

1 HOUSE BILL NO. 21

2 INTRODUCED BY FRITZ

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE LEGAL
5 DRINKING AGE FROM 19 TO 21; ALLOWING THOSE PERSONS OF LEGAL
6 DRINKING AGE TO CONTINUE TO DRINK; RETURNING THE LEGAL
7 DRINKING AGE TO 19 IF THE UNITED STATES SUPREME COURT
8 CONGRESS REPEALS OR REMOVES OR A FINAL JUDGMENT INVALIDATES
9 THE PROVISION OF FEDERAL LAW REQUIRING STATES TO RAISE THE
10 AGE TO 21 OR LOSE A PORTION OF FEDERAL HIGHWAY FUNDS;
11 AMENDING SECTIONS 16-3-301, 16-3-305, 16-6-305, 16-6-314,
12 45-5-623, AND 45-5-624, MCA; AND PROVIDING AN EFFECTIVE
13 DATES DATE AND A TERMINATION DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1, Section 16-3-301, MCA, is amended to read:

17 "16-3-301. Unlawful purchases, sales, or deliveries:

18 (1) It shall be unlawful for a licensed retailer to purchase
19 or acquire beer from anyone except a brewer or wholesaler
20 licensed under the provisions of this code;

21 (2) It shall be unlawful for any licensee, his or her
22 employee or employees, or any other person to sell, deliver,
23 or give away or cause or permit to be sold, delivered, or
24 given away any alcoholic beverage to:

25 (a) any person under 19 years of age born after July

1 APRIL 17, 1968;

2 (b) any intoxicated person or any person actually,
3 apparently, or obviously intoxicated;

4 (3) Any person under 19 years of age born after July
5 APRIL 17, 1968 or other person who knowingly misrepresents
6 his or her qualifications for the purpose of obtaining an
7 alcoholic beverage from such licensee shall be equally
8 guilty with said licensee and shall, upon conviction
9 thereof, be subject to the penalty provided in 45-5-624,
10 provided, however, that nothing herein contained shall be
11 construed as authorizing or permitting the sale of an
12 alcoholic beverage to any person in violation of any federal
13 law;

14 (4) It shall be further mandatory under the provisions
15 of this code that all licensees display in a prominent place
16 in their premises a placard as issued by the department
17 stating fully the consequences for violations of the
18 provisions of this code by persons under 19 years of age
19 born after July APRIL 17, 1968."

20 Section 2, Section 16-6-305, MCA, is amended to read:

21 "16-6-305. Age limit for sale of alcoholic beverages:

22 (1) Except in the case of an alcoholic beverage given to a
23 person under 19 years of age born after July APRIL 17, 1968,
24 by his parent or guardian for beverage or medicinal purposes
25 or administered to him by his physician or dentist for

1 medicinal purposes or sold to him by a vendor or druggist
 2 upon the prescription of a physician, no person shall sell,
 3 give, or otherwise supply an alcoholic beverage to any
 4 person under 19 years of age born after July APRib 17-1968,
 5 or permit any person under that age to consume an alcoholic
 6 beverage.

7 (2) Any person shall be guilty of a misdemeanor who:
 8 (a) invites a person under the age of 19 years born
 9 after July APRib 17-1968, into a public place where an
 10 alcoholic beverage is sold and treats, gives, or purchases
 11 an alcoholic beverage for such person;

12 (b) permits such person in a public place where an
 13 alcoholic beverage is sold to treat, give, or purchase
 14 liquor for him; or

15 (c) holds out such person to be 19 years of age or
 16 older born after July BEFORE-APRIB 17-1968, to the owner of
 17 the establishment or his or her employee or employees;

18 (3) It is unlawful for any person to fraudulently
 19 misrepresent his or her age to any dispenser of alcoholic
 20 beverages or to falsely procure any identification card or
 21 to alter any of the statements contained in any
 22 identification card."

23 Section 3, Section 16-6-314, MCA, is amended to read:

24 "16-6-314. Penalty for violating code --- revocation of
 25 license --- penalty for violation by underage person: (1) A

1 person who violates a provision of this code is guilty of a
 2 misdemeanor punishable as provided in 46-18-212, except as
 3 is herein otherwise provided;

4 (2) If a retail licensee is convicted of an offense
 5 under this code, his license shall be immediately revoked
 6 or, in the discretion of the department, such other sanction
 7 imposed as may be authorized under 16-4-486;

8 (3) A person under 19 years of age born after July
 9 APRIB 17-1968, who violates 16-3-301(3) or 16-6-305(3) is
 10 subject to the penalty provided in 45-5-624(2)."

11 Section 4, Section 45-5-623, MCA, is amended to read:

12 "45-5-623. Unlawful transactions with children: (1) A
 13 person commits the offense of unlawful transactions with
 14 children if he knowingly:

15 (a) sells or gives explosives to a child under the age
 16 of majority except as authorized under appropriate city
 17 ordinances;

18 (b) sells or gives intoxicating substances other than
 19 alcoholic beverages to a child under the age of majority;

20 (c) sells or gives alcoholic beverages to a person
 21 under 19 years of age born after July APRIB 17-1968, or

22 (d) being a junk dealer, pawnbroker, or secondhand
 23 dealer, receives or purchases goods from a child under the
 24 age of majority without authorization of the parent or
 25 guardian;

1 ~~{2}--A--person--convicted--of--the--offense--of--unlawful~~
2 ~~transactions--with--children--shall--be--fined--not--to--exceed--\$500~~
3 ~~or--be--imprisoned--in--the--county--jail--for--any--term--not--to~~
4 ~~exceed--6--months,--or--both;--A--person--convicted--of--a--second~~
5 ~~offense--of--unlawful--transactions--with--children--shall--be~~
6 ~~fined--not--to--exceed--\$1,000--or--be--imprisoned--in--the--county~~
7 ~~jail--for--any--term--not--to--exceed--6--months,--or--both;#~~

8 Section 5. Section 45-5-624, MCA, is amended to read:
9 "45-5-624. ~~Unlawful--possession--of--an--intoxicating~~
10 ~~substance---interference--with--sentence--or--court--order;--(1)~~
11 ~~A--person--under--the--age--of--18--years--commits--the--offense--of~~
12 ~~possession--of--an--intoxicating--substance--if--he--knowingly--has~~
13 ~~in--his--possession--an--intoxicating--substance--other--than--an~~
14 ~~alcoholic--beverage;--A--person--under--the--age--of--19~~ born after
15 July 4th 1968 ~~commits--the--offense--of--possession--of--an~~
16 ~~intoxicating--substance--if--he--knowingly--has--in--his--possession~~
17 ~~an--alcoholic--beverage,--except--that--he--does--not--commit--the~~
18 ~~offense--when--in--the--course--of--his--employment--it--is--necessary~~
19 ~~to--possess--alcoholic--beverages;~~

20 ~~{2}--A--person--convicted--of--the--offense--of--possession--of~~
21 ~~an--intoxicating--substance--shall:~~

- 22 ~~{a)--be--fined--not--to--exceed--\$50;~~
- 23 ~~{b)--be--ordered--to--complete--and,--if--financially--able,~~
24 ~~pay--all--costs--of--his--participation--in--a--community--based~~
25 ~~substance--abuse--information--course;~~

1 ~~{c)--have--his--driver's--license--confiscated--by--the--court~~
2 ~~for--not--more--than--90--days--and--be--ordered--not--to--drive--during~~
3 ~~that--period--if--he--was--driving--or--otherwise--in--actual~~
4 ~~physical--control--of--a--motor--vehicle--when--the--offense~~
5 ~~occurred;--or~~

6 ~~{d)--be--sentenced--to--any--combination--of--these~~
7 ~~penalties;~~

8 ~~{3}--A--defendant--who--fails--to--comply--with--a--sentence~~
9 ~~and--is--under--21--years--of--age--and--was--under--18--years--of--age~~
10 ~~when--he--failed--to--comply--must--be--transferred--to--the--youth~~
11 ~~court;--if--proceedings--for--violation--of--subsection--(1)--are~~
12 ~~held--in--the--youth--court,--the--penalties--in--subsection--(2)--do~~
13 ~~not--apply;--if--proceedings--for--violation--of--subsection--(1)--or~~
14 ~~for--failure--to--comply--with--a--sentence--are--held--in--the--youth~~
15 ~~court,--the--offender--shall--be--treated--as--an--alleged--youth--in~~
16 ~~need--of--supervision--as--defined--in--41-5-103(13);--In--such~~
17 ~~case,--the--youth--court--may--enter--its--judgment--under--41-5-523;~~

18 ~~{4}--A--person--commits--the--offense--of--interference--with~~
19 ~~a--sentence--or--court--order--if--he--purposely--or--knowingly~~
20 ~~causes--his--child--or--ward--to--fail--to--comply--with--a--sentence~~
21 ~~imposed--under--this--section--or--a--youth--court--disposition~~
22 ~~order--for--a--youth--found--to--have--violated--this--section--and~~
23 ~~upon--conviction--shall--be--fined--\$100--or--imprisoned--in--the~~
24 ~~county--jail--for--10--days,--or--both;#~~

25 Section 1. Section 16-3-301, MCA, is amended to read:

1 "16-3-301. Unlawful purchases, sales, or deliveries.

2 (1) It shall be unlawful for a licensed retailer to purchase
3 or acquire beer from anyone except a brewer or wholesaler
4 licensed under the provisions of this code.

5 (2) It shall be unlawful for any licensee, his or her
6 employee or employees, or any other person to sell, deliver,
7 or give away or cause or permit to be sold, delivered, or
8 given away any alcoholic beverage to:

9 (a) any person under 19 21 years of age;

10 (b) any intoxicated person or any person actually,
11 apparently, or obviously intoxicated.

12 (3) Any person under 19 21 years of age or other
13 person who knowingly misrepresents his or her qualifications
14 for the purpose of obtaining an alcoholic beverage from such
15 licensee shall be equally guilty with said licensee and
16 shall, upon conviction thereof, be subject to the penalty
17 provided in 45-5-624; provided, however, that nothing herein
18 contained shall be construed as authorizing or permitting
19 the sale of an alcoholic beverage to any person in violation
20 of any federal law.

21 (4) It shall be further mandatory under the provisions
22 of this code that all licensees display in a prominent place
23 in their premises a placard as issued by the department
24 stating fully the consequences for violations of the
25 provisions of this code by persons under 19 21 years of

1 age."

2 Section 2. Section 16-6-305, MCA, is amended to read:

3 "16-6-305. Age limit for sale of alcoholic beverages.

4 (1) Except in the case of an alcoholic beverage given to a
5 person under 19 21 years of age by his parent or guardian
6 for beverage or medicinal purposes or administered to him by
7 his physician or dentist for medicinal purposes or sold to
8 him by a vendor or druggist upon the prescription of a
9 physician, no person shall sell, give, or otherwise supply
10 an alcoholic beverage to any person under 19 21 years of age
11 or permit any person under that age to consume an alcoholic
12 beverage.

13 (2) Any person shall be guilty of a misdemeanor who:

14 (a) invites a person under the age of 19 21 years into
15 a public place where an alcoholic beverage is sold and
16 treats, gives, or purchases an alcoholic beverage for such
17 person;

18 (b) permits such person in a public place where an
19 alcoholic beverage is sold to treat, give, or purchase
20 liquor for him; or

21 (c) holds out such person to be 19 21 years of age or
22 older to the owner of the establishment or his or her
23 employee or employees.

24 (3) It is unlawful for any person to fraudulently
25 misrepresent his or her age to any dispenser of alcoholic

1 beverages or to falsely procure any identification card or
2 to alter any of the statements contained in any
3 identification card."

4 Section 3. Section 16-6-314, MCA, is amended to read:

5 "16-6-314. Penalty for violating code -- revocation of
6 license -- penalty for violation by underage person. (1) A
7 person who violates a provision of this code is guilty of a
8 misdemeanor punishable as provided in 46-18-212, except as
9 is herein otherwise provided.

10 (2) If a retail licensee is convicted of an offense
11 under this code, his license shall be immediately revoked
12 or, in the discretion of the department, such other sanction
13 imposed as may be authorized under 16-4-406.

14 (3) A person under 19 21 years of age who violates
15 16-3-301(3) or 16-6-305(3) is subject to the penalty
16 provided in 45-5-624(2)."

17 Section 4. Section 45-5-623, MCA, is amended to read:

18 "45-5-623. Unlawful transactions with children. (1) A
19 person commits the offense of unlawful transactions with
20 children if he knowingly:

21 (a) sells or gives explosives to a child under the age
22 of majority except as authorized under appropriate city
23 ordinances;

24 (b) sells or gives intoxicating substances other than
25 alcoholic beverages to a child under the age of majority;

1 (c) sells or gives alcoholic beverages to a person
2 under 19 21 years of age; or

3 (d) being a junk dealer, pawnbroker, or secondhand
4 dealer, receives or purchases goods from a child under the
5 age of majority without authorization of the parent or
6 guardian.

7 (2) A person convicted of the offense of unlawful
8 transactions with children shall be fined not to exceed \$500
9 or be imprisoned in the county jail for any term not to
10 exceed 6 months, or both. A person convicted of a second
11 offense of unlawful transactions with children shall be
12 fined not to exceed \$1,000 or be imprisoned in the county
13 jail for any term not to exceed 6 months, or both."

14 Section 5. Section 45-5-624, MCA, is amended to read:

15 "45-5-624. Unlawful possession of an intoxicating
16 substance -- interference with sentence or court order. (1)
17 A person under the age of 18 years commits the offense of
18 possession of an intoxicating substance if he knowingly has
19 in his possession an intoxicating substance other than an
20 alcoholic beverage. A person under the age of 19 21 commits
21 the offense of possession of an intoxicating substance if he
22 knowingly has in his possession an alcoholic beverage,
23 except that he does not commit the offense when in the
24 course of his employment it is necessary to possess
25 alcoholic beverages.

1 (2) A person convicted of the offense of possession of
2 an intoxicating substance shall:

- 3 (a) be fined not to exceed \$50;
- 4 (b) be ordered to complete and, if financially able,
5 pay all costs of his participation in a community-based
6 substance abuse information course;
- 7 (c) have his driver's license confiscated by the court
8 for not more than 90 days and be ordered not to drive during
9 that period if he was driving or otherwise in actual
10 physical control of a motor vehicle when the offense
11 occurred; or
- 12 (d) be sentenced to any combination of these
13 penalties.

14 (3) A defendant who fails to comply with a sentence
15 and is under 21 years of age and was under 18 years of age
16 when he failed to comply must be transferred to the youth
17 court. If proceedings for violation of subsection (1) are
18 held in the youth court, the penalties in subsection (2) do
19 not apply. If proceedings for violation of subsection (1) or
20 for failure to comply with a sentence are held in the youth
21 court, the offender shall be treated as an alleged youth in
22 need of supervision as defined in 41-5-103(13). In such
23 case, the youth court may enter its judgment under 41-5-523.

24 (4) A person commits the offense of interference with
25 a sentence or court order if he purposely or knowingly

1 causes his child or ward to fail to comply with a sentence
2 imposed under this section or a youth court disposition
3 order for a youth found to have violated this section and
4 upon conviction shall be fined \$100 or imprisoned in the
5 county jail for 10 days, or both."

6 ~~SECTION 11--SECTION 16-3-301--MCA--IS AMENDED TO READ:~~

7 ~~"16-3-301--Unlawful purchases, sales, or deliveries.~~
8 ~~(1)--It shall be unlawful for a licensed retailer to purchase~~
9 ~~or acquire beer from anyone except a brewer or wholesaler~~
10 ~~licensed under the provisions of this code.~~

11 ~~(2)--It shall be unlawful for any licensee, his or her~~
12 ~~employee or employees, or any other person to sell, deliver,~~
13 ~~or give away or cause or permit to be sold, delivered, or~~
14 ~~given away any alcoholic beverage to:~~

- 15 ~~(a)--any person under 19 years of age;~~
- 16 ~~(b)--any intoxicated person or any person actually,~~
17 ~~apparently, or obviously intoxicated;~~

18 ~~(3)--Any person under 19 years of age or other person~~
19 ~~who knowingly misrepresents his or her qualifications for~~
20 ~~the purpose of obtaining an alcoholic beverage from such~~
21 ~~licensee shall be equally guilty with said licensee and~~
22 ~~shall upon conviction thereof be subject to the penalty~~
23 ~~provided in 45-5-624, provided, however, that nothing herein~~
24 ~~contained shall be construed as authorizing or permitting~~
25 ~~the sale of an alcoholic beverage to any person in violation~~

1 of any federal law.

2 (4) It shall be further mandatory under the provisions

3 of this code that all licensees display in a prominent place

4 in their premises a placard as issued by the department

5 stating fully the consequences for violations of the

6 provisions of this code by persons under 19 years of age."

7 SECTION 12. SECTION 16-6-305, MCA, IS AMENDED TO READ:

8 "16-6-305. Age limit for sale of alcoholic beverages.

9 (1) Except in the case of an alcoholic beverage given to a

10 person under 19 years of age by his parent or guardian for

11 beverage or medicinal purposes or administered to him by his

12 physician or dentist for medicinal purposes or sold to him

13 by a vendor or druggist upon the prescription of a

14 physician, no person shall sell, give, or otherwise supply

15 an alcoholic beverage to any person under 19 years of age or

16 permit any person under that age to consume an alcoholic

17 beverage.

18 (2) Any person shall be guilty of a misdemeanor who:

19 (a) invites a person under the age of 19 years into a

20 public place where an alcoholic beverage is sold and treats,

21 gives, or purchases an alcoholic beverage for such person;

22 (b) permits such person in a public place where an

23 alcoholic beverage is sold to treat, give, or purchase

24 liquor for him; or

25 (c) holds out such person to be 19 years of age or

1 older to the owner of the establishment or his or her

2 employee or employees.

3 (3) It is unlawful for any person to fraudulently

4 misrepresent his or her age to any dispenser of alcoholic

5 beverages or to falsely procure any identification card or

6 to alter any of the statements contained in any

7 identification card."

8 SECTION 13. SECTION 16-6-314, MCA, IS AMENDED TO READ:

9 "16-6-314. Penalty for violating code -- revocation of

10 license -- penalty for violation by underage person. (1) A

11 person who violates a provision of this code is guilty of a

12 misdemeanor punishable as provided in 46-18-212, except as

13 is herein otherwise provided.

14 (2) If a retail licensee is convicted of an offense

15 under this code, his license shall be immediately revoked

16 or, in the discretion of the department, such other sanction

17 imposed as may be authorized under 16-4-406.

18 (3) A person under 19 years of age who violates

19 16-3-301(3) or 16-6-305(3) is subject to the penalty

20 provided in 45-5-624(2)."

21 SECTION 14. SECTION 45-5-623, MCA, IS AMENDED TO READ:

22 "45-5-623. Unlawful transactions with children. (1) A

23 person commits the offense of unlawful transactions with

24 children if he knowingly:

25 (a) sells or gives explosives to a child under the age

1 of majority except as authorized under appropriate city
2 ordinances;

3 (b) sells or gives intoxicating substances other than
4 alcoholic beverages to a child under the age of majority;

5 (c) sells or gives alcoholic beverages to a person
6 under 19 years of age; or

7 (d) being a junk dealer, pawnbroker, or secondhand
8 dealer, receives or purchases goods from a child under the
9 age of majority without authorization of the parent or
10 guardian.

11 (2) A person convicted of the offense of unlawful
12 transactions with children shall be fined not to exceed \$500
13 or be imprisoned in the county jail for any term not to
14 exceed 6 months, or both. A person convicted of a second
15 offense of unlawful transactions with children shall be
16 fined not to exceed \$1,000 or be imprisoned in the county
17 jail for any term not to exceed 6 months, or both.⁴

18 SECTION 15, SECTION 45-5-624, MCA, IS AMENDED TO READ:

19 "45-5-624. Unlawful possession of an intoxicating
20 substance --- interference with sentence or court order. (1)
21 A person under the age of 18 years commits the offense of
22 possession of an intoxicating substance if he knowingly has
23 in his possession an intoxicating substance other than an
24 alcoholic beverage. A person under the age of 19 commits the
25 offense of possession of an intoxicating substance if he

1 knowingly has in his possession an alcoholic beverage;
2 except that he does not commit the offense when in the
3 course of his employment it is necessary to possess
4 alcoholic beverages.

5 (2) A person convicted of the offense of possession of
6 an intoxicating substance shall:

7 (a) be fined not to exceed \$50;

8 (b) be ordered to complete and, if financially able,
9 pay all costs of his participation in a community-based
10 substance abuse information course;

11 (c) have his driver's license confiscated by the court
12 for not more than 90 days and be ordered not to drive during
13 that period if he was driving or otherwise in actual
14 physical control of a motor vehicle when the offense
15 occurred; or

16 (d) be sentenced to any combination of these
17 penalties.

18 (3) A defendant who fails to comply with a sentence
19 and is under 21 years of age and was under 18 years of age
20 when he failed to comply must be transferred to the youth
21 court. If proceedings for violation of subsection (1) are
22 held in the youth court, the penalties in subsection (2) do
23 not apply. If proceedings for violation of subsection (1) or
24 for failure to comply with a sentence are held in the youth
25 court, the offender shall be treated as an alleged youth in

1 need--of--supervision--as--defined--in--41-5-103(13)--in--such
 2 case--the--youth--court--may--enter--its--judgment--under--41-5-523--

3 (4)--A--person--commits--the--offense--of--interference--with
 4 a--sentence--or--court--order--if--he--purposeily--or--knowingly
 5 causes--his--child--or--ward--to--fail--to--comply--with--a--sentence
 6 imposed--under--this--section--or--a--youth--court--disposition
 7 order--for--a--youth--found--to--have--violated--this--section--and
 8 upon--conviction--shall--be--fined--\$100--or--imprisoned--in--the
 9 county--jail--for--10--days--or--both--"

10 ~~NEW SECTION. SECTION 16. REPEALER. SECTIONS 11
 11 THROUGH 10 OF THIS ACT ARE REPEALED.~~

12 NEW SECTION. SECTION 6. EXTENSION OF AUTHORITY. ANY
 13 EXISTING AUTHORITY OF THE DEPARTMENT OF REVENUE TO MAKE
 14 RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT IS
 15 EXTENDED TO THE PROVISIONS OF THIS ACT.

16 NEW SECTION. SECTION 7. SEVERABILITY. IF A PART OF
 17 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM
 18 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS
 19 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS
 20 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM
 21 THE INVALID APPLICATIONS.

22 NEW SECTION. SECTION 8. APPLICABILITY. THE
 23 PROVISIONS OF THIS ACT DO NOT APPLY TO PERSONS WHO WERE BORN
 24 ON OR BETWEEN APRIL 1, 1966, AND APRIL 1, 1968.

25 NEW SECTION. Section 9. Effective dates DATE --

1 CONTINGENT termination DATE. (1) Sections 1 through 5, 17, 17,
 2 18, AND THIS SECTION are effective July APRIL 1, 1987, and
 3 EXCEPT FOR SECTIONS 17, 18, AND THIS SECTION, terminate July
 4 APRIL 1, 1989.

5 (2)--Sections 6 through 10 are effective July APRIL 1
 6 1989. THIS ACT IS EFFECTIVE APRIL 1, 1987.

7 (3)(2) IF THE UNITED STATES SUPREME COURT CONGRESS
 8 REPEALS OR REMOVES OR A FINAL JUDGMENT INVALIDATES THE
 9 PROVISIONS OF FEDERAL LAW THAT REQUIRE STATES TO RAISE THE
 10 LEGAL AGE FOR PURCHASING AND POSSESSING ALCOHOLIC BEVERAGES
 11 TO 21 AS A CONDITION OF FULL RECEIPT OF FEDERAL HIGHWAY
 12 FUNDS, THE GOVERNOR OF MONTANA SHALL IMMEDIATELY CERTIFY THE
 13 FACT OF THE REPEAL, REMOVAL, OR INVALIDATION TO THE
 14 SECRETARY OF STATE OF MONTANA. SECTIONS 11 THROUGH 16 ARE
 15 EFFECTIVE UPON THIS ACT TERMINATES ON THE DATE OF SUCH
 16 CERTIFICATION.

-End-

STANDING COMMITTEE REPORT

March 4 1987

SENATE JUDICIARY
HB 21

March 4 1987

Page 2

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. X XX 21

Third reading copy (blue color)

Raise legal drinking age from 19 to 21; provide effective dates.
Fritz (Bishop)

HOUSE BILL 21

Respectfully report as follows: That No. XX

1. Title, line 7.
Following: "STATES"
Strike: "SUPREME COURT"
Insert: "CONGRESS REPEALS OR REMOVES OR A FINAL JUDGMENT"

2. Page 1, line 15 through page 6, line 23.
Strike: sections 1 through 5 in their entirety
Re-number: subsequent sections

3. Page 12, line 5 through page 17, line 10.
Strike: sections 11 through 16 in their entirety
Re-number: subsequent sections

4. Page 17, line 21.
Following: line 20
Insert: "NEW SECTION. Section 8. Applicability. The provisions of this act do not apply to persons who were born on or between April 1, 1966, and April 1, 1968."
Re-number: subsequent section

5. Page 17, line 21.
Following: "Effective"
Strike: "dates"
Insert: "date"

Following: "--"
Insert: "contingent"

6. Page 17, line 22.
Following: "termination"
Insert: "date"

7. Page 17, lines 22 through page 18, line 2.
Following: "(1)" on line 22
Strike: the remainder of line 22 through page 18, line 2
Insert: "This act is effective April 1, 1987."
Re-number: subsequent subsection

8. Page 18, line 3.
Following: "STATES"
Strike: "SUPREME COURT"
Insert: "congress repeals or removes or a final judgment"

9. Page 18, line 8.
Following: "OF THE"
Insert: "repeal, removal, or"

10. Page 18, line 9.
Following: "MONTANA."
Strike: the remainder of line 9
Insert: "This act terminates on the date of such"

7062c/c:JEANNE\WP:jj

AND AS AMENDED
BE CONCURRED IN

DELETED

XXXXXXXXXX

Senator Mazurek Chairman

Senator Mazurek

APPROVED BY COMMITTEE
ON JUDICIARY

1 HOUSE BILL NO. 21
 2 INTRODUCED BY FRITZ
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE LEGAL
 5 DRINKING AGE FROM 19 TO 21; ALLOWING THOSE PERSONS OF LEGAL
 6 DRINKING AGE TO CONTINUE TO DRINK; RETURNING THE LEGAL
 7 DRINKING AGE TO 19 IF THE UNITED STATES SUPREME COURT
 8 INVALIDATES THE PROVISION OF FEDERAL LAW REQUIRING STATES TO
 9 RAISE THE AGE TO 21 OR LOSE A PORTION OF FEDERAL HIGHWAY
 10 FUNDS; AMENDING SECTIONS 16-3-301, ~~16-3-305~~ 16-6-305,
 11 16-6-314, 45-5-623, AND 45-5-624, MCA; AND PROVIDING
 12 EFFECTIVE DATES AND A TERMINATION DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 16-3-301, MCA, is amended to read:

16 "16-3-301. Unlawful purchases, sales, or deliveries.
 17 (1) It shall be unlawful for a licensed retailer to purchase
 18 or acquire beer from anyone except a brewer or wholesaler
 19 licensed under the provisions of this code.

20 (2) It shall be unlawful for any licensee, his or her
 21 employee or employees, or any other person to sell, deliver,
 22 or give away or cause or permit to be sold, delivered, or
 23 given away any alcoholic beverage to:

24 (a) any person under-19-years-of-age born after July
 25 APRIL 1, 1968;

1 (b) any intoxicated person or any person actually,
 2 apparently, or obviously intoxicated.

3 (3) Any person under-19-years-of-age born after July
 4 APRIL 1, 1968, or other person who knowingly misrepresents
 5 his or her qualifications for the purpose of obtaining an
 6 alcoholic beverage from such licensee shall be equally
 7 guilty with said licensee and shall, upon conviction
 8 thereof, be subject to the penalty provided in 45-5-624;
 9 provided, however, that nothing herein contained shall be
 10 construed as authorizing or permitting the sale of an
 11 alcoholic beverage to any person in violation of any federal
 12 law.

13 (4) It shall be further mandatory under the provisions
 14 of this code that all licensees display in a prominent place
 15 in their premises a placard as issued by the department
 16 stating fully the consequences for violations of the
 17 provisions of this code by persons under--19--years--of--age
 18 born after July APRIL 1, 1968."

19 Section 2. Section 16-6-305, MCA, is amended to read:
 20 "16-6-305. Age limit for sale of alcoholic beverages.

21 (1) Except in the case of an alcoholic beverage given to a
 22 person under-19-years-of-age born after July APRIL 1, 1968,
 23 by his parent or guardian for beverage or medicinal purposes
 24 or administered to him by his physician or dentist for
 25 medicinal purposes or sold to him by a vendor or druggist



1 upon the prescription of a physician, no person shall sell,
 2 give, or otherwise supply an alcoholic beverage to any
 3 person ~~under-19-years-of-age~~ born after July APRIL 1, 1968,
 4 or permit any person under that age to consume an alcoholic
 5 beverage.

6 (2) Any person shall be guilty of a misdemeanor who:

7 (a) invites a person ~~under-the-age-of--19--years~~ born
 8 after July APRIL 1, 1968, into a public place where an
 9 alcoholic beverage is sold and treats, gives, or purchases
 10 an alcoholic beverage for such person;

11 (b) permits such person in a public place where an
 12 alcoholic beverage is sold to treat, give, or purchase
 13 liquor for him; or

14 (c) holds out such person to be ~~19-years-of-age-or~~
 15 ~~older~~ born after-July BEFORE APRIL 1, 1968, to the owner of
 16 the establishment or his or her employee or employees.

17 (3) It is unlawful for any person to fraudulently
 18 misrepresent his or her age to any dispenser of alcoholic
 19 beverages or to falsely procure any identification card or
 20 to alter any of the statements contained in any
 21 identification card."

22 Section 3. Section 16-6-314, MCA, is amended to read:

23 "16-6-314. Penalty for violating code -- revocation of
 24 license -- penalty for violation by underage person. (1) A
 25 person who violates a provision of this code is guilty of a

1 misdemeanor punishable as provided in 46-18-212, except as
 2 is herein otherwise provided.

3 (2) If a retail licensee is convicted of an offense
 4 under this code, his license shall be immediately revoked
 5 or, in the discretion of the department, such other sanction
 6 imposed as may be authorized under 16-4-406.

7 (3) A person ~~under--19--years-of-age~~ born after July
 8 APRIL 1, 1968, who violates 16-3-301(3) or 16-6-305(3) is
 9 subject to the penalty provided in 45-5-624(2)."

10 Section 4. Section 45-5-623, MCA, is amended to read:

11 "45-5-623. Unlawful transactions with children. (1) A
 12 person commits the offense of unlawful transactions with
 13 children if he knowingly:

14 (a) sells or gives explosives to a child under the age
 15 of majority except as authorized under appropriate city
 16 ordinances;

17 (b) sells or gives intoxicating substances other than
 18 alcoholic beverages to a child under the age of majority;

19 (c) sells or gives alcoholic beverages to a person
 20 ~~under-19-years-of-age~~ born after July APRIL 1, 1968; or

21 (d) being a junk dealer, pawnbroker, or secondhand
 22 dealer, receives or purchases goods from a child under the
 23 age of majority without authorization of the parent or
 24 guardian.

25 (2) A person convicted of the offense of unlawful

1 transactions with children shall be fined not to exceed \$500
 2 or be imprisoned in the county jail for any term not to
 3 exceed 6 months, or both. A person convicted of a second
 4 offense of unlawful transactions with children shall be
 5 fined not to exceed \$1,000 or be imprisoned in the county
 6 jail for any term not to exceed 6 months, or both."

7 Section 5. Section 45-5-624, MCA, is amended to read:

8 "45-5-624. Unlawful possession of an intoxicating
 9 substance -- interference with sentence or court order. (1)
 10 A person under the age of 18 years commits the offense of
 11 possession of an intoxicating substance if he knowingly has
 12 in his possession an intoxicating substance other than an
 13 alcoholic beverage. A person ~~under-the-age-of-19~~ born after
 14 July APRIL 1, 1958, commits the offense of possession of an
 15 intoxicating substance if he knowingly has in his possession
 16 an alcoholic beverage, except that he does not commit the
 17 offense when in the course of his employment it is necessary
 18 to possess alcoholic beverages.

19 (2) A person convicted of the offense of possession of
 20 an intoxicating substance shall:

- 21 (a) be fined not to exceed \$50;
 22 (b) be ordered to complete and, if financially able,
 23 pay all costs of his participation in a community-based
 24 substance abuse information course;
 25 (c) have his driver's license confiscated by the court

1 for not more than 90 days and be ordered not to drive during
 2 that period if he was driving or otherwise in actual
 3 physical control of a motor vehicle when the offense
 4 occurred; or

5 (d) be sentenced to any combination of these
 6 penalties.

7 (3) A defendant who fails to comply with a sentence
 8 and is under 21 years of age and was under 18 years of age
 9 when he failed to comply must be transferred to the youth
 10 court. If proceedings for violation of subsection (1) are
 11 held in the youth court, the penalties in subsection (2) do
 12 not apply. If proceedings for violation of subsection (1) or
 13 for failure to comply with a sentence are held in the youth
 14 court, the offender shall be treated as an alleged youth in
 15 need of supervision as defined in 41-5-103(13). In such
 16 case, the youth court may enter its judgment under 41-5-523.

17 (4) A person commits the offense of interference with
 18 a sentence or court order if he purposely or knowingly
 19 causes his child or ward to fail to comply with a sentence
 20 imposed under this section or a youth court disposition
 21 order for a youth found to have violated this section and
 22 upon conviction shall be fined \$100 or imprisoned in the
 23 county jail for 10 days, or both."

24 Section 6. Section 16-3-301, MCA, is amended to read:

25 "16-3-301. Unlawful purchases, sales, or deliveries.

1 (1) It shall be unlawful for a licensed retailer to purchase
2 or acquire beer from anyone except a brewer or wholesaler
3 licensed under the provisions of this code.

4 (2) It shall be unlawful for any licensee, his or her
5 employee or employees, or any other person to sell, deliver,
6 or give away or cause or permit to be sold, delivered, or
7 given away any alcoholic beverage to:

8 (a) any person under 19 21 years of age;

9 (b) any intoxicated person or any person actually,
10 apparently, or obviously intoxicated.

11 (3) Any person under 19 21 years of age or other
12 person who knowingly misrepresents his or her qualifications
13 for the purpose of obtaining an alcoholic beverage from such
14 licensee shall be equally guilty with said licensee and
15 shall, upon conviction thereof, be subject to the penalty
16 provided in 45-5-624; provided, however, that nothing herein
17 contained shall be construed as authorizing or permitting
18 the sale of an alcoholic beverage to any person in violation
19 of any federal law.

20 (4) It shall be further mandatory under the provisions
21 of this code that all licensees display in a prominent place
22 in their premises a placard as issued by the department
23 stating fully the consequences for violations of the
24 provisions of this code by persons under 19 21 years of
25 age."

1 Section 7. Section 16-6-305, MCA, is amended to read:

2 "16-6-305. Age limit for sale of alcoholic beverages.

3 (1) Except in the case of an alcoholic beverage given to a
4 person under 19 21 years of age by his parent or guardian
5 for beverage or medicinal purposes or administered to him by
6 his physician or dentist for medicinal purposes or sold to
7 him by a vendor or druggist upon the prescription of a
8 physician, no person shall sell, give, or otherwise supply
9 an alcoholic beverage to any person under 19 21 years of age
10 or permit any person under that age to consume an alcoholic
11 beverage.

12 (2) Any person shall be guilty of a misdemeanor who:

13 (a) invites a person under the age of 19 21 years into
14 a public place where an alcoholic beverage is sold and
15 treats, gives, or purchases an alcoholic beverage for such
16 person;

17 (b) permits such person in a public place where an
18 alcoholic beverage is sold to treat, give, or purchase
19 liquor for him; or

20 (c) holds out such person to be 19 21 years of age or
21 older to the owner of the establishment or his or her
22 employee or employees.

23 (3) It is unlawful for any person to fraudulently
24 misrepresent his or her age to any dispenser of alcoholic
25 beverages or to falsely procure any identification card or

1 to alter any of the statements contained in any
2 identification card."

3 Section 8. Section 16-6-314, MCA, is amended to read:

4 "16-6-314. Penalty for violating code -- revocation of
5 license -- penalty for violation by underage person. (1) A
6 person who violates a provision of this code is guilty of a
7 misdemeanor punishable as provided in 46-18-212, except as
8 is herein otherwise provided.

9 (2) If a retail licensee is convicted of an offense
10 under this code, his license shall be immediately revoked
11 or, in the discretion of the department, such other sanction
12 imposed as may be authorized under 16-4-406.

13 (3) A person under 19 21 years of age who violates
14 16-3-301(3) or 16-6-305(3) is subject to the penalty
15 provided in 45-5-624(2)."

16 Section 9. Section 45-5-623, MCA, is amended to read:

17 "45-5-623. Unlawful transactions with children. (1) A
18 person commits the offense of unlawful transactions with
19 children if he knowingly:

20 (a) sells or gives explosives to a child under the age
21 of majority except as authorized under appropriate city
22 ordinances;

23 (b) sells or gives intoxicating substances other than
24 alcoholic beverages to a child under the age of majority;

25 (c) sells or gives alcoholic beverages to a person

1 under 19 21 years of age; or

2 (d) being a junk dealer, pawnbroker, or secondhand
3 dealer, receives or purchases goods from a child under the
4 age of majority without authorization of the parent or
5 guardian.

6 (2) A person convicted of the offense of unlawful
7 transactions with children shall be fined not to exceed \$500
8 or be imprisoned in the county jail for any term not to
9 exceed 6 months, or both. A person convicted of a second
10 offense of unlawful transactions with children shall be
11 fined not to exceed \$1,000 or be imprisoned in the county
12 jail for any term not to exceed 6 months, or both."

13 Section 10. Section 45-5-624, MCA, is amended to read:

14 "45-5-624. Unlawful possession of an intoxicating
15 substance -- interference with sentence or court order. (1)
16 A person under the age of 18 years commits the offense of
17 possession of an intoxicating substance if he knowingly has
18 in his possession an intoxicating substance other than an
19 alcoholic beverage. A person under the age of 19 21 commits
20 the offense of possession of an intoxicating substance if he
21 knowingly has in his possession an alcoholic beverage,
22 except that he does not commit the offense when in the
23 course of his employment it is necessary to possess
24 alcoholic beverages.

25 (2) A person convicted of the offense of possession of

1 an intoxicating substance shall:

2 (a) be fined not to exceed \$50;

3 (b) be ordered to complete and, if financially able,
4 pay all costs of his participation in a community-based
5 substance abuse information course;

6 (c) have his driver's license confiscated by the court
7 for not more than 90 days and be ordered not to drive during
8 that period if he was driving or otherwise in actual
9 physical control of a motor vehicle when the offense
10 occurred; or

11 (d) be sentenced to any combination of these
12 penalties.

13 (3) A defendant who fails to comply with a sentence
14 and is under 21 years of age and was under 18 years of age
15 when he failed to comply must be transferred to the youth
16 court. If proceedings for violation of subsection (1) are
17 held in the youth court, the penalties in subsection (2) do
18 not apply. If proceedings for violation of subsection (1) or
19 for failure to comply with a sentence are held in the youth
20 court, the offender shall be treated as an alleged youth in
21 need of supervision as defined in 41-5-103(13). In such
22 case, the youth court may enter its judgment under 41-5-523.

23 (4) A person commits the offense of interference with
24 a sentence or court order if he purposely or knowingly
25 causes his child or ward to fail to comply with a sentence

1 imposed under this section or a youth court disposition
2 order for a youth found to have violated this section and
3 upon conviction shall be fined \$100 or imprisoned in the
4 county jail for 10 days, or both."

5 SECTION 11. SECTION 16-3-301, MCA, IS AMENDED TO READ:

6 "16-3-301. Unlawful purchases, sales, or deliveries.

7 (1) It shall be unlawful for a licensed retailer to purchase
8 or acquire beer from anyone except a brewer or wholesaler
9 licensed under the provisions of this code.

10 (2) It shall be unlawful for any licensee, his or her
11 employee or employees, or any other person to sell, deliver,
12 or give away or cause or permit to be sold, delivered, or
13 given away any alcoholic beverage to:

14 (a) any person under 19 years of age;

15 (b) any intoxicated person or any person actually,
16 apparently, or obviously intoxicated.

17 (3) Any person under 19 years of age or other person
18 who knowingly misrepresents his or her qualifications for
19 the purpose of obtaining an alcoholic beverage from such
20 licensee shall be equally guilty with said licensee and
21 shall, upon conviction thereof, be subject to the penalty
22 provided in 45-5-624; provided, however, that nothing herein
23 contained shall be construed as authorizing or permitting
24 the sale of an alcoholic beverage to any person in violation
25 of any federal law.

1 (4) It shall be further mandatory under the provisions
2 of this code that all licensees display in a prominent place
3 in their premises a placard as issued by the department
4 stating fully the consequences for violations of the
5 provisions of this code by persons under 19 years of age."

6 SECTION 12. SECTION 16-6-305, MCA, IS AMENDED TO READ:

7 "16-6-305. Age limit for sale of alcoholic beverages.

8 (1) Except in the case of an alcoholic beverage given to a
9 person under 19 years of age by his parent or guardian for
10 beverage or medicinal purposes or administered to him by his
11 physician or dentist for medicinal purposes or sold to him
12 by a vendor or druggist upon the prescription of a
13 physician, no person shall sell, give, or otherwise supply
14 an alcoholic beverage to any person under 19 years of age or
15 permit any person under that age to consume an alcoholic
16 beverage.

17 (2) Any person shall be guilty of a misdemeanor who:

18 (a) invites a person under the age of 19 years into a
19 public place where an alcoholic beverage is sold and treats,
20 gives, or purchases an alcoholic beverage for such person;

21 (b) permits such person in a public place where an
22 alcoholic beverage is sold to treat, give, or purchase
23 liquor for him; or

24 (c) holds out such person to be 19 years of age or
25 older to the owner of the establishment or his or her

1 employee or employees.

2 (3) It is unlawful for any person to fraudulently
3 misrepresent his or her age to any dispenser of alcoholic
4 beverages or to falsely procure any identification card or
5 to alter any of the statements contained in any
6 identification card."

7 SECTION 13. SECTION 16-6-314, MCA, IS AMENDED TO READ:

8 "16-6-314. Penalty for violating code -- revocation of
9 license -- penalty for violation by underage person. (1) A
10 person who violates a provision of this code is guilty of a
11 misdemeanor punishable as provided in 46-18-212, except as
12 is herein otherwise provided.

13 (2) If a retail licensee is convicted of an offense
14 under this code, his license shall be immediately revoked
15 or, in the discretion of the department, such other sanction
16 imposed as may be authorized under 16-4-406.

17 (3) A person under 19 years of age who violates
18 16-3-301(3) or 16-6-305(3) is subject to the penalty
19 provided in 45-5-624(2)."

20 SECTION 14. SECTION 45-5-623, MCA, IS AMENDED TO READ:

21 "45-5-623. Unlawful transactions with children. (1) A
22 person commits the offense of unlawful transactions with
23 children if he knowingly:

24 (a) sells or gives explosives to a child under the age
25 of majority except as authorized under appropriate city

1 ordinances;

2 (b) sells or gives intoxicating substances other than
3 alcoholic beverages to a child under the age of majority;

4 (c) sells or gives alcoholic beverages to a person
5 under 19 years of age; or

6 (d) being a junk dealer, pawnbroker, or secondhand
7 dealer, receives or purchases goods from a child under the
8 age of majority without authorization of the parent or
9 guardian.

10 (2) A person convicted of the offense of unlawful
11 transactions with children shall be fined not to exceed \$500
12 or be imprisoned in the county jail for any term not to
13 exceed 6 months, or both. A person convicted of a second
14 offense of unlawful transactions with children shall be
15 fined not to exceed \$1,000 or be imprisoned in the county
16 jail for any term not to exceed 6 months, or both."

17 SECTION 15. SECTION 45-5-624, MCA, IS AMENDED TO READ:

18 "45-5-624. Unlawful possession of an intoxicating
19 substance -- interference with sentence or court order. (1)
20 A person under the age of 18 years commits the offense of
21 possession of an intoxicating substance if he knowingly has
22 in his possession an intoxicating substance other than an
23 alcoholic beverage. A person under the age of 19 commits the
24 offense of possession of an intoxicating substance if he
25 knowingly has in his possession an alcoholic beverage,

1 except that he does not commit the offense when in the
2 course of his employment it is necessary to possess
3 alcoholic beverages.

4 (2) A person convicted of the offense of possession of
5 an intoxicating substance shall:

6 (a) be fined not to exceed \$50;

7 (b) be ordered to complete and, if financially able,
8 pay all costs of his participation in a community-based
9 substance abuse information course;

10 (c) have his driver's license confiscated by the court
11 for not more than 90 days and be ordered not to drive during
12 that period if he was driving or otherwise in actual
13 physical control of a motor vehicle when the offense
14 occurred; or

15 (d) be sentenced to any combination of these
16 penalties.

17 (3) A defendant who fails to comply with a sentence
18 and is under 21 years of age and was under 18 years of age
19 when he failed to comply must be transferred to the youth
20 court. If proceedings for violation of subsection (1) are
21 held in the youth court, the penalties in subsection (2) do
22 not apply. If proceedings for violation of subsection (1) or
23 for failure to comply with a sentence are held in the youth
24 court, the offender shall be treated as an alleged youth in
25 need of supervision as defined in 41-5-103(13). In such

1 case, the youth court may enter its judgment under 41-5-523.

2 (4) A person commits the offense of interference with
 3 a sentence or court order if he purposely or knowingly
 4 causes his child or ward to fail to comply with a sentence
 5 imposed under this section or a youth court disposition
 6 order for a youth found to have violated this section and
 7 upon conviction shall be fined \$100 or imprisoned in the
 8 county jail for 10 days, or both."

9 NEW SECTION. SECTION 16. REPEALER. SECTIONS 1
 10 THROUGH 10 OF THIS ACT ARE REPEALED.

11 NEW SECTION. SECTION 17. EXTENSION OF AUTHORITY. ANY
 12 EXISTING AUTHORITY OF THE DEPARTMENT OF REVENUE TO MAKE
 13 RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT IS
 14 EXTENDED TO THE PROVISIONS OF THIS ACT.

15 NEW SECTION. SECTION 18. SEVERABILITY. IF A PART OF
 16 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM
 17 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS
 18 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS
 19 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM
 20 THE INVALID APPLICATIONS.

21 NEW SECTION. Section 19. Effective dates --
 22 termination. (1) Sections 1 through 5, 17, 18, AND THIS
 23 SECTION are effective July APRIL 1, 1987, and, EXCEPT FOR
 24 SECTIONS 17, 18, AND THIS SECTION, terminate July APRIL 1,
 25 1989.

1 (2) Sections 6 through 10 are effective ~~July~~ APRIL 1,
 2 1989.

3 (3) IF THE UNITED STATES SUPREME COURT INVALIDATES THE
 4 PROVISIONS OF FEDERAL LAW THAT REQUIRE STATES TO RAISE THE
 5 LEGAL AGE FOR PURCHASING AND POSSESSING ALCOHOLIC BEVERAGES
 6 TO 21 AS A CONDITION OF FULL RECEIPT OF FEDERAL HIGHWAY
 7 FUNDS, THE GOVERNOR OF MONTANA SHALL IMMEDIATELY CERTIFY THE
 8 FACT OF THE INVALIDATION TO THE SECRETARY OF STATE OF
 9 MONTANA. SECTIONS 11 THROUGH 16 ARE EFFECTIVE UPON
 10 CERTIFICATION.

-End-

1 HOUSE BILL NO. 21
 2 INTRODUCED BY FRITZ
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RAISING THE LEGAL
 5 DRINKING AGE FROM 19 TO 21; ALLOWING THOSE PERSONS OF LEGAL
 6 DRINKING AGE TO CONTINUE TO DRINK; RETURNING THE LEGAL
 7 DRINKING AGE TO 19 IF THE UNITED STATES SUPREME COURT
 8 INVALIDATES THE PROVISION OF FEDERAL LAW REQUIRING STATES TO
 9 RAISE THE AGE TO 21 OR LOSE A PORTION OF FEDERAL HIGHWAY
 10 FUNDS; AMENDING SECTIONS 16-3-301, 16-3-305 16-6-305,
 11 16-6-314, 45-5-623, AND 45-5-624, MCA; AND PROVIDING
 12 EFFECTIVE DATES AND A TERMINATION DATE."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 16-3-301, MCA, is amended to read:
 16 "16-3-301. Unlawful purchases, sales, or deliveries.
 17 (1) It shall be unlawful for a licensed retailer to purchase
 18 or acquire beer from anyone except a brewer or wholesaler
 19 licensed under the provisions of this code.
 20 (2) It shall be unlawful for any licensee, his or her
 21 employee or employees, or any other person to sell, deliver,
 22 or give away or cause or permit to be sold, delivered, or
 23 given away any alcoholic beverage to:
 24 (a) any person under-19-years-of-age born after July
 25 APRIL 1, 1968;

1 (b) any intoxicated person or any person actually,
 2 apparently, or obviously intoxicated.

3 (3) Any person under-19-years-of-age born after July
 4 APRIL 1, 1968, or other person who knowingly misrepresents
 5 his or her qualifications for the purpose of obtaining an
 6 alcoholic beverage from such licensee shall be equally
 7 guilty with said licensee and shall, upon conviction
 8 thereof, be subject to the penalty provided in 45-5-624;
 9 provided, however, that nothing herein contained shall be
 10 construed as authorizing or permitting the sale of an
 11 alcoholic beverage to any person in violation of any federal
 12 law.

13 (4) It shall be further mandatory under the provisions
 14 of this code that all licensees display in a prominent place
 15 in their premises a placard as issued by the department
 16 stating fully the consequences for violations of the
 17 provisions of this code by persons under-19-years-of-age
 18 born after July APRIL 1, 1968."

19 Section 2. Section 16-6-305, MCA, is amended to read:
 20 "16-6-305. Age limit for sale of alcoholic beverages.
 21 (1) Except in the case of an alcoholic beverage given to a
 22 person under-19-years-of-age born after July APRIL 1, 1968,
 23 by his parent or guardian for beverage or medicinal purposes
 24 or administered to him by his physician or dentist for
 25 medicinal purposes or sold to him by a vendor or druggist



1 upon the prescription of a physician, no person shall sell,
2 give, or otherwise supply an alcoholic beverage to any
3 person ~~under-19-years-of-age~~ born after July APRIL 1, 1968,
4 or permit any person under that age to consume an alcoholic
5 beverage.

6 (2) Any person shall be guilty of a misdemeanor who:

7 (a) invites a person ~~under-the-age-of--19--years~~ born
8 after July APRIL 1, 1968, into a public place where an
9 alcoholic beverage is sold and treats, gives, or purchases
10 an alcoholic beverage for such person;

11 (b) permits such person in a public place where an
12 alcoholic beverage is sold to treat, give, or purchase
13 liquor for him; or

14 (c) holds out such person to be ~~19-years-of-age-or~~
15 ~~older~~ born after-July BEFORE APRIL 1, 1968, to the owner of
16 the establishment or his or her employee or employees.

17 (3) It is unlawful for any person to fraudulently
18 misrepresent his or her age to any dispenser of alcoholic
19 beverages or to falsely procure any identification card or
20 to alter any of the statements contained in any
21 identification card."

22 Section 3. Section 16-6-314, MCA, is amended to read:

23 "16-6-314. Penalty for violating code -- revocation of
24 license -- penalty for violation by underage person. (1) A
25 person who violates a provision of this code is guilty of a

1 misdemeanor punishable as provided in 46-18-212, except as
2 is herein otherwise provided.

3 (2) If a retail licensee is convicted of an offense
4 under this code, his license shall be immediately revoked
5 or, in the discretion of the department, such other sanction
6 imposed as may be authorized under 16-4-406.

7 (3) A person ~~under--19--years-of-age~~ born after July
8 APRIL 1, 1968, who violates 16-3-301(3) or 16-6-305(3) is
9 subject to the penalty provided in 45-5-624(2)."

10 Section 4. Section 45-5-623, MCA, is amended to read:

11 "45-5-623. Unlawful transactions with children. (1) A
12 person commits the offense of unlawful transactions with
13 children if he knowingly:

14 (a) sells or gives explosives to a child under the age
15 of majority except as authorized under appropriate city
16 ordinances;

17 (b) sells or gives intoxicating substances other than
18 alcoholic beverages to a child under the age of majority;

19 (c) sells or gives alcoholic beverages to a person
20 ~~under-19-years-of-age~~ born after July APRIL 1, 1968; or

21 (d) being a junk dealer, pawnbroker, or secondhand
22 dealer, receives or purchases goods from a child under the
23 age of majority without authorization of the parent or
24 guardian.

25 (2) A person convicted of the offense of unlawful

1 transactions with children shall be fined not to exceed \$500
 2 or be imprisoned in the county jail for any term not to
 3 exceed 6 months, or both. A person convicted of a second
 4 offense of unlawful transactions with children shall be
 5 fined not to exceed \$1,000 or be imprisoned in the county
 6 jail for any term not to exceed 6 months, or both."

7 Section 5. Section 45-5-624, MCA, is amended to read:

8 "45-5-624. Unlawful possession of an intoxicating
 9 substance -- interference with sentence or court order. (1)
 10 A person under the age of 18 years commits the offense of
 11 possession of an intoxicating substance if he knowingly has
 12 in his possession an intoxicating substance other than an
 13 alcoholic beverage. A person ~~under the age of 19~~ born after
 14 July APRIL 1, 1968, commits the offense of possession of an
 15 intoxicating substance if he knowingly has in his possession
 16 an alcoholic beverage, except that he does not commit the
 17 offense when in the course of his employment it is necessary
 18 to possess alcoholic beverages.

19 (2) A person convicted of the offense of possession of
 20 an intoxicating substance shall:

21 (a) be fined not to exceed \$50;

22 (b) be ordered to complete and, if financially able,
 23 pay all costs of his participation in a community-based
 24 substance abuse information course;

25 (c) have his driver's license confiscated by the court

1 for not more than 90 days and be ordered not to drive during
 2 that period if he was driving or otherwise in actual
 3 physical control of a motor vehicle when the offense
 4 occurred; or

5 (d) be sentenced to any combination of these
 6 penalties.

7 (3) A defendant who fails to comply with a sentence
 8 and is under 21 years of age and was under 18 years of age
 9 when he failed to comply must be transferred to the youth
 10 court. If proceedings for violation of subsection (1) are
 11 held in the youth court, the penalties in subsection (2) do
 12 not apply. If proceedings for violation of subsection (1) or
 13 for failure to comply with a sentence are held in the youth
 14 court, the offender shall be treated as an alleged youth in
 15 need of supervision as defined in 41-5-103(13). In such
 16 case, the youth court may enter its judgment under 41-5-523.

17 (4) A person commits the offense of interference with
 18 a sentence or court order if he purposely or knowingly
 19 causes his child or ward to fail to comply with a sentence
 20 imposed under this section or a youth court disposition
 21 order for a youth found to have violated this section and
 22 upon conviction shall be fined \$100 or imprisoned in the
 23 county jail for 10 days, or both."

24 Section 6. Section 16-3-301, MCA, is amended to read:

25 "16-3-301. Unlawful purchases, sales, or deliveries.

1 (1) It shall be unlawful for a licensed retailer to purchase
2 or acquire beer from anyone except a brewer or wholesaler
3 licensed under the provisions of this code.

4 (2) It shall be unlawful for any licensee, his or her
5 employee or employees, or any other person to sell, deliver,
6 or give away or cause or permit to be sold, delivered, or
7 given away any alcoholic beverage to:

8 (a) any person under 19 21 years of age;

9 (b) any intoxicated person or any person actually,
10 apparently, or obviously intoxicated.

11 (3) Any person under 19 21 years of age or other
12 person who knowingly misrepresents his or her qualifications
13 for the purpose of obtaining an alcoholic beverage from such
14 licensee shall be equally guilty with said licensee and
15 shall, upon conviction thereof, be subject to the penalty
16 provided in 45-5-624; provided, however, that nothing herein
17 contained shall be construed as authorizing or permitting
18 the sale of an alcoholic beverage to any person in violation
19 of any federal law.

20 (4) It shall be further mandatory under the provisions
21 of this code that all licensees display in a prominent place
22 in their premises a placard as issued by the department
23 stating fully the consequences for violations of the
24 provisions of this code by persons under 19 21 years of
25 age."

1 Section 7. Section 16-6-305, MCA, is amended to read:

2 "16-6-305. Age limit for sale of alcoholic beverages.

3 (1) Except in the case of an alcoholic beverage given to a
4 person under 19 21 years of age by his parent or guardian
5 for beverage or medicinal purposes or administered to him by
6 his physician or dentist for medicinal purposes or sold to
7 him by a vendor or druggist upon the prescription of a
8 physician, no person shall sell, give, or otherwise supply
9 an alcoholic beverage to any person under 19 21 years of age
10 or permit any person under that age to consume an alcoholic
11 beverage.

12 (2) Any person shall be guilty of a misdemeanor who:

13 (a) invites a person under the age of 19 21 years into
14 a public place where an alcoholic beverage is sold and
15 treats, gives, or purchases an alcoholic beverage for such
16 person;

17 (b) permits such person in a public place where an
18 alcoholic beverage is sold to treat, give, or purchase
19 liquor for him; or

20 (c) holds out such person to be 19 21 years of age or
21 older to the owner of the establishment or his or her
22 employee or employees.

23 (3) It is unlawful for any person to fraudulently
24 misrepresent his or her age to any dispenser of alcoholic
25 beverages or to falsely procure any identification card or

1 to alter any of the statements contained in any
2 identification card,"

3 Section 8. Section 16-6-314, MCA, is amended to read:

4 "16-6-314. Penalty for violating code -- revocation of
5 license -- penalty for violation by underage person. (1) A
6 person who violates a provision of this code is guilty of a
7 misdemeanor punishable as provided in 46-18-212, except as
8 is herein otherwise provided.

9 (2) If a retail licensee is convicted of an offense
10 under this code, his license shall be immediately revoked
11 or, in the discretion of the department, such other sanction
12 imposed as may be authorized under 16-4-406.

13 (3) A person under 19 21 years of age who violates
14 16-3-301(3) or 16-6-305(3) is subject to the penalty
15 provided in 45-5-624(2)."

16 Section 9. Section 45-5-623, MCA, is amended to read:

17 "45-5-623. Unlawful transactions with children. (1) A
18 person commits the offense of unlawful transactions with
19 children if he knowingly:

20 (a) sells or gives explosives to a child under the age
21 of majority except as authorized under appropriate city
22 ordinances;

23 (b) sells or gives intoxicating substances other than
24 alcoholic beverages to a child under the age of majority;

25 (c) sells or gives alcoholic beverages to a person

1 under 19 21 years of age; or

2 (d) being a junk dealer, pawnbroker, or secondhand
3 dealer, receives or purchases goods from a child under the
4 age of majority without authorization of the parent or
5 guardian.

6 (2) A person convicted of the offense of unlawful
7 transactions with children shall be fined not to exceed \$500
8 or be imprisoned in the county jail for any term not to
9 exceed 6 months, or both. A person convicted of a second
10 offense of unlawful transactions with children shall be
11 fined not to exceed \$1,000 or be imprisoned in the county
12 jail for any term not to exceed 6 months, or both."

13 Section 10. Section 45-5-624, MCA, is amended to read:

14 "45-5-624. Unlawful possession of an intoxicating
15 substance -- interference with sentence or court order. (1)
16 A person under the age of 18 years commits the offense of
17 possession of an intoxicating substance if he knowingly has
18 in his possession an intoxicating substance other than an
19 alcoholic beverage. A person under the age of 19 21 commits
20 the offense of possession of an intoxicating substance if he
21 knowingly has in his possession an alcoholic beverage,
22 except that he does not commit the offense when in the
23 course of his employment it is necessary to possess
24 alcoholic beverages.

25 (2) A person convicted of the offense of possession of

1 an intoxicating substance shall:

2 (a) be fined not to exceed \$50;

3 (b) be ordered to complete and, if financially able,
4 pay all costs of his participation in a community-based
5 substance abuse information course;

6 (c) have his driver's license confiscated by the court
7 for not more than 90 days and be ordered not to drive during
8 that period if he was driving or otherwise in actual
9 physical control of a motor vehicle when the offense
10 occurred; or

11 (d) be sentenced to any combination of these
12 penalties.

13 (3) A defendant who fails to comply with a sentence
14 and is under 21 years of age and was under 18 years of age
15 when he failed to comply must be transferred to the youth
16 court. If proceedings for violation of subsection (1) are
17 held in the youth court, the penalties in subsection (2) do
18 not apply. If proceedings for violation of subsection (1) or
19 for failure to comply with a sentence are held in the youth
20 court, the offender shall be treated as an alleged youth in
21 need of supervision as defined in 41-5-103(13). In such
22 case, the youth court may enter its judgment under 41-5-523.

23 (4) A person commits the offense of interference with
24 a sentence or court order if he purposely or knowingly
25 causes his child or ward to fail to comply with a sentence

1 imposed under this section or a youth court disposition
2 order for a youth found to have violated this section and
3 upon conviction shall be fined \$100 or imprisoned in the
4 county jail for 10 days, or both."

5 SECTION 11. SECTION 16-3-301, MCA, IS AMENDED TO READ:

6 "16-3-301. Unlawful purchases, sales, or deliveries.

7 (1) It shall be unlawful for a licensed retailer to purchase
8 or acquire beer from anyone except a brewer or wholesaler
9 licensed under the provisions of this code.

10 (2) It shall be unlawful for any licensee, his or her
11 employee or employees, or any other person to sell, deliver,
12 or give away or cause or permit to be sold, delivered, or
13 given away any alcoholic beverage to:

14 (a) any person under 19 years of age;

15 (b) any intoxicated person or any person actually,
16 apparently, or obviously intoxicated.

17 (3) Any person under 19 years of age or other person
18 who knowingly misrepresents his or her qualifications for
19 the purpose of obtaining an alcoholic beverage from such
20 licensee shall be equally guilty with said licensee and
21 shall, upon conviction thereof, be subject to the penalty
22 provided in 45-5-624; provided, however, that nothing herein
23 contained shall be construed as authorizing or permitting
24 the sale of an alcoholic beverage to any person in violation
25 of any federal law.

1 (4) It shall be further mandatory under the provisions
 2 of this code that all licensees display in a prominent place
 3 in their premises a placard as issued by the department
 4 stating fully the consequences for violations of the
 5 provisions of this code by persons under 19 years of age."

6 SECTION 12. SECTION 16-6-305, MCA, IS AMENDED TO READ:

7 "16-6-305. Age limit for sale of alcoholic beverages.

8 (1) Except in the case of an alcoholic beverage given to a
 9 person under 19 years of age by his parent or guardian for
 10 beverage or medicinal purposes or administered to him by his
 11 physician or dentist for medicinal purposes or sold to him
 12 by a vendor or druggist upon the prescription of a
 13 physician, no person shall sell, give, or otherwise supply
 14 an alcoholic beverage to any person under 19 years of age or
 15 permit any person under that age to consume an alcoholic
 16 beverage.

17 (2) Any person shall be guilty of a misdemeanor who:

18 (a) invites a person under the age of 19 years into a
 19 public place where an alcoholic beverage is sold and treats,
 20 gives, or purchases an alcoholic beverage for such person;

21 (b) permits such person in a public place where an
 22 alcoholic beverage is sold to treat, give, or purchase
 23 liquor for him; or

24 (c) holds out such person to be 19 years of age or
 25 older to the owner of the establishment or his or her

1 employee or employees.

2 (3) It is unlawful for any person to fraudulently
 3 misrepresent his or her age to any dispenser of alcoholic
 4 beverages or to falsely procure any identification card or
 5 to alter any of the statements contained in any
 6 identification card."

7 SECTION 13. SECTION 16-6-314, MCA, IS AMENDED TO READ:

8 "16-6-314. Penalty for violating code -- revocation of
 9 license -- penalty for violation by underage person. (1) A
 10 person who violates a provision of this code is guilty of a
 11 misdemeanor punishable as provided in 46-18-212, except as
 12 is herein otherwise provided.

13 (2) If a retail licensee is convicted of an offense
 14 under this code, his license shall be immediately revoked
 15 or, in the discretion of the department, such other sanction
 16 imposed as may be authorized under 16-4-406.

17 (3) A person under 19 years of age who violates
 18 16-3-301(3) or 16-6-305(3) is subject to the penalty
 19 provided in 45-5-624(2)."

20 SECTION 14. SECTION 45-5-623, MCA, IS AMENDED TO READ:

21 "45-5-623. Unlawful transactions with children. (1) A
 22 person commits the offense of unlawful transactions with
 23 children if he knowingly:

24 (a) sells or gives explosives to a child under the age
 25 of majority except as authorized under appropriate city

1 ordinances;

2 (b) sells or gives intoxicating substances other than
3 alcoholic beverages to a child under the age of majority;

4 (c) sells or gives alcoholic beverages to a person
5 under 19 years of age; or

6 (d) being a junk dealer, pawnbroker, or secondhand
7 dealer, receives or purchases goods from a child under the
8 age of majority without authorization of the parent or
9 guardian.

10 (2) A person convicted of the offense of unlawful
11 transactions with children shall be fined not to exceed \$500
12 or be imprisoned in the county jail for any term not to
13 exceed 6 months, or both. A person convicted of a second
14 offense of unlawful transactions with children shall be
15 fined not to exceed \$1,000 or be imprisoned in the county
16 jail for any term not to exceed 6 months, or both."

17 SECTION 15. SECTION 45-5-624, MCA, IS AMENDED TO READ:

18 "45-5-624. Unlawful possession of an intoxicating
19 substance -- interference with sentence or court order. (1)
20 A person under the age of 18 years commits the offense of
21 possession of an intoxicating substance if he knowingly has
22 in his possession an intoxicating substance other than an
23 alcoholic beverage. A person under the age of 19 commits the
24 offense of possession of an intoxicating substance if he
25 knowingly has in his possession an alcoholic beverage,

1 except that he does not commit the offense when in the
2 course of his employment it is necessary to possess
3 alcoholic beverages.

4 (2) A person convicted of the offense of possession of
5 an intoxicating substance shall:

6 (a) be fined not to exceed \$50;

7 (b) be ordered to complete and, if financially able,
8 pay all costs of his participation in a community-based
9 substance abuse information course;

10 (c) have his driver's license confiscated by the court
11 for not more than 90 days and be ordered not to drive during
12 that period if he was driving or otherwise in actual
13 physical control of a motor vehicle when the offense
14 occurred; or

15 (d) be sentenced to any combination of these
16 penalties.

17 (3) A defendant who fails to comply with a sentence
18 and is under 21 years of age and was under 18 years of age
19 when he failed to comply must be transferred to the youth
20 court. If proceedings for violation of subsection (1) are
21 held in the youth court, the penalties in subsection (2) do
22 not apply. If proceedings for violation of subsection (1) or
23 for failure to comply with a sentence are held in the youth
24 court, the offender shall be treated as an alleged youth in
25 need of supervision as defined in 41-5-103(13). In such

1 case, the youth court may enter its judgment under 41-5-523.

2 (4) A person commits the offense of interference with
 3 a sentence or court order if he purposely or knowingly
 4 causes his child or ward to fail to comply with a sentence
 5 imposed under this section or a youth court disposition
 6 order for a youth found to have violated this section and
 7 upon conviction shall be fined \$100 or imprisoned in the
 8 county jail for 10 days, or both."

9 NEW SECTION. SECTION 16. REPEALER. SECTIONS 1
 10 THROUGH 10 OF THIS ACT ARE REPEALED.

11 NEW SECTION. SECTION 17. EXTENSION OF AUTHORITY. ANY
 12 EXISTING AUTHORITY OF THE DEPARTMENT OF REVENUE TO MAKE
 13 RULES ON THE SUBJECT OF THE PROVISIONS OF THIS ACT IS
 14 EXTENDED TO THE PROVISIONS OF THIS ACT.

15 NEW SECTION. SECTION 18. SEVERABILITY. IF A PART OF
 16 THIS ACT IS INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM
 17 THE INVALID PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS
 18 INVALID IN ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS
 19 IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM
 20 THE INVALID APPLICATIONS.

21 NEW SECTION. Section 19. Effective dates --
 22 termination. (1) Sections 1 through 5, 17, 18, AND THIS
 23 SECTION are effective July APRIL 1, 1987, and, EXCEPT FOR
 24 SECTIONS 17, 18, AND THIS SECTION, terminate July APRIL 1,
 25 1989.

1 (2) Sections 6 through 10 are effective July APRIL 1,
 2 1989.

3 (3) IF THE UNITED STATES SUPREME COURT INVALIDATES THE
 4 PROVISIONS OF FEDERAL LAW THAT REQUIRE STATES TO RAISE THE
 5 LEGAL AGE FOR PURCHASING AND POSSESSING ALCOHOLIC BEVERAGES
 6 TO 21 AS A CONDITION OF FULL RECEIPT OF FEDERAL HIGHWAY
 7 FUNDS, THE GOVERNOR OF MONTANA SHALL IMMEDIATELY CERTIFY THE
 8 FACT OF THE INVALIDATION TO THE SECRETARY OF STATE OF
 9 MONTANA. SECTIONS 11 THROUGH 16 ARE EFFECTIVE UPON
 10 CERTIFICATION.

-End-