

House Bill 162

In The House

January 12, 1981	Introduced and referred to Committee on Judiciary.
January 21, 1981	Committee recommend bill do pass.
January 22, 1981	Bill printed and placed on members' desks.
January 23, 1981	Second reading do pass.
January 24, 1981	Considered correctly engrossed.
	Third reading passed.

In The Senate

January 26, 1981	Introduced and referred to Committee on Judiciary.
March 3, 1981	Committee recommend bill concurred on consent calendar.
March 4, 1981	On motion taken from consent calendar and referred to second reading. Motion adopted.
March 5, 1981	On motion taken from second reading and referred to Judiciary. Motion adopted.
March 23, 1981	Committee recommend bill concurred.
March 25, 1981	Second reading indefinitely postponed.

In The House

March 26, 1981	Returned from Senate indefinitely postponed.
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1 HOUSE BILL NO. 162  
 2 INTRODUCED BY [Signature]

3 BY REQUEST OF THE DEPARTMENT OF JUSTICE

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT IT IS  
 6 UNLAWFUL FOR A PERSON TO DRIVE OR BE IN ACTUAL PHYSICAL  
 7 CONTROL OF A MOTOR VEHICLE ANYWHERE WITHIN THIS STATE WHILE  
 8 UNDER THE INFLUENCE OF ALCOHOL; AMENDING SECTIONS 61-8-101  
 9 AND 61-8-401, MCA."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 61-8-101, MCA, is amended to read:

13 "61-8-101. Application -- exceptions. (1) The  
 14 provisions of this chapter relating to the operation of  
 15 vehicles refer exclusively to the operation of vehicles upon  
 16 highways except:

17 (a) where a different place is specifically referred  
 18 to in a given section;

19 (b) the provisions of 61-8-301 and 61-8-401 ~~with~~  
 20 ~~regard to operating a vehicle while under the influence of~~  
 21 ~~drugs shall apply upon highways and elsewhere throughout~~  
 22 ~~anywhere within~~ the state.

23 (2) The operation of motor vehicles directly across  
 24 the public roads and highways of this state, especially as  
 25 required in the transportation of natural resource products,

1 including agricultural products and livestock, shall not be  
 2 considered to be the operation of such vehicles on the  
 3 public roads and highways of this state provided that such  
 4 crossings are adequately marked with warning signs or  
 5 devices. Such crossings are subject to provisions relating  
 6 to stopping before entry and to restoration of any damage as  
 7 may reasonably be prescribed by the state or local agency in  
 8 control of safety of operation of the public highway  
 9 involved."

10 Section 2. Section 61-8-401, MCA, is amended to read:

11 "61-8-401. Persons under the influence of alcohol or  
 12 drugs. (1) It is unlawful and punishable as provided in  
 13 61-8-714(1) for any person who is under the influence of:

14 (a) alcohol to drive or be in actual physical control  
 15 of a motor vehicle ~~upon the highways of~~ within this state;

16 (b) a narcotic drug to drive or be in actual physical  
 17 control of a motor vehicle within this state; or

18 (c) any other drug to a degree which renders him  
 19 incapable of safely driving a motor vehicle to drive or be  
 20 in actual physical control of a motor vehicle within this  
 21 state.

22 (2) The fact that any person charged with a violation  
 23 of subsection (1) is or has been entitled to use such a drug  
 24 under the laws of this state does not constitute a defense  
 25 against any charge of violating subsection (1).

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

8 (a) If there was at that time 0.05% or less by weight  
 9 of alcohol in the defendant's blood, it shall be presumed  
 10 that the defendant was not under the influence of alcohol.

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

18 (c) If there was at that time 0.10% or more by weight  
 19 of alcohol in the defendant's blood, it shall be presumed  
 20 that the defendant was under the influence of alcohol.

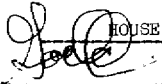
21 (4) Percent by weight of alcohol in the blood shall be  
 22 based upon grams of alcohol per 100 cubic centimeters of  
 23 blood.

24 (5) Each municipality in this state is given authority  
 25 to enact 61-8-714 and subsections (1) through (4) of this

1 section with the word "state" in subsection (1) of this  
 2 section changed to read "municipality", as an ordinance and  
 3 is given jurisdiction of the enforcement of the ordinance  
 4 and of the imposition of the fines and penalties therein  
 5 provided."

-End-

Approved by Committee  
on Judiciary

 HOUSE BILL NO. 162

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BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT IT IS UNLAWFUL FOR A PERSON TO DRIVE OR BE IN ACTUAL PHYSICAL CONTROL OF A MOTOR VEHICLE ANYWHERE WITHIN THIS STATE WHILE UNDER THE INFLUENCE OF ALCOHOL; AMENDING SECTIONS 61-8-101 AND 61-8-401, MCA."

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

Section 1. Section 61-8-101, MCA, is amended to read:

"61-8-101. Application -- exceptions. (1) The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(a) where a different place is specifically referred to in a given section;

(b) the provisions of 61-8-301 and 61-8-401 ~~with regard to operating a vehicle while under the influence of drugs, shall apply upon highways and elsewhere throughout anywhere within~~ the state.

(2) The operation of motor vehicles directly across the public roads and highways of this state, especially as required in the transportation of natural resource products,

including agricultural products and livestock, shall not be considered to be the operation of such vehicles on the public roads and highways of this state provided that such crossings are adequately marked with warning signs or devices. Such crossings are subject to provisions relating to stopping before entry and to restoration of any damage as may reasonably be prescribed by the state or local agency in control of safety of operation of the public highway involved."

Section 2. Section 61-8-401, MCA, is amended to read:

"61-8-401. Persons under the influence of alcohol or drugs. (1) It is unlawful and punishable as provided in 61-8-714(1) for any person who is under the influence of:

(a) alcohol to drive or be in actual physical control of a motor vehicle ~~upon the highways of~~ within this state;

(b) a narcotic drug to drive or be in actual physical control of a motor vehicle within this state; or

(c) any other drug to a degree which renders him incapable of safely driving a motor vehicle to drive or be in actual physical control of a motor vehicle within this state.

(2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use such a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1).

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

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18           (c) If there was at that time 0.10% or more by weight  
 19 of alcohol in the defendant's blood, it shall be presumed  
 20 that the defendant was under the influence of alcohol.

21           (4) Percent by weight of alcohol in the blood shall be  
 22 based upon grams of alcohol per 100 cubic centimeters of  
 23 blood.

24           (5) Each municipality in this state is given authority  
 25 to enact 61-8-714 and subsections (1) through (4) of this

1 section with the word "state" in subsection (1) of this  
 2 section changed to read "municipality", as an ordinance and  
 3 is given jurisdiction of the enforcement of the ordinance  
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