

HOUSE BILL NO. 742

2/09 Introduced  
2/09 Referred to Judiciary  
2/09 Fiscal Note Requested  
2/15 Fiscal Note Received  
2/19 Hearing  
2/19 Adverse Committee Report  
2/20 Bill Killed

1 HOUSE BILL NO. 742  
2 INTRODUCED BY Sando Vincent

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PERSON  
5 CONVICTED UNDER THE PER SE STATUTE OF DRIVING WITH AN  
6 ALCOHOL CONCENTRATION OF 0.10 OR MORE TO SERVE AT LEAST 24  
7 HOURS IN JAIL; AMENDING SECTION 61-8-722, MCA."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 61-8-722, MCA, is amended to read:

11 "61-8-722. Penalty for driving with excessive blood  
12 alcohol concentration. (1) A person convicted of a violation  
13 of 61-8-406 shall be punished by imprisonment for not less  
14 than 24 consecutive hours or more than 10 days and shall be  
15 punished by a fine of not less than \$100 or more than \$500.

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

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

24 (4) The provisions of 61-5-205(2), 61-5-208(2), and  
25 61-11-203(2)(d) relating to revocation and suspension of

1 driver's licenses shall apply to any conviction under  
2 61-8-406.

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

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



1 be expunged from the defendant's record.

2 (7) The first 24 hours of a jail sentence for a  
3 conviction under this section must be imposed and served and  
4 may not be deferred or suspended unless the judge finds that  
5 -serving that day would pose a risk to the defendant's  
6 physical or mental well-being."

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 382-85

Form BD-15

In compliance with a written request received 02-08, 19 85, there is hereby submitted a Fiscal Note for House Bill 742 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 742 requires a person convicted under the per se statute of driving with an alcohol concentration of 0.10 or more to serve at least 24 hours in jail.

Assumptions:

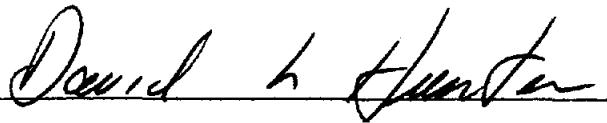
1. The Montana Highway Patrol had 108 first offense DUI per se convictions in 1984. It is assumed that this conviction rate will increase 10% per year during the next two years.
2. When a 24 hour stay in jail is required of a person, counties charge the Department of Justice for two days because the 24 hour period is never within a calendar day.
3. Currently persons convicted of first offense DUI per se do not serve any jail time.

Fiscal Impact:

The passage of House Bill 742 would increase the charges of counties to the Highway Patrol for incarceration of prisoners by:

	<u>FY 1986</u>	<u>FY 1987</u>
General Fund:		
Operating Expenses, board & room	\$ 2,600	\$ 2,860

Note: Should House Bill 108 pass, the costs noted for FY 1986 and FY 1987 would have to be tripled.

  
BUDGET DIRECTOR  
Office of Budget and Program Planning  
Date: Feb 15, 1985  
HB 742