

SENATE BILL NO. 417

2/14 Introduced  
2/15 Referred to Judiciary  
2/21 Hearing  
2/23 Adverse Committee Report  
2/23 Bill Killed

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INTRODUCED BY *Senate* BILL NO. 417  
*Hoyer Bob Brown Yellowstone Bear*  
*Edk Chickans*

A BILL FOR AN ACT ENTITLED: "AN ACT MAKING POSSESSION OF AN ALCOHOLIC BEVERAGE IN AN OPEN CONTAINER IN THE PASSENGER AREA OF A MOTOR VEHICLE OPERATED ON A PUBLIC HIGHWAY AN OFFENSE; PROVIDING FOR PENALTIES; AND AMENDING SECTION 61-11-203, MCA."

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

NEW SECTION. Section 1. Possession of alcoholic beverage in open container in motor vehicle. (1) As used in this section and [section 2], the following definitions apply:

- (a) "Alcoholic beverage" means a compound produced and sold for human consumption as a drink that contains more than 0.5% of alcohol by volume.
- (b) "Open container" means an alcoholic beverage that is:
  - (i) not in the original container; or
  - (ii) in an original container whose seal has been broken and which still contains an alcoholic beverage.
- (c) "Passenger area" means that portion of a motor vehicle which is primarily designed for or is adapted or devoted to the carrying of passengers, including a utility

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compartment, glove compartment, or other area of the vehicle that is readily accessible to the driver or a passenger.

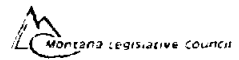
(d) "Public highway" means a street, road, highway, bridge or related structure that has been built and maintained with appropriated funds of the United States or the state or any political subdivision thereof and dedicated to public use.

(2) Except as provided in subsection (3), no person may keep or have in his possession any alcoholic beverage in an open container within the passenger area of a motor vehicle being operated upon a public highway.

(3) This section does not apply to the passengers in any chartered bus, taxicab, or limousine for hire or in a recreational vehicle as defined in 61-1-132. However, the driver of such a vehicle may not consume an alcoholic beverage while the vehicle is being operated. The exemption of chartered buses in this subsection does not apply to any chartered bus being used for school purposes.

NEW SECTION. Section 2. Penalty for possessing an alcoholic beverage in an open container in a motor vehicle.

- (1) A violation of [section 1] is punishable by a fine of not less than \$50 or more than \$150.
- (2) A second conviction is punishable by a fine of not less than \$100 or more than \$300.
- (3) A third or subsequent conviction is punishable by



1 a fine of not less than \$300 or more than \$500.

2 (4) 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. For the  
7 purposes of this section, an offender is considered to have  
8 been previously convicted only if less than 3 years have  
9 elapsed between the commission of the present offense and a  
10 previous conviction.

11 Section 3. Section 61-11-203, MCA, is amended to read:

12 "61-11-203. Definitions. As used in this part, the  
13 following definitions apply:

14 (1) "Conviction" means a finding of guilt by duly  
15 constituted judicial authority, a plea of guilty, or a  
16 forfeiture of bail, bond, or other security deposited to  
17 secure appearance by a person charged with having committed  
18 any offense relating to the use or operation of a motor  
19 vehicle which is prohibited by law, ordinance, or  
20 administrative order.

21 (2) "Habitual traffic offender" means any person who  
22 within a 3-year period accumulates 30 or more conviction  
23 points according to the schedule specified in this  
24 subsection:

25 (a) deliberate homicide resulting from the operation

1 of a motor vehicle, 15 points;

2 (b) mitigated deliberate homicide or negligent  
3 homicide resulting from operation of a motor vehicle, 12  
4 points;

5 (c) any offense punishable as a felony under the motor  
6 vehicle laws of Montana or any felony in the commission of  
7 which a motor vehicle is used, 12 points;

8 (d) driving while under the influence of intoxicating  
9 liquor or narcotics or drugs of any kind or operation of a  
10 motor vehicle by a person with alcohol concentration of 0.10  
11 or more, 10 points;

12 (e) operating a motor vehicle while his license to do  
13 so has been suspended or revoked, 6 points;

14 (f) failure of the driver of a motor vehicle involved  
15 in an accident resulting in death or injury to any person to  
16 stop at the scene of the accident and give the required  
17 information and assistance, as defined in 61-7-105, 8  
18 points;

19 (g) willful failure of the driver involved in an  
20 accident resulting in property damage of \$250 to stop at the  
21 scene of the accident and give the required information or  
22 to otherwise fail to report an accident in violation of the  
23 law, 4 points;

24 (h) driving with an alcoholic beverage in an open  
25 container in the passenger area of the motor vehicle, as

1 defined in [section 1], 3 points;

2 (h)(i) reckless driving, 5 points;

3 (i)(j) illegal drag racing or engaging in a speed  
4 contest in violation of the law, 5 points;

5 (j)(k) operating a motor vehicle without a license to  
6 do so, 2 points (this subsection (j)(k) does not apply to  
7 operating a motor vehicle within a period of 180 days from  
8 the date the license expired);

9 (k)(l) speeding, 3 points;

10 (l)(m) all other moving violations, 2 points. There  
11 shall be no multiple application of cumulative points when  
12 two or more charges are filed involving a single occurrence.  
13 If there are two or more convictions involving a single  
14 occurrence, only the number of points for the specific  
15 conviction carrying the highest points shall be chargeable  
16 against that defendant.

17 (3) "License" means any type of license or permit to  
18 operate a motor vehicle."

19 NEW SECTION. Section 4. Codification instruction.

20 (1) Section 1 is intended to be codified as an integral  
21 part of Title 61, chapter 8, part 4, and the provisions of  
22 Title 61 apply to section 1.

23 (2) Section 2 is intended to be codified as an  
24 integral part of Title 61, chapter 8, part 7, and the  
25 provisions of Title 61 apply to section 2.

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