

HOUSE BILL NO. 521

1/28 Introduced
1/28 Referred to Judiciary
1/29 Fiscal Note Requested
2/01 Hearing
2/05 Fiscal Note Received
2/20 Adverse Committee Report
2/21 Bill Killed

HOUSE BILL NO. 521

INTRODUCED BY

Spaeth Hamid

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AN INCREASED PENALTY FOR A FOURTH OR SUBSEQUENT CONVICTION OF DRIVING UNDER THE INFLUENCE WITHIN 5 YEARS OF THE FIRST CONVICTION; 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 under the influence of alcohol or drugs. (1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment in the county jail for not less than 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 days, at least 48 hours of which must be served consecutively, or more than 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 a third or-subsequent conviction, he shall be punished by imprisonment for a term of not less than 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) On a fourth or subsequent conviction within 5 years of the first conviction, he shall be punished by imprisonment for a term of not less than 1 year, at least 6 months of which must be served consecutively, or more than 5 years, to which may be added, in the discretion of the court, a fine of not less than \$1,000 or more than \$5,000. 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 6 months of the prison sentence imposed for a fourth or subsequent conviction that occurred within 5 years of the first conviction may not be deferred or suspended.



1 ~~4~~(5) In addition to the punishment provided in this
2 section, regardless of disposition, the defendant shall
3 complete an alcohol information course at an alcohol
4 treatment program approved by the department of
5 institutions, which may include alcohol or drug treatment,
6 or both, if considered necessary by the counselor conducting
7 the program. Each counselor providing such education or
8 treatment shall, at the commencement of the education or
9 treatment, notify the court that the defendant has been
10 enrolled in a course or treatment program. If the defendant
11 fails to attend the course or the treatment program, the
12 counselor shall notify the court of the failure.

13 ~~5~~(6) For the purpose of determining the number of
14 convictions under this section, "conviction" means a final
15 conviction, as defined in 45-2-101, or a forfeiture of bail
16 or collateral deposited to secure the defendant's appearance
17 in court, which forfeiture has not been vacated. An
18 offender is considered to have been previously convicted for
19 the purposes of this section if less than 5 years have
20 elapsed between the commission of the present offense and a
21 previous conviction. If there has been no additional
22 conviction for an offense under this section for a period of
23 5 years after a prior conviction hereunder, then such prior
24 offense shall be expunged from the defendant's record."

-End-

STATE OF MONTANA

REQUEST NO. FNN270-85

FISCAL NOTE

Form BD-15

In compliance with a written request received January 30 19 85, there is hereby submitted a Fiscal Note for H.B. 521 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). 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:

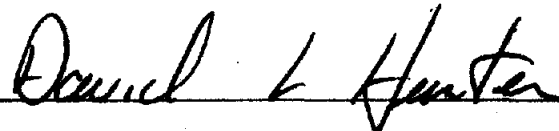
House Bill 521 provides for an increased penalty for a fourth or subsequent conviction of driving under the influence within five years of the first conviction.

ASSUMPTIONS:

1. Persons convicted under the proposed legislation would be transferred to the custody of the Department of Institutions.
2. The Montana Highway Patrol will continue to pay the county \$10 per day for incarceration until transfer to the Department of Institutions.
3. There were 21 convictions in 1984 for fourth or subsequent DUIs. It is assumed this rate will remain constant.
4. The incremental cost for the prison is \$8.11 per inmate day and the minimum time of 1 year will be served.
5. It is assumed the minimum fine of \$1,000 will be imposed, which is a \$500 increase over the current minimum fine for the same offense.
6. The current laws regarding the split of fines for DUI convictions will remain unchanged.

FISCAL IMPACT:

<u>Expenditure:</u>	<u>FY 86</u>	<u>FY 87</u>
Department of Institutions	\$ 62,163	\$ 62,163
General Fund		
Department of Justice - No significant change		
 <u>Revenue:</u>		
Increase to various earmarked accounts and the general fund.	\$ 10,500	\$ 10,500


 BUDGET DIRECTOR
 Office of Budget and Program Planning

Date: Feb 4, 1985