

HOUSE BILL NO. 222

1/17 Introduced
1/17 Referred to Judiciary
1/21 Hearing
Died in Committee

1 HOUSE BILL NO. 222
2 INTRODUCED BY Richard M. Nelson

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE MINIMUM
5 FINE FOR THE FIRST, SECOND, THIRD, AND SUBSEQUENT
6 CONVICTIONS OF DRIVING UNDER THE INFLUENCE OF ALCOHOL,
7 DRUGS, OR A COMBINATION OF THE TWO; AMENDING SECTION
8 61-8-714, MCA."

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10 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 under the influence of
13 alcohol or drugs. (1) A person convicted of a violation of
14 61-8-401 shall be punished by imprisonment in the county
15 jail for not less than 24 consecutive hours or more than 60
16 days, and shall be punished by a fine of not less-than-\$100
17 or more than \$500. The jail sentence may not be suspended
18 unless the judge finds that the imposition of the jail
19 sentence will pose a risk to the defendant's physical or
20 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 days, at least 48 hours of
24 which must be served consecutively, or more than 6 months.
25 Three days of the jail sentence may not be suspended unless

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

4 (3) On the third or subsequent conviction, he shall be
5 punished by imprisonment for a term of not less than 30
6 days, at least 48 hours of which must be served
7 consecutively, or more than 1 year, to which may be added,
8 in the discretion of the court, a fine of not less-than-\$500
9 or more than \$1,000. Notwithstanding any provision to the
10 contrary providing for suspension of execution of a sentence
11 imposed under this subsection, the imposition or execution
12 of the first 10 days of the jail sentence imposed for a
13 third or subsequent offense that occurred within 5 years of
14 the first offense may not be deferred or suspended.

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



1 counselor shall notify the court of the failure.

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

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