

HOUSE BILL NO. 250

INTRODUCED BY VINCENT, FABREGA, HARPER, METCALF, SAUNDERS,
ZABROCKI, ADDY, DARKO, HEMSTAD, SPAETH, WINSLOW, KITSELMAN,
VINGER, HOLLIDAY, HANNAH, ERNST, SANDS, SCHULTZ, NORDTVEDT,
O'CONNELL, SCHYE, SWIFT, YARDLEY, HAGER, GAGE, FAGG, PECK,
UNDERDAL, BERTELSEN, KADAS, J. BROWN, KEYSER, HANSEN,
DOZIER, FARRIS, BACHINI, VELEBER, PISTORIA

IN THE HOUSE

January 14, 1983	Introduced and referred to Committee on Judiciary.
February 16, 1983	Committee recommend bill do pass as amended. Report adopted.
February 17, 1983	Bill printed and placed on members' desks.
February 18, 1983	Second reading, do pass.
February 21, 1983	Considered correctly engrossed.
February 22, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Judiciary.
March 10, 1983	Committee recommend bill be concurrent in as amended. Report adopted.
March 12, 1983	Second reading, pass consideration.
March 14, 1983	Second reading, concurred in as amended.
March 16, 1983	Third reading, concurred in. Ayes, 41; Noes, 7.

IN THE HOUSE

March 16, 1983

Returned to House with
amendments.

March 30, 1983

Second reading, amendments
concurred in.

March 31, 1983

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *Zabrocki* House BILL NO. 250 *Saunders*
2 *Alfred Marks* INTRODUCED BY *Vincent Zappa* *Hager* *Metcalf*
3 *Wanda Wm* *James* *Frank* *Donnell*
4 *Kitseiman* *Holliday* *Ernst* *Hardstreet*
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A MANDATORY *Schae*
6 TERM OF IMPRISONMENT IN THE COUNTY JAIL UPON A FIRST *Smith*
7 CONVICTION FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR *gask*
8 DRUGS; PROVIDING FOR JAIL TERMS OF CONSECUTIVE DAYS FOR *Hager*
9 SUBSEQUENT CONVICTIONS; AMENDING SECTION 61-8-714, MCA." *hager*
10 *Undulal* *Kidd* *Stella* *Paul* *Hansen* *Jarris* *Uhl*
11 *Santham* *J. Brown* *Hoyser* *203* *Barbieri* *Pistoris*
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 61-8-714, MCA, is amended to read:

12 "61-8-714. Penalty for driving while-intoxicated under
13 the influence of alcohol or drugs. (1) A person convicted of
14 a violation of 61-8-401 ~~may, in the discretion of the court~~
15 shall be punished by imprisonment in the county jail for up
16 to 24 consecutive hours, and shall be punished by a fine of
17 not less than \$100 or more than \$500. The jail sentence may
18 not be suspended unless the judge finds that the imposition
19 of the jail sentence will pose a risk to the defendant's
20 physical or mental well-being.

21 (2) On a second conviction, he shall be punished by a
22 fine of not less than \$300 or more than \$500 and by
23 imprisonment for not less than 7 consecutive days or more
24 than 30 days. Three days of the jail sentence may not be
25 suspended unless the judge finds that the imposition of the

1 jail sentence will pose a risk to the defendant's physical
2 or mental well-being.

3 (3) On the third or subsequent conviction, he shall be
4 punished by imprisonment for a term of not less than 30
5 ~~consecutive~~ days or more than 1 year, to which may be added,
6 in the discretion of the court, a fine of not less than \$500
7 or more than \$1,000. Notwithstanding any provision to the
8 contrary providing for suspension of execution of a sentence
9 imposed under this subsection, the imposition or execution
10 of the first 10 days of the jail sentence imposed for a
11 third or subsequent offense that occurred within 5 years of
12 the first offense may not be deferred or suspended.

13 (4) In addition to the punishment provided in this
14 section, regardless of disposition, the defendant shall
15 complete an alcohol information course at an alcohol
16 treatment program approved by the department of
17 institutions, which may include alcohol or drug treatment,
18 or both, if considered necessary by the counselor conducting
19 the program. Each counselor providing such education or
20 treatment shall, at the commencement of the education or
21 treatment, notify the court that the defendant has been
22 enrolled in a course or treatment program. If the defendant
23 fails to attend the course or the treatment program, the
24 counselor shall notify the court of the failure.

25 (5) For the purpose of determining the number of

1 convictions under this section, "conviction" means a final
2 conviction, as defined in 45-2-101, or a forfeiture of bail
3 or collateral deposited to secure the defendant's appearance
4 in court, which forfeiture has not been vacated. An
5 offender is considered to have been previously convicted for
6 the purposes of this section if less than 5 years have
7 elapsed between the commission of the present offense and a
8 previous conviction. If there has been no additional
9 conviction for an offense under this section for a period of
10 5 years after a prior conviction hereunder, then such prior
11 offense shall be expunged from the defendant's record."

-End-

Approved by Committee
on Judiciary

HOUSE BILL NO. 250

INTRODUCED BY VINCENT, FABREGA, HARPER, METCALF, SAUNDERS,
ZABROCKI, ADDY, DARKO, HEMSTAD, SPAETH, WINSLOW, KITSELMAN,
VINGER, HOLLIDAY, HANNAH, ERNST, SANDS, SCHULTZ, NORDTVEDT,
O'CONNELL, SCHYE, SWIFT, YARDLEY, HAGER, GAGE, FAGG, PECK,
UNDERDAL, BERTELSEN, KADAS, J. BROWN, KEYSER, HANSEN,
DOZIER, FARRIS, BACHINI, VELEBER, PISTORIA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A MANDATORY
TERM OF IMPRISONMENT IN THE COUNTY JAIL UPON A FIRST
CONVICTION FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
DRUGS; PROVIDING---FOR---JAIL---TERMS---OF---CONSECUTIVE---DAYS
INCREASING THE PENALTIES FOR SUBSEQUENT CONVICTIONS;
AMENDING SECTION 61-8-714, MCA."

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

Section 1. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving ~~while-intoxicated under~~
~~the influence of alcohol or drugs.~~ (1) A person convicted of
a violation of 61-8-401 ~~may, in the discretion of the court,~~
shall be punished by imprisonment in the county jail for ~~NOT~~
~~LESS THAN~~ up to 24 consecutive hours ~~OR MORE THAN 60 DAYS,~~
and shall be punished by a fine of not less than \$100 or
more than \$500. The jail sentence may not be suspended
unless the judge finds that the imposition of the jail

sentence will pose a risk to the defendant's physical or
mental well-being.

(2) On a second conviction, he shall be punished by a
fine of not less than \$300 or more than \$500 and by
imprisonment for not less than 7 ~~consecutive~~ days or more
than 30-days ~~5 MONTHS~~. Three days of the jail sentence may
not be suspended unless the judge finds that the imposition
of the jail sentence will pose a risk to the defendant's
physical or mental well-being.

(3) On the third or subsequent conviction, he shall be
punished by imprisonment for a term of not less than 30
~~consecutive~~ 90 days or more than 1 year, to which may be
added, in the discretion of the court, a fine of not less
than \$500 or more than \$1,000. Notwithstanding any provision
to the contrary providing for suspension of execution of a
sentence imposed under this subsection, the imposition or
execution of the first 10 days of the jail sentence imposed
for a third or subsequent offense that occurred within 5
years of the first offense may not be deferred or suspended.

(4) In addition to the punishment provided in this
section, regardless of disposition, the defendant shall
complete an alcohol information course at an alcohol
treatment program approved by the department of
institutions, which may include alcohol or drug treatment,
or both, if considered necessary by the counselor conducting

1 the program. Each counselor providing such education or
2 treatment shall, at the commencement of the education or
3 treatment, notify the court that the defendant has been
4 enrolled in a course or treatment program. If the defendant
5 fails to attend the course or the treatment program, the
6 counselor shall notify the court of the failure.

7 (5) For the purpose of determining the number of
8 convictions under this section, "conviction" means a final
9 conviction, as defined in 45-2-101, or a forfeiture of bail
10 or collateral deposited to secure the defendant's appearance
11 in court, which forfeiture has not been vacated. An
12 offender is considered to have been previously convicted for
13 the purposes of this section if less than 5 years have
14 elapsed between the commission of the present offense and a
15 previous conviction. If there has been no additional
16 conviction for an offense under this section for a period of
17 5 years after a prior conviction hereunder, then such prior
18 offense shall be expunged from the defendant's record."

-End-

HOUSE BILL NO. 250

INTRODUCED BY VINCENT, FABREGA, HARPER, METCALF, SAUNDERS,
ZABROCKI, ADDY, DARKO, HEMSTAD, SPAETH, WINSLOW, KITSELMAN,
VINGER, HOLLIDAY, HANNAH, ERNST, SANDS, SCHULTZ, NORDTVEDT,
O'CONNELL, SCHYE, SWIFT, YARDLEY, HAGER, GAGE, FAGG, PECK,
UNDERDAL, BERTELSEN, KADAS, J. BROWN, KEYSER, HANSEN,
DOZIER, FARRIS, BACHINI, VELEBER, PISTORIA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A MANDATORY
TERM OF IMPRISONMENT IN THE COUNTY JAIL UPON A FIRST
CONVICTION FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
DRUGS; ~~PROVIDING---FOR---JAIL---TERMS---OF---CONSECUTIVE---DAYS~~
~~INCREASING THE PENALTIES~~ FOR SUBSEQUENT CONVICTIONS;
AMENDING SECTION 61-8-714, MCA."

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

Section 1. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving ~~while-intoxicated~~ under
the influence of alcohol or drugs. (1) A person convicted of
a violation of 61-8-401 ~~may, in the discretion of the court,~~
~~shall~~ be punished by imprisonment in the county jail for ~~NOT~~
~~LESS THAN~~ ~~up to~~ 24 ~~consecutive~~ hours ~~OR MORE THAN 60 DAYS,~~
and shall be punished by a fine of not less than \$100 or
more than \$500. The jail sentence may not be suspended
unless the judge finds that the imposition of the jail

sentence will pose a risk to the defendant's physical or
mental well-being.

(2) On a second conviction, he shall be punished by a
fine of not less than \$300 or more than \$500 and by
imprisonment for not less than 7 ~~consecutive~~ days or more
than ~~30 days~~ 6 MONTHS. Three days of the jail sentence may
not be suspended unless the judge finds that the imposition
of the jail sentence will pose a risk to the defendant's
physical or mental well-being.

(3) On the third or subsequent conviction, he shall be
punished by imprisonment for a term of not less than 30
~~consecutive~~ 20 days or more than 1 year, to which may be
added, in the discretion of the court, a fine of not less
than \$500 or more than \$1,000. Notwithstanding any provision
to the contrary providing for suspension of execution of a
sentence imposed under this subsection, the imposition or
execution of the first 10 days of the jail sentence imposed
for a third or subsequent offense that occurred within 5
years of the first offense may not be deferred or suspended.

(4) In addition to the punishment provided in this
section, regardless of disposition, the defendant shall
complete an alcohol information course at an alcohol
treatment program approved by the department of
institutions, which may include alcohol or drug treatment,
or both, if considered necessary by the counselor conducting

1 the program. Each counselor providing such education or
2 treatment shall, at the commencement of the education or
3 treatment, notify the court that the defendant has been
4 enrolled in a course or treatment program. If the defendant
5 fails to attend the course or the treatment program, the
6 counselor shall notify the court of the failure.

7 (5) For the purpose of determining the number of
8 convictions under this section, "conviction" means a final
9 conviction, as defined in 45-2-101, or a forfeiture of bail
10 or collateral deposited to secure the defendant's appearance
11 in court, which forfeiture has not been vacated. An
12 offender is considered to have been previously convicted for
13 the purposes of this section if less than 5 years have
14 elapsed between the commission of the present offense and a
15 previous conviction. If there has been no additional
16 conviction for an offense under this section for a period of
17 5 years after a prior conviction hereunder, then such prior
18 offense shall be expunged from the defendant's record."

-End-

March 10, 1983

SENATE STANDING COMMITTEE REPORT
(Judiciary)

That House Bill No. 250 be amended as follows:

1. Title, line 12.
Following: "DRUGS;"
Insert: "PROVIDING FOR JAIL TERMS OF CONSECUTIVE HOURS;"
2. Page 2, line 5.
Following: "days"
Insert: ", at lease 48 hours of which must be served consecutively,"
3. Page 2, line 12.
Following: "90"
Insert: "30"
Following: "days"
Insert: ", at least 48 hours of which must be served consecutively,"

March 14, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 250, Amendment 3, Standing Committee Report to read:

1. Page 2, line 12.

Strike: "90"

Insert: "30"

Following: "days"

Insert: ", at least 48 hours of which must be served
consecutively,"

HOUSE BILL NO. 250

INTRODUCED BY VINCENT, FABREGA, HARPER, METCALF, SAUNDERS,
 ZABROCKI, ADDY, DARKO, HEMSTAD, SPAETH, WINSLOW, KITSELMAN,
 VINGER, HOLLIDAY, HANNAH, ERNST, SANDS, SCHULTZ, NORDTVEOT,
 O'CONNELL, SCHYE, SWIFT, YARDLEY, HAGER, GAGE, FAGG, PECK,
 UNDERDAL, BERTELSEN, KADAS, J. BROWN, KEYSER, HANSEN,
 DOZIER, FARRIS, BACHINI, VELEBER, PISTORIA

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE A MANDATORY
 TERM OF IMPRISONMENT IN THE COUNTY JAIL UPON A FIRST
 CONVICTION FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
 DRUGS; ~~PROVIDING---FBI---JAIL---TERMS---OF---CONSECUTIVE---DAYS~~
~~PROVIDING FOR JAIL TERMS OF CONSECUTIVE HOURS; INCREASING~~
~~THE PENALTIES~~ FOR SUBSEQUENT CONVICTIONS; AMENDING SECTION
 61-8-714, MCA."

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

Section 1. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving ~~while-intoxicated under~~
~~the-influence-of-alcohol-or-drugs.~~ (1) A person convicted of
 a violation of 61-8-401 ~~may-in-the-discretion-of-the-court~~
 shall be punished by imprisonment in the county jail for ~~NOT~~
~~LESS--THAN~~ ~~up-to~~ 24 consecutive hours ~~OR MORE THAN 60 DAYS,~~
 and shall be punished by a fine of not less than \$100 or
 more than \$500. The jail sentence may not be suspended

unless the judge finds that the imposition of the jail
 sentence will pose a risk to the defendant's physical or
 mental well-being.

(2) On a second conviction, he shall be punished by a
 fine of not less than \$300 or more than \$500 and by
 imprisonment for not less than 7 ~~consecutive~~ days, AT LEAST
48 HOURS OF WHICH MUST BE SERVED CONSECUTIVELY, or more than
 30 days ~~6 MONTHS~~. Three days of the jail sentence may not be
 suspended unless the judge finds that the imposition of the
 jail sentence will pose a risk to the defendant's physical
 or mental well-being.

(3) On the third or subsequent conviction, he shall be
 punished by imprisonment for a term of not less than 30
~~consecutive 20 30 days,~~ AT LEAST 48 HOURS OF WHICH MUST BE
SERVED CONSECUTIVELY, or more than 1 year, to which may be
 added, in the discretion of the court, a fine of not less
 than \$500 or more than \$1,000. Notwithstanding any provision
 to the contrary providing for suspension of execution of a
 sentence imposed under this subsection, the imposition or
 execution of the first 10 days of the jail sentence imposed
 for a third or subsequent offense that occurred within 5
 years of the first offense may not be deferred or suspended.

(4) In addition to the punishment provided in this
 section, regardless of disposition, the defendant shall
 complete an alcohol information course at an alcohol

1 treatment program approved by the department of
2 institutions, which may include alcohol or drug treatment,
3 or both, if considered necessary by the counselor conducting
4 the program. Each counselor providing such education or
5 treatment shall, at the commencement of the education or
6 treatment, notify the court that the defendant has been
7 enrolled in a course or treatment program. If the defendant
8 fails to attend the course or the treatment program, the
9 counselor shall notify the court of the failure.

10 (5) For the purpose of determining the number of
11 convictions under this section, "conviction" means a final
12 conviction, as defined in 45-2-101, or a forfeiture of bail
13 or collateral deposited to secure the defendant's appearance
14 in court, which forfeiture has not been vacated. An
15 offender is considered to have been previously convicted for
16 the purposes of this section if less than 5 years have
17 elapsed between the commission of the present offense and a
18 previous conviction. If there has been no additional
19 conviction for an offense under this section for a period of
20 5 years after a prior conviction hereunder, then such prior
21 offense shall be expunged from the defendant's record."

-End-