~~  
 16 ~~not less than 1 year,~~ to which may be added, ~~at in~~ the  
 17 discretion of the court, a fine of not less than five  
 18 hundred dollars--(\$500.00)--~~or~~ or more than one thousand  
 19 dollars--(\$1,000.00). ~~UPON A SECOND OR SUBSEQUENT CONVICTION~~  
 20 ~~OF A VIOLATION OF THIS SECTION, THE DEFENDANT SHALL BE~~  
 21 ~~REQUIRED TO ENROLL IN AN ALCOHOL TREATMENT PROGRAM APPROVED~~  
 22 ~~BY THE DEPARTMENT OF INSTITUTIONS.~~

23 (4) ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
 24 THE court may, in its discretion, suspend the execution of  
 25 any sentence imposed under subsection (3) on the condition

1 ~~that the defendant obtain counseling approved by the court~~  
 2 ~~or that he submit to medical treatment in a suitable public~~  
 3 ~~or private institution~~ SUCCESSFULLY COMPLETE THE A COURSE IN  
 4 A DRIVER IMPROVEMENT SCHOOL APPROVED BY THE COURT OR AN  
 5 ALCOHOL TREATMENT PROGRAM APPROVED BY THE DEPARTMENT OF  
 6 INSTITUTIONS ORDERED BY THE COURT. Each individual SCHOOL or  
 7 institution providing such counseling EDUCATION or treatment  
 8 shall, at the commencement of the counseling EDUCATION or  
 9 treatment, notify the court that the defendant has been  
 10 accepted for counseling BY THE SCHOOL or treatment PROGRAM.  
 11 If the defendant fails to attend the counseling sessions  
 12 SCHOOL or the treatment program, the counselor SCHOOL or  
 13 institution shall notify the court of the failure.

14 ~~(5) A person whose operator's license or nonresident's~~  
 15 ~~operating privilege has been suspended or revoked under~~  
 16 ~~subsection (3) of this section and who, during such~~  
 17 ~~suspension or revocation, drives a motor vehicle shall be~~  
 18 ~~punished by a fine of not more than \$500 or imprisonment for~~  
 19 ~~not more than 6 months or both.~~

20 ~~(c)(5)~~ Each and every municipality in this state is  
 21 hereby given authority to enact the foregoing paragraphs  
 22 ~~(a), (b), (c) and (d)~~ subsections (1) through ~~(5)~~ (4) of  
 23 this section, with the word "state" in the first sentence of  
 24 paragraphs ~~(a) and (c)~~ subsection (2) changed in each  
 25 instance to read "municipality", as an ordinance, and is

1 hereby given jurisdiction of the enforcement of said the  
 2 ordinance, and of the imposition of the fines and penalties  
 3 therein provided.

4 ~~((1)) The court or clerk of court shall notify the~~  
 5 ~~division of motor vehicles of the department of justice of~~  
 6 ~~all convictions and forfeitures of bail not vacated under~~  
 7 ~~subsection (3) involving an order of suspension or~~  
 8 ~~revocation of the defendant's operator's license or~~  
 9 ~~nonresident's operating privilege. Upon receiving such~~  
 10 ~~notice the board the division shall forthwith suspend or~~  
 11 ~~revoke the operator's license or permit to drive and~~  
 12 ~~operating privilege and any nonresident nonresident's~~  
 13 ~~operating privilege of any person upon receiving a record of~~  
 14 ~~such person's conviction or forfeiture of bail not vacated~~  
 15 ~~under this section for the period of time ordered by the~~  
 16 ~~court."~~

17 Section 2. Section 31-146, R.C.M. 1947, is amended to  
 18 read as follows:

19 "31-146. Mandatory revocation of license by board or  
 20 chief upon proper authority. The board or chief upon proper  
 21 authority shall forthwith revoke the license or operating  
 22 privilege of any operator or chauffeur upon receiving a  
 23 record of such operator's or chauffeur's conviction or  
 24 forfeiture of bail not vacated of any of the following  
 25 offenses, when such conviction or forfeiture has become

1 final:

2 1. Manslaughter resulting from the operation of a  
3 motor vehicle;

4 2. Driving a motor vehicle while under the influence  
5 of ~~intoxicating~~ liquor ALCOHOL or narcotic drug, or  
6 willfully or knowingly under the influence of any other drug  
7 to a degree which renders him incapable of safely driving a  
8 motor vehicle or a combination thereof ~~except as provided~~  
9 in 32-2142 EXCEPT AS PROVIDED IN 31-149;

10 3. Any felony in the commission of which a motor  
11 vehicle is used;

12 4. Failure to stop and render aid as required under  
13 the laws of this state in the event of a motor-vehicle  
14 accident resulting in the death or personal injury of  
15 another;

16 5. Perjury or the making of a false affidavit or  
17 statement under oath to the board under this act or under  
18 any other law relating to the ownership or operation of  
19 motor vehicles;

20 6. Conviction, or forfeiture of bail not vacated, upon  
21 three (3) charges of reckless driving committed within a  
22 period of twelve (12) months."

23 SECTION 3. SECTION 31-145, R.C.M. 1947, IS AMENDED TO  
24 READ AS FOLLOWS:

25 "31-145. When court to forward license to board

1 division and report convictions. (a) Whenever any person is  
2 convicted of any offense for which this act makes mandatory  
3 the revocation of the operator's or chauffeur's license of  
4 such person by the board division of motor vehicles of the  
5 department of justice, the court in which such conviction is  
6 had shall require the surrender to it of all operator's and  
7 chauffeur's licenses then held by the person so convicted.  
8 The court shall thereupon, within ~~five~~ (5) days, forward  
9 ~~said the~~ license to the board division and at the same time  
10 forward a record of such conviction to the board division,  
11 providing that if such person does not possess a driver's  
12 license the court shall so indicate in its report to the  
13 board division.

14 (b) Every court having jurisdiction over offenses  
15 committed under ~~this act~~ or any other act of this state or  
16 municipal ordinance regulating the operation of motor  
17 vehicles on highways, shall forward, within ~~five~~ (5) days,  
18 to the board division a record of the conviction or  
19 forfeiture of bail, not vacated, of any person in ~~said the~~  
20 court for a violation of any ~~said such laws~~, other than  
21 regulations governing standing or parking, and may recommend  
22 the suspension of the operator's or chauffeur's license of  
23 the person so convicted. ~~The court or clerk of court shall~~  
24 ~~notify the division of all convictions and forfeitures of~~  
25 ~~bail not vacated under 32-2142(3) involving an order of~~



1 ~~suspension or revocation of the defendant's operator's~~  
 2 ~~license or nonresident's operating privilege. Upon~~  
 3 ~~receiving such notice, the division shall immediately~~  
 4 ~~suspend or revoke the operator's license or nonresident's~~  
 5 ~~operating privilege for the period of time ordered by the~~  
 6 ~~court. THE COURT MAY ALSO RECOMMEND THAT THE DIVISION ISSUE~~  
 7 ~~A RESTRICTED PROBATIONARY LICENSE IN LIEU OF THE SUSPENSION~~  
 8 ~~REQUIRED IN 31-149(B) ON THE CONDITION THAT THE INDIVIDUAL~~  
 9 ~~ATTEND A DRIVER IMPROVEMENT SCHOOL OR AN ALCOHOL TREATMENT~~  
 10 ~~PROGRAM IF ONE IS AVAILABLE. THE DIVISION SHALL ISSUE A~~  
 11 ~~RESTRICTED PROBATIONARY LICENSE UNLESS THE PERSON OTHERWISE~~  
 12 ~~IS NOT ENTITLED TO A MONTANA OPERATOR'S OR CHAUFFEUR'S~~  
 13 ~~LICENSE.~~

14 (c) For the purposes of this act the term "conviction"  
 15 shall mean a final conviction. Also, for the purposes of  
 16 this act a forfeiture of bail or collateral deposited to  
 17 secure a defendant's appearance in court, which forfeiture  
 18 has not been vacated, shall be equivalent to a conviction.

19 (d) Any person convicted of any offense which makes  
 20 mandatory the revocation of the operator's or chauffeur's  
 21 license, such period of revocation shall commence from date  
 22 of conviction or forfeiture of bail."

23 SECTION 4. SECTION 31-149, R.C.M., 1947, IS AMENDED TO  
 24 READ AS FOLLOWS:

25 \*31-149. Period of suspension or revocation. (a) The

1 ~~board shall~~ division may not suspend or revoke a driver's  
 2 license or privilege to drive a motor vehicle on the public  
 3 highways for a period of more than one (1) year, except as  
 4 permitted under sections 31-148, 31-155, ~~31-184.1,~~ 53-424,  
 5 and AND 53-430, ~~and 32-2142,~~ R. C. M. 1947.

6 (b) Any person whose license or privilege to drive a  
 7 motor vehicle on the public highways has been suspended or  
 8 revoked shall not be entitled to have such license or  
 9 privilege renewed or restored unless the revocation was for  
 10 a cause which has been removed, except that after the  
 11 expiration of the period of such revocation or suspension,  
 12 such person may make application for a new license as  
 13 provided by law, but the ~~board shall~~ division may not then  
 14 issue a new license unless and until it is satisfied after  
 15 investigation of character, habits, and driving ability of  
 16 such person that it will be safe to grant the privilege of  
 17 driving a motor vehicle on the public highways. Provided,  
 18 however, when any person is convicted or forfeits bail or  
 19 collateral not vacated for the offense of operating or being  
 20 in actual physical control of a motor vehicle while under  
 21 the influence of ~~intoxicating liquor~~ alcohol or narcotic  
 22 drug, or knowingly or willingly under the influence of any  
 23 other drug to a degree which renders him incapable of safely  
 24 driving a motor vehicle or a combination thereof, the ~~board~~  
 25 division shall, upon receiving a report of such conviction

1 or forfeiture of bail or collateral not vacated, suspend or  
2 revoke the license or driving privilege of such person for a  
3 period of ~~sixty-(60)-days~~ ~~not--more--than~~ 6 months. Upon  
4 receiving a report of a conviction or forfeiture of bail or  
5 collateral for a ~~subsequent--such~~ second, third, or  
6 subsequent offense, within ~~five--(5)~~ years thereof of the  
7 first offense, the board division shall ~~suspend--or~~ revoke  
8 the license or driving privilege of such person for a period  
9 of ~~one-(1)~~ year.

10 (c) The revocation period for all revocations made  
11 mandatory by section 31-146, R. C. M. 1947, shall be one (1)  
12 year, except as provided in subsection (b) of this section."

-End-