

HOUSE BILL NO. 600

INTRODUCED BY MERCER, SWIFT, THOMAS, NATHE, O'HARA,
HANSON, GLASER, ERNST, JENKINS, SCHULTZ, HARPER,
J. HAMMOND, HARDING, PINSONEAULT

IN THE HOUSE

January 31, 1985	Introduced and referred to Committee on Judiciary.
February 11, 1985	Committee recommend bill do pass. Report adopted. Bill printed and placed on members' desks.
February 13, 1985	Second reading, do pass. Considered correctly engrossed.
February 14, 1985	Third reading, passed. Transmitted to Senate.

IN THE SENATE

February 15, 1985	Introduced and referred to Committee on Judiciary.
March 6, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
March 8, 1985	Second reading, concurred in.
March 11, 1985	Third reading, concurred in. Ayes, 48; Noes, 2. Returned to House with amendments.

IN THE HOUSE

March 12, 1985

Received from Senate.

March 15, 1985

Second reading, amendments
concurrent in.

March 18, 1985

Third reading, amendments
concurrent in.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 600
 2 INTRODUCED BY Mercey Thomas Math
 3 M/Hansen Ernst Schultz Thompson J. Hancock
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE OUT-OF-STATE
 5 CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
 6 DRUGS AND DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONCENTRATION
 7 FOR PURPOSES OF IMPOSING PENALTIES FOR SUBSEQUENT
 8 VIOLATIONS; AMENDING SECTIONS 61-8-714 AND 61-8-722, MCA."

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

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

11 "61-8-714. Penalty for driving under the influence of
 12 alcohol or drugs. (1) A person convicted of a violation of
 13 61-8-401 shall be punished by imprisonment in the county
 14 jail for not less than 24 consecutive hours or more than 60
 15 days, and shall be punished by a fine of not less than \$100
 16 or more than \$500. The jail sentence may not be suspended
 17 unless the judge finds that the imposition of the jail
 18 sentence will pose a risk to the defendant's physical or
 19 mental well-being.

20
 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, in this state or another
5 state or a forfeiture of bail or collateral deposited to
6 secure the defendant's appearance in court in this state or
7 another state, which forfeiture has not been vacated. An
8 offender is considered to have been previously convicted for
9 the purposes of this section if less than 5 years have
10 elapsed between the commission of the present offense and a
11 previous conviction. If there has been no additional
12 conviction for an offense under this section for a period of
13 5 years after a prior conviction hereunder, then such prior
14 offense shall be expunged from the defendant's record."

15 Section 2. Section 61-8-722, MCA, is amended to read:

16 "61-8-722. Penalty for driving with excessive blood
17 alcohol concentration. (1) A person convicted of a violation
18 of 61-8-406 shall be punished by imprisonment for not more
19 than 10 days and shall be punished by a fine of not less
20 than \$100 or more than \$500.

21 (2) On a second conviction of a violation of 61-8-406,
22 he shall be punished by imprisonment for not less than 48
23 consecutive hours or more than 30 days and by a fine of not
24 less than \$300 or more than \$500.

25 (3) On a third or subsequent conviction of a violation

1 of 61-8-406, he shall be punished by imprisonment for not
2 less than 48 consecutive hours or more than 6 months and by
3 a fine of not less than \$500 or more than \$1,000.

4 (4) The provisions of 61-5-205(2), 61-5-208(2), and
5 61-11-203(2)(d) relating to revocation and suspension of
6 driver's licenses shall apply to any conviction under
7 61-8-406.

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

20 (6) For the purpose of determining the number of
21 convictions under this section, "conviction" means a final
22 conviction, as defined in 45-2-101, in this state or another
23 state or a forfeiture of bail or collateral deposited to
24 secure the defendant's appearance in court in this state or
25 another state, which forfeiture has not been vacated. An

1 offender is considered to have been previously convicted for
2 the purposes of this section if less than 5 years have
3 elapsed between the commission of the present offense and a
4 previous conviction. If there has been no additional
5 conviction for an offense under this section for a period of
6 5 years after a prior conviction hereunder, then such prior
7 offense shall be expunged from the defendant's record."

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 600

INTRODUCED BY *Mercer* *Thomas* *MATH* *Thomas*

M. Hanson *Ernst* *J. Schult* *John* *J. Adams* *Ward*

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE OUT-OF-STATE
CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
DRUGS AND DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONCENTRATION
FOR PURPOSES OF IMPOSING PENALTIES FOR SUBSEQUENT
VIOLATIONS; AMENDING SECTIONS 61-8-714 AND 61-8-722, 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 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) 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 the program. Each counselor providing such education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a course or treatment program. If the defendant 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, in this state or another
5 state or a forfeiture of bail or collateral deposited to
6 secure the defendant's appearance in court in this state or
7 another state, which forfeiture has not been vacated. An
8 offender is considered to have been previously convicted for
9 the purposes of this section if less than 5 years have
10 elapsed between the commission of the present offense and a
11 previous conviction. If there has been no additional
12 conviction for an offense under this section for a period of
13 5 years after a prior conviction hereunder, then such prior
14 offense shall be expunged from the defendant's record."

15 Section 2. Section 61-8-722, MCA, is amended to read:

16 "61-8-722. Penalty for driving with excessive blood
17 alcohol concentration. (1) A person convicted of a violation
18 of 61-8-406 shall be punished by imprisonment for not more
19 than 10 days and shall be punished by a fine of not less
20 than \$100 or more than \$500.

21 (2) On a second conviction of a violation of 61-8-406,
22 he shall be punished by imprisonment for not less than 48
23 consecutive hours or more than 30 days and by a fine of not
24 less than \$300 or more than \$500.

25 (3) On a third or subsequent conviction of a violation

1 of 61-8-406, he shall be punished by imprisonment for not
2 less than 48 consecutive hours or more than 6 months and by
3 a fine of not less than \$500 or more than \$1,000.

4 (4) The provisions of 61-5-205(2), 61-5-208(2), and
5 61-11-203(2)(d) relating to revocation and suspension of
6 driver's licenses shall apply to any conviction under
7 61-8-406.

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

20 (6) For the purpose of determining the number of
21 convictions under this section, "conviction" means a final
22 conviction, as defined in 45-2-101, in this state or another
23 state or a forfeiture of bail or collateral deposited to
24 secure the defendant's appearance in court in this state or
25 another state, which forfeiture has not been vacated. An

1 offender is considered to have been previously convicted for
2 the purposes of this section if less than 5 years have
3 elapsed between the commission of the present offense and a
4 previous conviction. If there has been no additional
5 conviction for an offense under this section for a period of
6 5 years after a prior conviction hereunder, then such prior
7 offense shall be expunged from the defendant's record."

-End-

HOUSE BILL NO. 600

INTRODUCED BY *Marcus* *Thomas* *NATHAN*

M. Hanson *Ernest Fisher* *Schultz* *Hay* *J. Hammond* *Waples*
McBlair

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE OUT-OF-STATE
CONVICTIONS FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR
DRUGS AND DRIVING WITH EXCESSIVE BLOOD ALCOHOL CONCENTRATION
FOR PURPOSES OF IMPOSING PENALTIES FOR SUBSEQUENT
VIOLATIONS; AMENDING SECTIONS 61-8-714 AND 61-8-722, 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 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) 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 the program. Each counselor providing such education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a course or treatment program. If the defendant 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, in this state or another
5 state or a forfeiture of bail or collateral deposited to
6 secure the defendant's appearance in court in this state or
7 another state, which forfeiture has not been vacated. An
8 offender is considered to have been previously convicted for
9 the purposes of this section if less than 5 years have
10 elapsed between the commission of the present offense and a
11 previous conviction. If there has been no additional
12 conviction for an offense under this section for a period of
13 5 years after a prior conviction hereunder, then such prior
14 offense shall be expunged from the defendant's record."

15 Section 2. Section 61-8-722, MCA, is amended to read:

16 "61-8-722. Penalty for driving with excessive blood
17 alcohol concentration. (1) A person convicted of a violation
18 of 61-8-406 shall be punished by imprisonment for not more
19 than 10 days and shall be punished by a fine of not less
20 than \$100 or more than \$500.

21 (2) On a second conviction of a violation of 61-8-406,
22 he shall be punished by imprisonment for not less than 48
23 consecutive hours or more than 30 days and by a fine of not
24 less than \$300 or more than \$500.

25 (3) On a third or subsequent conviction of a violation

1 of 61-8-406, he shall be punished by imprisonment for not
2 less than 48 consecutive hours or more than 6 months and by
3 a fine of not less than \$500 or more than \$1,000.

4 (4) The provisions of 61-5-205(2), 61-5-208(2), and
5 61-11-203(2)(d) relating to revocation and suspension of
6 driver's licenses shall apply to any conviction under
7 61-8-406.

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

20 (6) For the purpose of determining the number of
21 convictions under this section, "conviction" means a final
22 conviction, as defined in 45-2-101, in this state or another
23 state or a forfeiture of bail or collateral deposited to
24 secure the defendant's appearance in court in this state or
25 another state, which forfeiture has not been vacated. An

1 offender is considered to have been previously convicted for
2 the purposes of this section if less than 5 years have
3 elapsed between the commission of the present offense and a
4 previous conviction. If there has been no additional
5 conviction for an offense under this section for a period of
6 5 years after a prior conviction hereunder, then such prior
7 offense shall be expunged from the defendant's record."

-End-

STANDING COMMITTEE REPORT

SENATE

..... March 6 1985

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 600

third reading copy (blue)
color

(Senator Mazurek)

INCLUDE OUT-OF-STATE CONVICTIONS FOR DUI & BROADEN CHARGING ON DUI

Respectfully report as follows: That HOUSE BILL No. 600

be amended as follows:

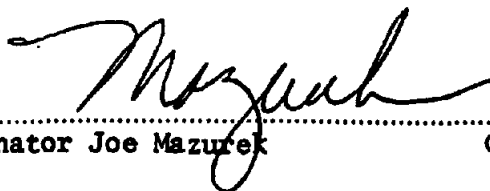
1. Page 3, line 4.
Following: "or"
Insert: "a similar statute in"
2. Page 4, line 22.
Following: "or"
Insert: "a similar statute in"

AND AS AMENDED

BE CONCURRED IN

~~REPASS~~

~~RECONSIDER~~



.....
Senator Joe Mazurek

Chairman.

HOUSE BILL NO. 600

INTRODUCED BY MERCER, SWIFT, THOMAS, NATHE, O'HARA,
HANSON, GLASER, ERNST, JENKINS, SCHULTZ, HARPER,
J. HAMMOND, HARDING, PINSONEAULT

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCLUDE OUT-OF-STATE
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VIOLATIONS; AMENDING SECTIONS 61-8-714 AND 61-8-722, 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 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) 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
the program. Each counselor providing such education or
treatment shall, at the commencement of the education or
treatment, notify the court that the defendant has been

REFERENCE BILL



1 enrolled in a course or treatment program. If the defendant
2 fails to attend the course or the treatment program, the
3 counselor shall notify the court of the failure.

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

18 Section 2. Section 61-8-722, MCA, is amended to read:

19 "61-8-722. Penalty for driving with excessive blood
20 alcohol concentration. (1) A person convicted of a violation
21 of 61-8-406 shall be punished by imprisonment for not more
22 than 10 days and shall be punished by a fine of not less
23 than \$100 or more than \$500.

24 (2) On a second conviction of a violation of 61-8-406,
25 he shall be punished by imprisonment for not less than 48

1 consecutive hours or more than 30 days and by a fine of not
2 less than \$300 or more than \$500.

3 (3) On a third or subsequent conviction of a violation
4 of 61-8-406, he shall be punished by imprisonment for not
5 less than 48 consecutive hours or more than 6 months and by
6 a fine of not less than \$500 or more than \$1,000.

7 (4) The provisions of 61-5-205(2), 61-5-208(2), and
8 61-11-203(2)(d) relating to revocation and suspension of
9 driver's licenses shall apply to any conviction under
10 61-8-406.

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

23 (6) For the purpose of determining the number of
24 convictions under this section, "conviction" means a final
25 conviction, as defined in 45-2-101, in this state or A

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

-End-