

1 ^H BILL NO. 354
 2 INTRODUCED BY *[Signature]* *[Signature]* *[Signature]*
 3 *[Signature]*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 32-2142, R.C.M. 1947, PROVIDING THAT FINE OR IMPRISONMENT
 6 FOR THE OFFENSE OF DRIVING WHILE INTOXICATED MAY BE
 7 SUSPENDED ON SUCCESSFUL COMPLETION OF DRIVER IMPROVEMENT
 8 SCHOOL; AND PROVIDING A DEFINITION OF THE TERM
 9 "CONVICTION"."

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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 32-2142, R.C.M. 1947, is amended to
 13 read as follows:

14 "32-2142. Persons under the influence of intoxicating
 15 liquor or of drugs. (a) It is unlawful and punishable as
 16 provided in paragraph (d) of this section for any person who
 17 is under the influence of intoxicating liquor to drive or be
 18 in actual physical control of any motor vehicle upon the
 19 highways of this state.

20 (b) In any criminal prosecution for a violation of
 21 paragraph (a) of this section relating to driving a vehicle
 22 while under the influence of intoxicating liquor, the amount
 23 of alcohol in the defendant's blood at the time alleged as
 24 shown by chemical analysis of the defendant's blood, urine,
 25 breath or other bodily substance, shall give rise to the

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1 following presumptions:

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

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

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

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

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

25 (c) It is unlawful and punishable as provided in

1 paragraph (d) of this section for any person who is an
 2 habitual user of or under the influence of any narcotic drug
 3 or who is under the influence of any other drug to a degree
 4 which renders him incapable of safely driving a motor
 5 vehicle to drive a motor vehicle within this state. The fact
 6 that any person charged with a violation of this paragraph
 7 is or has been entitled to use such a drug under the laws of
 8 this state shall not constitute a defense against any charge
 9 of violating this paragraph.

10 (d) Every person who is convicted of a violation of
 11 this section shall be punished by imprisonment in the county
 12 or city jail for not more than six (6) months or by a fine
 13 of not less than one hundred dollars (\$100.00) or more than
 14 five hundred dollars (\$500.00) or by both such fine and
 15 imprisonment. Every person who is convicted of a first
 16 violation of this section shall be required to successfully
 17 complete a court-approved, alcohol-related driver
 18 improvement school, and the court may suspend the jail
 19 sentence and fine on the condition of successful completion
 20 of the school. On a second conviction he shall be punished
 21 by imprisonment in the county or city jail for not less than
 22 ten (10) days nor more than six (6) months, to which may be
 23 added, at the discretion of the court a fine of not less
 24 than three hundred dollars (\$300.00) nor more than five
 25 hundred dollars (\$500.00). On the third or subsequent

1 conviction he shall be punished by imprisonment for a term
 2 of not less than thirty (30) days nor more than one (1)
 3 year, to which may be added at the discretion of the court a
 4 fine of not less than five hundred dollars (\$500.00) nor
 5 more than one thousand dollars (\$1,000.00). Upon a second or
 6 subsequent conviction of a violation of this section, the
 7 court may suspend the jail sentence and fine on condition
 8 that the defendant successfully completes an alcohol
 9 treatment program approved by the department of
 10 institutions.

11 (e) As used in this section the term "conviction"
 12 means a final conviction. Also, under this section a
 13 forfeiture of bail or collateral deposited to secure a
 14 defendant's appearance in court, which forfeiture has not
 15 been vacated, is equivalent to a conviction.

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

24 (f)(g) The board shall forthwith revoke the license or
 25 permit to drive and operating privilege and any nonresident

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1 operating privilege of any person upon receiving a record of
2 such person's conviction or forfeiture of bail not vacated
3 under this section."

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