

HOUSE BILL NO. 73

INTRODUCED BY BRADLEY, PECK, MILES,  
KEENAN, GOULD, GILBERT

BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

JANUARY 5, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

JANUARY 13, 1987                   ON MOTION BY CHIEF SPONSOR,  
REPRESENTATIVES PECK, MILES, KEENAN,  
GOULD, AND GILBERT ADDED AS SPONSORS.

JANUARY 23, 1987                   COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

JANUARY 24, 1987                   PRINTING REPORT.

JANUARY 26, 1987                   SECOND READING, DO PASS.

JANUARY 27, 1987                   ENGROSSING REPORT.

                                      THIRD READING, PASSED.  
                                      AYES, 97; NOES, 1.

                                      TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON HIGHWAYS & TRANSPORTATION.

FEBRUARY 23, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 2, 1987                    ON MOTION, CONSIDERATION PASSED  
FOR THE DAY.

MARCH 3, 1987                    ON MOTION, TAKEN FROM SECOND READING  
AND REREFERRED TO COMMITTEE  
ON JUDICIARY.

MARCH 23, 1987

COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 27, 1987

SECOND READING, CONCURRED IN.

MARCH 30, 1987

THIRD READING, CONCURRED IN.  
AYES, 50; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1                    HOUSE      BILL NO.   73  
 2    INTRODUCED BY   BRADLEY  
 3                    BY REQUEST OF THE DEPARTMENT OF JUSTICE

4  
 5    A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT THE  
 6    MOTOR VEHICLE LAWS APPLY TO PERSONS UNDER AGE 18 THE SAME AS  
 7    THEY APPLY TO ADULTS, WITH THE EXCEPTION OF THE IMPOSITION  
 8    OF PENALTIES; AMENDING SECTIONS 61-8-401 AND 61-8-406, MCA;  
 9    REPEALING SECTIONS 61-12-601 THROUGH 61-12-603 AND  
 10   61-12-703, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11  
 12   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13        NEW SECTION. Section 1. Penalty for persons under the  
 14    age of eighteen. Notwithstanding any penalty prescribed  
 15    elsewhere, a person under age 18 who is convicted of any  
 16    offense under this title must be punished by:

- 17        (1) a fine, not exceeding \$50, provided that such
- 18    person may not be imprisoned for failure to pay such fine;
- 19    or
- 20        (2) impoundment by the probation officer of the motor
- 21    vehicle operated by the person for a period of time not
- 22    exceeding 60 days; however, if the court finds that the
- 23    person operated the vehicle without the owner's consent, the
- 24    motor vehicle may not be impounded; or
- 25        (3) both subsections (1) and (2).

1                    NEW SECTION. Section 2. Suspending privileges of  
 2    persons under age eighteen. The privilege of driving a motor  
 3    vehicle on the highways of this state given to a person  
 4    under the age of 18 is subject to suspension or revocation  
 5    by the department in like manner and for like causes as an  
 6    adult.

7                    Section 3. Section 61-8-401, MCA, is amended to read:  
 8                    "61-8-401. Persons under the influence of alcohol or  
 9    drugs. (1) It is unlawful and punishable as provided in  
 10   61-8-714 and [section 1] for any person who is under the  
 11   influence of:

- 12        (a) alcohol to drive or be in actual physical control
- 13    of a vehicle upon the ways of this state open to the public;
- 14        (b) a narcotic drug to drive or be in actual physical
- 15    control of a vehicle within this state;
- 16        (c) any other drug to a degree which renders him
- 17    incapable of safely driving a vehicle to drive or be in
- 18    actual physical control of a vehicle within this state; or
- 19        (d) alcohol and any drug to a degree that renders him
- 20    incapable of safely driving a vehicle to drive or be in
- 21    actual physical control of a vehicle within this state.

22        (2) The fact that any person charged with a violation  
 23    of subsection (1) is or has been entitled to use alcohol or  
 24    such a drug under the laws of this state does not constitute  
 25    a defense against any charge of violating subsection (1).



1 (3) Upon the trial of any civil or criminal action or  
 2 proceeding arising out of acts alleged to have been  
 3 committed by any person driving or in actual physical  
 4 control of a vehicle while under the influence of alcohol,  
 5 the concentration of alcohol in the person's blood at the  
 6 time alleged, as shown by chemical analysis of the person's  
 7 blood, urine, breath, or other bodily substance, shall give  
 8 rise to the following presumptions:

9 (a) If there was at that time an alcohol concentration  
 10 of 0.05 or less, it shall be presumed that the person was  
 11 not under the influence of alcohol.

12 (b) If there was at that time an alcohol concentration  
 13 in excess of 0.05 but less than 0.10, that fact shall not  
 14 give rise to any presumption that the person was or was not  
 15 under the influence of alcohol but such fact may be  
 16 considered with other competent evidence in determining the  
 17 guilt or innocence of the person.

18 (c) If there was at that time an alcohol concentration  
 19 of 0.10 or more, it shall be presumed that the person was  
 20 under the influence of alcohol. Such presumption is  
 21 rebuttable.

22 (4) The provisions of subsection (3) do not limit the  
 23 introduction of any other competent evidence bearing upon  
 24 the issue of whether the person was under the influence of  
 25 alcohol.

1 (5) Each municipality in this state is given authority  
 2 to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, and  
 3 subsections (1) through (4) of this section, with the word  
 4 "state" in 61-8-406 and subsection (1) of this section  
 5 changed to read "municipality", as an ordinance and is given  
 6 jurisdiction of the enforcement of the ordinance and of the  
 7 imposition of the fines and penalties therein provided."

8 Section 4. Section 61-8-406, MCA, is amended to read:  
 9 "61-8-406. Operation of vehicle by a person with  
 10 alcohol concentration of 0.10 or more. It is unlawful and  
 11 punishable as provided in 61-8-722 and [section 1] for any  
 12 person to drive or be in actual physical control of a  
 13 vehicle upon the ways of this state open to the public while  
 14 the alcohol concentration in his blood, breath, or urine is  
 15 0.10 or more."

16 NEW SECTION. Section 5. Repealer. Sections 61-12-601  
 17 through 61-12-603 and 61-12-703, MCA, are repealed.

18 NEW SECTION. Section 6. Codification instructions.  
 19 (1) Section 1 is intended to be codified as an integral  
 20 part of Title 61, chapter 8, part 7, and the provisions of  
 21 Title 61, chapter 8, part 7, apply to section 1.

22 (2) Section 2 is intended to be codified as an  
 23 integral part of Title 61, chapter 5, part 2, and the  
 24 provisions of Title 61, chapter 5, part 2, apply to section  
 25 2.

LC 0498/01

1        NEW SECTION. Section 7. Effective date. This act is  
2 effective on passage and approval.

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

1 HOUSE BILL NO. 73  
2 INTRODUCED BY BRADLEY, PECK, MILES,  
3 KEENAN, GOULD, GILBERT  
4 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
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6 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT REVISE  
7 THE MANNER IN WHICH THE MOTOR VEHICLE LAWS APPLY TO PERSONS  
8 UNDER AGE 18 THE SAME AS THEY APPLY TO ADULTS, WITH THE  
9 EXCEPTION OF THE IMPOSITION OF PENALTIES; AMENDING SECTIONS  
10 61-8-401 AND 61-8-406, MCA; REPEALING SECTIONS 61-12-601  
11 THROUGH 61-12-603 AND 61-12-703, MCA; AND PROVIDING AN  
12 IMMEDIATE EFFECTIVE DATE."  
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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 NEW SECTION. Section 1. ~~Penalty~~ for OFFENSES  
16 COMMITTED BY persons under the age of eighteen.  
17 ~~Notwithstanding any penalty prescribed elsewhere, a person~~  
18 ~~under age 18 who is convicted of any offense under this~~  
19 ~~title must~~ A PERSON UNDER 18 YEARS OF AGE WHO COMMITS AN  
20 OFFENSE UNDER THIS TITLE MUST BE TRIED AS AN ADULT AND IF  
21 CONVICTED SHALL NOT BE PUNISHED BY INCARCERATION, BUT SHALL  
22 be punished by:

23 (1) ~~a fine, not exceeding \$50~~ NOT LESS THAN AND NOT TO  
24 EXCEED THE FINE THAT COULD BE IMPOSED ON HIM IF HE WERE AN  
25 ADULT, provided that such person may not be imprisoned for

1 failure to pay such fine; or  
2 (2) REVOCATION OF HIS DRIVER'S LICENSE BY THE COURT OR  
3 SUSPENSION OF THE LICENSE FOR A PERIOD SET BY THE COURT;  
4 ~~(2)(3)~~ impoundment by the probation officer A LAW  
5 ENFORCEMENT OFFICER DESIGNATED BY THE COURT of the motor  
6 vehicle operated by the person for a period of time not  
7 exceeding 60 days; ~~however, if the court finds that the~~  
8 ~~person operated the vehicle without the owner's consent, the~~  
9 ~~motor vehicle may not be impounded~~ IF THE COURT FINDS EITHER  
10 THAT HE OWNS THE VEHICLE OR IS THE ONLY PERSON WHO USES THE  
11 VEHICLE; or

12 ~~(3)(4)~~ both ANY COMBINATION OF subsections (1) and ~~(2)~~  
13 THROUGH (3).

14 NEW SECTION. Section 2. Suspending privileges of  
15 persons under age eighteen. The privilege of driving a motor  
16 vehicle on the highways of this state given to a person  
17 under the age of 18 is subject to suspension or revocation  
18 by the department in like manner and for like causes as an  
19 adult.

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24 influence of:

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3 control of a vehicle within this state;

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5 incapable of safely driving a vehicle to drive or be in  
6 actual physical control of a vehicle within this state; or

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9 actual physical control of a vehicle within this state.

10 (2) The fact that any person charged with a violation  
11 of subsection (1) is or has been entitled to use alcohol or  
12 such a drug under the laws of this state does not constitute  
13 a defense against any charge of violating subsection (1).

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15 to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, and  
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by the department in like manner and for like causes as an  
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Section 3. Section 61-8-401, MCA, is amended to read:

"61-8-401. Persons under the influence of alcohol or  
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2 (b) a narcotic drug to drive or be in actual physical  
3 control of a vehicle within this state;

4 (c) any other drug to a degree which renders him  
5 incapable of safely driving a vehicle to drive or be in  
6 actual physical control of a vehicle within this state; or

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8 incapable of safely driving a vehicle to drive or be in  
9 actual physical control of a vehicle within this state.

10 (2) The fact that any person charged with a violation  
11 of subsection (1) is or has been entitled to use alcohol or  
12 such a drug under the laws of this state does not constitute  
13 a defense against any charge of violating subsection (1).

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-End-

# STANDING COMMITTEE REPORT

## SENATE

March 23 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. 73

Third reading copy ( blue )  
color

Application of motor vehicle laws to minors--Except penalty imposition.

Bradley (Tveit)

Respectfully report as follows: That HOUSE BILL No. 73

1. Page 1, line 19.

Following: "WHO"

Strike: "COMMITTS"

Insert: "is convicted of"

X 2. Page 1, lines 20 and 21.

Following: "TITLE" on line 20

Strike: remainder of line 20 through "CONVICTED" on line 21

3. Page 1, line 23.

Following: "\$50"

Strike: "NOT LESS THAN AND"

C:\LANE\WP\AMDHB73.  
7080i/C:JEANNE\WP:jj  
Amendments, HB 73

~~DO PASS~~

~~DO NOT PASS~~

AND AS AMENDED  
BE CONCURRED IN

Senator Mazurek

Chairman.

3-33  
10-30