HOUSE BILL NO. 163

INTRODUCED BY MERCER, SPAETH

IN THE HOUSE

JANUARY 13, 1987	' INTRODUCE	D AND	REFERRED	\mathbf{OT}	COMMITTEE
	ON JUDICI	ARY.			

FEBRUARY 10, 1987 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 11, 1987 PRINTING REPORT.

- FEBRUARY 12, 1987 SECOND READING, DO PASS.
- FEBRUARY 13, 1987 ENGROSSING REPORT.

THIRD READING, PASSED. AYES, 85; NOES, 4.

TRANSMITTED TO SENATE.

- IN THE SENATE
- FEBRUARY 16, 1987

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- INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
- MARCH 12, 1987 COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
- MARCH 18, 1987 SECOND READING, CONCURRED IN.
- MARCH 20, 1987 THIRD READING, CONCURRED IN. AYES, 46; NOES, 3.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH	25,	1987	RECEIVED FROM	I SENATE.

ON MOTION, CONSIDERATION PASSED FOR THE DAY.

MARCH 26, 1987		SECOND READING, AMENDMENTS NOT CONCURRED IN.
		ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN	THE SENATE
MARCH 28, 1987		ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.
	IN	THE HOUSE
APRIL 9, 1987		CONFERENCE COMMITTEE REPORTED.
APRIL 11, 1987		ON MOTION, CONSIDERATION PASSED FOR THE DAY.
	IN	THE SENATE
APRIL 13, 1987		CONFERENCE COMMITTEE REPORT ADOPTED.
	IN	THE HOUSE
APRIL 15, 1987		SECOND READING, CONFERENCE COMMITTEE REPORT ADOPTED.
APRIL 16, 1987		THIRD READING, CONFERENCE COMMITTEE REPORT ADOPTED.
		SENT TO ENROLLING.

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LC 0681/01

 $\frac{HB}{BBCB}$ BILL NO. <u>163</u> INTRODUCED BY Merce Space 1 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A DEFINITION 4 OF "UNDER THE INFLUENCE" TO BE APPLIED IN CASES OF DRIVING 5 UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; REPLACING THE б EXISTING STANDARD; AND AMENDING SECTIONS 61-5-205, 61-5-208, 7 AND 61-8-401, MCA." 8 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 10 Section 1. Section 61-8-401, MCA, is amended to read: 11 "61-8-401. Persons under the influence of alcohol or 12 drugs. (1) It is unlawful and punishable as provided in 13 61-8-714 for any person who is under the influence of: 14 (a) alcohol to drive or be in actual physical control 15 16 of a vehicle upon the ways of this state open to the public; 17 (b) a narcotic drug to drive or be in actual physical control of a vehicle within this state; 18 (c) any other drug to--a--degree--which--renders--him 19 incapable -- of -- safely -- driving -- a -- vehicle to drive or be in 20 actual physical control of a vehicle within this state; or 21 (d) alcohol and any drug to-a-degree-that-renders-him 22 incapable-of-safely-driving-a-vehicle to drive or be in 23 actual physical control of a vehicle within this state. 24 (2) The fact that any person charged with a violation 25

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í	of subsection (1) is or has been entitled to use alcohol or
2	such a drug under the laws of this state does not constitute
3	a defense against any charge of violating subsection (1).
4	(3) "Under the influence" means that as a result of
5	taking into the body alcohol, drugs, or any combination
б	thereof, a person's ability to safely operate a motor
7	vehicle has been lessened to the slightest degree.
8	(4) Upon the trial of any civil or criminal action
9	or proceeding arising out of acts alleged to have been
10	committed by any person driving or in actual physical
11	control of a vehicle while under the influence of alcohol,
12	the concentration of alcohol in the person's blood at the
13	time alleged, as shown by chemical analysis of the person's
14	blood, urine, breath, or other bodily substance, shall give
15	rise to the following presumptions:
16	(a) If there was at that time an alcohol concentration
17	of 0.05 or less, it shall be presumed that the person was
18	not under the influence of alcohol.
19	(b) If there was at that time an alcohol concentration
20	in excess of 0.05 but less than 0.10, that fact shall not
21	give rise to any presumption that the person was or was not
22	under the influence of alcohol but such fact may be
23	considered with other competent evidence in determining the
24	guilt or innocence of the person.
25	(c) If there was at that time an alcohol concentration
	-2- INTRODUCED BILL
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INTRODUCED BILL HB-163 of 0.10 or more, it shall be presumed that the person was
 under the influence of alcohol. Such presumption is
 rebuttable.

4 (4)(5) The provisions of subsection (3) (4) do not
5 limit the introduction of any other competent evidence
6 bearing upon the issue of whether the person was under the
7 influence of alcohol.

8 t5;(6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, 9 and subsections (1) through (4) (5) of this section, with 10 the word "state" in 61-8-406 and subsection (1) of this 11 section changed to read "municipality", as an ordinance and 12 is given jurisdiction of the enforcement of the ordinance 13 and of the imposition of the fines and penalties therein 14 provided." 15

Section 2. Section 61-5-205, MCA, is amended to read: 16 "61-5-205. Mandatory revocation of license upon proper 17 18 authority. The department upon proper authority shall revoke the license or operating privilege of any operator or 19 chauffeur upon receiving a record of such operator's or 20 chauffeur's conviction or forfeiture of bail not vacated of 21 any of the following offenses, when such conviction or 22 23 forfeiture has become final:

24 (1) negligent homicide resulting from the operation of25 a motor vehicle;

1 (2) driving a motor vehicle while under the influence 2 of alcohol or narcotic <u>any</u> drug₇-or-willfully-or--knowingly 3 under--the--influence--of--any--other-drug-to-a-degree-which 4 renders-him-incapable-of-safely-driving-a-motor-vehicle; or 5 a combination thereof, except as provided in 61-5-208, or 6 operation of a motor vehicle by a person with a blood 7 alcohol concentration of 0.10 or more;

8 (3) any felony in the commission of which a motor9 vehicle is used;

10 (4) failure to stop and render aid as required under 11 the laws of this state in the event of a motor vehicle 12 accident resulting in the death or personal injury of 13 another;

14 (5) perjury or the making of a false affidavit or
15 statement under oath to the department under this chapter or
16 under any other law relating to the ownership or operation
17 of motor vehicles;

18 (6) conviction or forfeiture of bail not vacated upon 19 three charges of reckless driving committed within a period 20 of 12 months."

Section 3. Section 61-5-208, MCA, is amended to read:
"61-5-208. Period of suspension or revocation. (1) The
department may not suspend or revoke a driver's license or
privilege to drive a motor vehicle on the public highways
for a period of more than 1 year, except as permitted under

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1 61-5-207, 61-5-212, 61-6-123, and 61-11-211.

2 (2) Any person whose license or privilege to drive a 3 motor vehicle on the public highways has been suspended or 4 revoked is not entitled to have such license or privilege renewed or restored unless the revocation was for a cause 5 6 which has been removed, except that after the expiration of 7 the period of such revocation or suspension, the person may 8 make application for a new license as provided by law but 9 the department may not then issue a new license unless and until it is satisfied, after investigation of the driving 10 11 ability of the person and upon a showing by its records or 12 other sufficient evidence, that the person is eligible to be 13 licensed to drive in this state. When any person is convicted or forfeits bail or collateral not vacated for the 14 15 offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or a 16 17 nareotic any drug or -- knowingly -- or -- willingly -- under -- the influence--of--any--other-drug-to-a-degree-which-renders-him 18 19 incapable--of--safely--driving--a--motor---vehicle; or a combination thereofy or for the offense of operation of a 20 21 motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of 22 23 such conviction or forfeiture of bail or collateral not vacated, suspend the license or driving privilege of the 24 25 person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a
 second, third, or subsequent offense within 5 years of the
 first offense, the department shall revoke the license or
 driving privilege of the person for a period of 1 year.

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5 (3) The period for all revocations made mandatory by 6 61-5-205 shall be 1 year except as provided in subsection 7 (2) of this section.

8 (4) The period of revocation for any person convicted
9 of any offense which makes mandatory the revocation of the
10 operator's or chauffeur's license commences from date of
11 conviction or forfeiture of bail."

12 <u>NEW SECTION.</u> Section 4. Extension of authority. Any 13 existing authority of the department of justice to make 14 rules on the subject of the provisions of this act is 15 extended to the provisions of this act.

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50th Legislature

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APPROVED BY COMMITTEE On Judiciary

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4	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A DEFINITION
5	OF "UNDER THE INFLUENCE" TO BE APPLIED IN CASES OF DRIVING
6	UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; REPLACING THE
7	EXISTING STANDARD; AND AMENDING SECTIONS 61-5-205, 61-5-208,
8	AND 61-8-401, MCA."
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 61-8-401, MCA, is amended to read:
12	"61-8-401. Persons under the influence of alcohol or
13	drugs. (1) It is unlawful and punishable as provided in
14	61-8-714 for any person who is under the influence of:
15	(a) alcohol to drive or be in actual physical control
16	of a vehicle upon the ways of this state open to the public;
17	(b) a narcotic drug to drive or be in actual physical
18	control of a vehicle within this state;
19	(c) any other drug toadegreewhichrendershim
20	incapableofsafelydrivingavehicle to drive or be in
21	actual physical control of a vehicle within this state; or
2 2	(d) alcohol and any drug to-a-degree-that-renders-him
23	incapable-of-safely-driving-a-vehicle to drive or be in
24	actual physical control of a vehicle within this state.
25	(2) The fact that any person charged with a violation

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INTRODUCED BY MERCER, SPAETH

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1	of subsection (1) is or has been entitled to use alcohol or
2	such a drug under the laws of this state does not constitute
3	a defense against any charge of violating subsection (1).
4	(3) "Under the influence" means that as a result of
5	taking into the body alcohol, drugs, or any combination
6	thereof, a person's ability to safely operate a motor
7	vehicle has been lessenedtotheslightestdegree
8	DIMINISHED.
9	<pre>f3;(4) Upon the trial of any civil or criminal action</pre>
10	or proceeding arising out of acts alleged to have been
11	committed by any person driving or in actual physical
12	control of a vehicle while under the influence of alcohol,
13	the concentration of alcohol in the person's blood at the
14	time alleged, as shown by chemical analysis of the person's
15	blood, urine, breath, or other bodily substance, shall give
16	rise to the following presumptions:
17	(a) If there was at that time an alcohol concentration
18	of 0.05 or less, it shall be presumed that the person was
19	not under the influence of alcohol.
20	(b) If there was at that time an alcohol concentration
21	in excess of 0.05 but less than 0.10, that fact shall not
22	give rise to any presumption that the person was or was not
23	under the influence of alcohol but such fact may be
24	

24 considered with other competent evidence in determining the 25 guilt or innocence of the person.



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

5 (4)(5) The provisions of subsection (3) (4) do not 6 limit the introduction of any other competent evidence 7 bearing upon the issue of whether the person was under the 8 influence of alcohol.

(5)(6) Each municipality in this state is given 9 10 authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722. 11 and subsections (1) through (4) (5) of this section, with the word "state" in 61-8-406 and subsection (1) of this 12 13 section changed to read "municipality", as an ordinance and 14 is given jurisdiction of the enforcement of the ordinance 15 and of the imposition of the fines and penalties therein 16 provided."

17 Section 2. Section 61-5-205, MCA, is amended to read: 18 "61-5-205. Mandatory revocation of license upon proper authority. The department upon proper authority shall revoke 19 the license or operating privilege of any operator or 20 chauffeur upon receiving a record of such operator's or 21 22 chauffeur's conviction or forfeiture of bail not vacated of any of the following offenses, when such conviction or 23 24 forfeiture has become final:

(1) negligent homicide resulting from the operation of

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1 a motor vehicle;

(2) driving a motor vehicle while under the influence
of alcohol or narcotic any drug;-or-willfully-or-knowingly
under-the-influence-of-any-other--drug--to--a--degree--which
renders--him-incapable-of-safely-driving-a-motor-vehicle; or
a combination thereof, except as provided in 61-5-208, or
operation of a motor vehicle by a person with a blood
alcohol concentration of 0.10 or more;

9 (3) any felony in the commission of which a motor10 vehicle is used;

11 (4) failure to stop and render aid as required under 12 the laws of this state in the event of a motor vehicle 13 accident resulting in the death or personal injury of 14 another;

15 (5) perjury or the making of a false affidavit or 16 statement under oath to the department under this chapter or 17 under any other law relating to the ownership or operation 18 of motor vehicles;

19 (6) conviction or forfeiture of bail not vacated upon 20 three charges of reckless driving committed within a period 21 of 12 months."

Section 3. Section 61-5-208, MCA, is amended to read:
"61-5-208. Period of suspension or revocation. (1) The
department may not suspend or revoke a driver's license or
privilege to drive a motor vehicle on the public highways

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1 for a period of more than 1 year, except as permitted under 2 61-5-207, 61-5-212, 61-6-123, and 61-11-211.

3 (2) Any person whose license or privilege to drive a motor vehicle on the public highways has been suspended or 4 5 revoked is not entitled to have such license or privilege 6 renewed or restored unless the revocation was for a cause 7 which has been removed, except that after the expiration of 8 the period of such revocation or suspension, the person may 9 make application for a new license as provided by law but the department may not then issue a new license unless and 10 11 until it is satisfied, after investigation of the driving ability of the person and upon a showing by its records or 12 other sufficient evidence, that the person is eligible to be 13 licensed to drive in this state. When any person is 14 convicted or forfeits bail or collateral not vacated for the 15 16 offense of operating or being in actual physical control of 17 a motor vehicle while under the influence of alcohol or a 18 narcotie any drug or--knowingly--or--willingly--under-the 19 influence-of-any-other-drug-to-a-degree--which--renders--him 20 incapable --- of --- safely --- driving -- a-- motor -- vehicle, or a 21 combination thereof, or for the offense of operation of a 22 motor vehicle by a person with alcohol concentration of 0.10 23 or more, the department shall, upon receiving a report of 24 such conviction or forfeiture of bail or collateral not 25 vacated, suspend the license or driving privilege of the person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of 1 year.

6 (3) The period for all revocations made mandatory by 7 61-5-205 shall be 1 year except as provided in subsection 8 (2) of this section.

9 (4) The period of revocation for any person convicted 10 of any offense which makes mandatory the revocation of the 11 operator's or chauffeur's license commences from date of 12 conviction or forfeiture of bail."

13 <u>NEW SECTION.</u> Section 4. Extension of authority. Any 14 existing authority of the department of justice to make 15 rules on the subject of the provisions of this act is 16 extended to the provisions of this act.

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1 HOUSE BILL NO. 163 1 2 INTRODUCED BY MERCER, SPAETH 2 3 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A DEFINITION 4 5 OF "UNDER THE INFLUENCE" TO BE APPLIED IN CASES OF DRIVING 5 6 UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; REPLACING THE 6 7 EXISTING STANDARD: AND AMENDING SECTIONS 61-5-205, 61-5-208, 7 DIMINISHED. 8 AND 61-8-401, MCA." 9 9 10 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 61-8-401, MCA, is amended to read: 11 12 12 "61-8-401. Persons under the influence of alcohol or 13 drugs. (1) It is unlawful and punishable as provided in 13 14 61-8-714 for any person who is under the influence of: 14 15 15 (a) alcohol to drive or be in actual physical control 16 of a vehicle upon the ways of this state open to the public; 16 17 17 (b) a narcotic drug to drive or be in actual physical 18 control of a vehicle within this state; 18 19 19 (c) any other drug to--a--degree--which--renders--him 20 incapable--of--safely--driving--a--vehicle to drive or be in 20 21 21 actual physical control of a vehicle within this state; or 22 22 (d) alcohol and any drug to-a-degree-that-renders-him under the influence of alcohol but such fact may be 23 23 incapable-of-safely-driving-a-vehicle to drive or be in considered with other competent evidence in determining the 24 24 actual physical control of a vehicle within this state. 25 (2) The fact that any person charged with a violation 25

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of subsection (1) is or has been entitled to use alcohol or such a drug under the laws of this state does not constitute a defense against any charge of violating subsection (1). (3) "Under the influence" means that as a result of taking into the body alcohol, drugs, or any combination thereof, a person's ability to safely operate a motor vehicle has been lessened---to---the---slightest---degree (3)(4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol, the concentration of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give rise to the following presumptions: (a) If there was at that time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol. (b) If there was at that time an alcohol concentration in excess of 0.05 but less than 0.10, that fact shall not give rise to any presumption that the person was or was not

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guilt or innocence of the person.

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THIRD READING

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

f(4)(5) The provisions of subsection (3) (4) do not
limit the introduction of any other competent evidence
bearing upon the issue of whether the person was under the
influence of alcohol.

9 (5)(6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, 10 11 and subsections (1) through (4) (5) of this section, with 12 the word "state" in 61-8-406 and subsection (1) of this section changed to read "municipality", as an ordinance and 13 14 is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties therein 15 16 provided."

17 Section 2. Section 61-5-205, MCA, is amended to read: 18 "61-5-205. Mandatory revocation of license upon proper 19 authority. The department upon proper authority shall revoke 20 the license or operating privilege of any operator or 21 chauffeur upon receiving a record of such operator's or chauffeur's conviction or forfeiture of bail not vacated of 22 23 any of the following offenses, when such conviction or 24 forfeiture has become final:

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(1) negligent homicide resulting from the operation of

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1 a motor vehicle;

2 (2) driving a motor vehicle while under the influence 3 of alcohol or narcetic any drug-or-willfully-or-knowingly 4 under-the-influence-of-any-other--drug--to--a--degree--which 5 renders--him-incapable-of-safely-driving-a-motor-vehicle; or 6 a combination thereof, except as provided in 61-5-208, or 7 operation of a motor vehicle by a person with a blood 8 alcohol concentration of 0.10 or more;

9 (3) any felony in the commission of which a motor10 vehicle is used;

11 (4) failure to stop and render aid as required under 12 the laws of this state in the event of a motor vehicle 13 accident resulting in the death or personal injury of 14 another;

(5) perjury or the making of a false affidavit or
statement under oath to the department under this chapter or
under any other law relating to the ownership or operation
of motor vehicles;

19 (6) conviction or forfeiture of bail not vacated upon
20 three charges of reckless driving committed within a period
21 of 12 months."

Section 3. Section 61-5-208, MCA, is amended to read:
"61-5-208. Period of suspension or revocation. (1) The
department may not suspend or revoke a driver's license or
privilege to drive a motor vehicle on the public highways

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for a period of more than 1 year, except as permitted under
 61-5-207, 61-5-212, 61-6-123, and 61-11-211.

3 (2) Any person whose license or privilege to drive a motor vehicle on the public highways has been suspended or 4 revoked is not entitled to have such license or privilege 5 6 renewed or restored unless the revocation was for a cause 7 which has been removed, except that after the expiration of the period of such revocation or suspension, the person may 8 make application for a new license as provided by law but 9 the department may not then issue a new license unless and 10 until it is satisfied, after investigation of the driving 11 12 ability of the person and upon a showing by its records or 13 other sufficient evidence, that the person is eligible to be 14 licensed to drive in this state. When any person is convicted or forfeits bail or collateral not vacated for the 15 16 offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or a 17 narcotic any drug or--knowingly--or--willingly--under-the 18 influence-of-any-other-drug-to-a-degree--which--renders--him 19 incapable---of---safely---driving--a--motor--vehicle, or a 20 combination thereof, or for the offense of operation of a 21 motor vehicle by a person with alcohol concentration of 0.10 22 23 or more, the department shall, upon receiving a report of such conviction or forfeiture of bail or collateral not 24 25 vacated, suspend the license or driving privilege of the

person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of 1 year. (3) The period for all revocations made mandatory by

7 61-5-205 shall be 1 year except as provided in subsection 8 (2) of this section.

9 (4) The period of revocation for any person convicted 10 of any offense which makes mandatory the revocation of the 11 operator's or chauffeur's license commences from date of 12 conviction or forfeiture of bail."

NEW SECTION. Section 4. Extension of authority. Any existing authority of the department of justice to make rules on the subject of the provisions of this act is extended to the provisions of this act.

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1	HOUSE BILL NO. 163	1	of subsection (1) is or has been entitled to use alcohol or
2	INTRODUCED BY MERCER, SPAETH	2	such a drug under the laws of this state does not constitute
3		3	a defense against any charge of violating subsection (1).
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A DEFINITION	4	(3) "Under the influence" means that as a result of
5	OF "UNDER THE INFLUENCE" TO BE APPLIED IN CASES OF DRIVING	5	taking into the body alcohol, drugs, or any combination
6	UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; REPLACING THE	6	thereof, a person's ability to safely operate a motor
7	EXISTING STANDARD; AND AMENDING SECTIONS 61-5-205, 61-5-208,	7	vehicle has been tessenedtotheslightestdegree
8	AND 61-8-401, MCA."	8	APPRECIABLY DIMINISHED.
9		9	(3) (4) Upon the trial of any civil or criminal action
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10	or proceeding arising out of acts alleged to have been
11	Section 1. Section 61-8-401, MCA, is amended to read:	11	committed by any person driving or in actual physical
12	"61-8-401. Persons under the influence of alcohol or	12	control of a vehicle while under the influence of alcohol,
13	drugs. (1) It is unlawful and punishable as provided in	13	the concentration of alcohol in the person's blood at the
14	61-8-714 for any person who is under the influence of:	14	time alleged, as shown by chemical analysis of the person's
15	(a) alcohol to drive or be in actual physical control	15	blood, urine, breath, or other bodily substance, shall give
16	of a vehicle upon the ways of this state open to the public;	16	rise to the following presumptions:
17	(b) a narcotic drug to drive or be in actual physical	17	(a) If there was at that time an alcohol concentration
18	control of a vehicle within this state;	18	of 0.05 or less, it shall be presumed that the person was
19	(c) any other drug toadegreewhichrendershim	19	not under the influence of alcohol.
20	incapableofsafelydrivingavehicle to drive or be in	20	(b) If there was at that time an alcohol concentration
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22	(d) alcohol and any drug to-a-degree-that-renders-him	22	give rise to any presumption that the person was or was not
23	incapable-of-safely-driving-a-vehicle to drive or be in	23	under the influence of alcohol but such fact may be
24	actual physical control of a vehicle within this state.	24	considered with other competent evidence in determining the
25	(2) The fact that any person charged with a violation	25	guilt or innocence of the person.



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

5 (4)(5) The provisions of subsection (3) (4) do not
6 limit the introduction of any other competent evidence
7 bearing upon the issue of whether the person was under the
8 influence of alcohol.

9 (5)(6) Each municipality in this state is given 10 authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, 11 and subsections (1) through (4) (5) of this section, with the word "state" in 61-8-406 and subsection (1) of this 12 13 section changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance 14 and of the imposition of the fines and penalties therein 15 provided." 16

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25 (1) negligent homicide resulting from the operation of

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1 a motor vehicle;

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9 (3) any felony in the commission of which a motor10 vehicle is used;

11 (4) failure to stop and render aid as required under 12 the laws of this state in the event of a motor vehicle 13 accident resulting in the death or personal injury of 14 another;

15 (5) perjury or the making of a false affidavit or 16 statement under oath to the department under this chapter or 17 under any other law relating to the ownership or operation 18 of motor vehicles;

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Section 3. Section 61-5-208, MCA, is amended to read:
"61-5-208. Period of suspension or revocation. (1) The
department may not suspend or revoke a driver's license or
privilege to drive a motor vehicle on the public highways

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1 for a period of more than 1 year, except as permitted under 2 61-5-207, 61-5-212, 61-6-123, and 61-11-211.

3 (2) Any person whose license or privilege to drive a 4 motor vehicle on the public highways has been suspended or 5 revoked is not entitled to have such license or privilege 6 renewed or restored unless the revocation was for a cause 7 which has been removed, except that after the expiration of 8 the period of such revocation or suspension, the person may 9 make application for a new license as provided by law but 10 the department may not then issue a new license unless and 11 until it is satisfied, after investigation of the driving 12 ability of the person and upon a showing by its records or 13 other sufficient evidence, that the person is eligible to be licensed to drive in this state. When any person is 14 15 convicted or forfeits bail or collateral not vacated for the offense of operating or being in actual physical control of 16 17 a motor vehicle while under the influence of alcohol or a narcotic any drug or--knowingly--or--willingly--under-the 18 19 influence-of-any-other-drug-to-a-degree--which--renders--him incapable---of---safely---driving--a--motor--vehicle; or a 20 21 combination thereof τ or for the offense of operation of a 22 motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of 23 such conviction or forfeiture of bail or collateral not 24 vacated, suspend the license or driving privilege of the 25

person for a period of 6 months. Upon receiving a report of 1 a conviction or forfeiture of bail or collateral for a 2 3 second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the license or 4 5 driving privilege of the person for a period of 1 year. (3) The period for all revocations made mandatory by 6 7 61-5-205 shall be 1 year except as provided in subsection 8 (2) of this section. 9 (4) The period of revocation for any person convicted 10 of any offense which makes mandatory the revocation of the

11 operator's or chauffeur's license commences from date of 12 conviction or forfeiture of bail." 13 NEW SECTION. Section 4. Extension of subherity law

<u>NEW SECTION.</u> Section 4. Extension of authority. Any
 existing authority of the department of justice to make
 rules on the subject of the provisions of this act is
 extended to the provisions of this act.

-End-

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STANDING COMMITTEE REPORT

	March 13	19 ⁸⁷
MR. PRESIDENT		
SENATE JUDICIARY We, your committee on		
having had under consideration	HOUSE BILL	NoXXX 163
Third reading copy (blue) color		
Providing definition of "under the influence" Mercer (Crippen)	; replacing exist	ting standard.
Respectfully report as follows: That	HOUSE BILL	163 No
Be amended as follows:		
1. Page 2, line 7. Following: " <u>degree</u> " Insert: "appreciably"		



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AND AS AMENDED BE CONCURRED IN

Senator MXXMXXX Mazurek Chairman.

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	CUNFERENCE COMMITTEE REPORT	Report	No	One	
			4 <u>- 9</u>	19	9.87
MR. SPEAI	KER				
We, you	ur	Con	ference	e Comr	nittee on
	HB 163				
met and co	onsidered Senate Committee on Judiciary amendm		to	the	third
	reading copy, dated March 13, 1987.				
				<u>_</u>	
				<u>.</u>	
			· • • • •		<u></u>
We recomm	mend as follows:				
	163 That House Bill XERN, reference copy, be amende	d as	ind	icat	ed in
	the instructions.				
	1) Pg. 2, line 8. Strike: " <u>APPRECIABLY</u> "				

And that this Conference Committee report be adopted.

	FOR THE SENATE
2	Mr. Hally
ŝ V	Senator Halligan
1	Senator Bob Brown
-	Senator Yellowtail

FOR THE HOUSE

<u>nceR</u> Mercer р. Giao me tõ Brown Dave lep.

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1	HOUSE BILL NO. 163	1	of subsection (1) is or has been entitled to use alcohol or
2	INTRODUCED BY MERCER, SPAETE	2	such a drug under the laws of this state does not constitute
3		3	a defense against any charge of violating subsection (1).
4	A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A DEFINITION	4	(3) "Under the influence" means that as a result of
5	OF "UNDER THE INFLUENCE" TO BE APPLIED IN CASES OF DRIVING	5	taking into the body alcohol, drugs, or any combination
6	UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; REPLACING THE	6	thereof, a person's ability to safely operate a motor
7	EXISTING STANDARD; AND AMENDING SECTIONS 61-5-205, 61-5-208,	7	vehicle_has_been_lessenedtotheslightestdegree
8	AND 61-8-401, MCA."	8	APPRECIABLY DIMINISHED.
9		9	<pre>+3+(4) Upon the trial of any civil or criminal action</pre>
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	10	or proceeding arising out of acts alleged to have been
11	Section 1. Section $61-8-401$, MCA, is amended to read:	11	committed by any person driving or in actual physical
12	"61-8-401. Persons under the influence of alcohol or	12	control of a vehicle while under the influence of alcohol,
13	drugs. (1) It is unlawful and punishable as provided in	13	the concentration of alcohol in the person's blood at the
14	61-8-714 for any person who is under the influence of:	14	time alleged, as shown by chemical analysis of the person's
15	(a) alcohol to drive or be in actual physical control	15	blood, urine, breath, or other bodily substance, shall give
16	of a vehicle upon the ways of this state open to the public;	16	rise to the following presumptions:
17	(b) a narcotic drug to drive or be in actual physical	17	(a) If there was at that time an alcohol concentration
18	control of a vehicle within this state;	18	of 0.05 or less, it shall be presumed that the person was
19	(c) any other drug tomdegreewhichrendermhim	· 19	not under the influence of alcohol.
20	incapableofsafelydrivingavehicle to drive or be in	20	(b) If there was at that time an alcohol concentration
21	actual physical control of a vehicle within this state; or	21	in excess of 0.05 but less than 0.10, that fact shall not
22	(d) alcohol and any drug to-a-degree-that-renders-him	22	give rise to any presumption that the person was or was not
23	incapable-of-safely-driving-a-vehicle to drive or be in	23	under the influence of alcohol but such fact may be
24	actual physical control of a vehicle within this state.	24	considered with other competent evidence in determining the
25	(2) The fact that any person charged with a violation	25	guilt or innocence of the person.
			-2- HB 163 Includes conference committee report dated <u>4-9-89</u>

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

5 (4)(5) The provisions of subsection (3)(4) do not 6 limit the introduction of any other competent evidence 7 bearing upon the issue of whether the person was under the 8 influence of alcohol.

9 (5)(6) Each municipality in this state is given 10 authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722, and subsections (1) through (4) (5) of this section, with 11 the word "state" in 61-8-406 and subsection (1) of this 12 section changed to read "municipality", as an ordinance and 13 is given jurisdiction of the enforcement of the ordinance 14 and of the imposition of the fines and penalties therein 15 provided." 16

17 Section 2. Section 61-5-205, MCA, is amended to read: "61-5-205. Mandatory revocation of license upon proper 18 authority. The department upon proper authority shall revoke 19 the license or operating privilege of any operator or 20 chauffeur upon receiving a record of such operator's or 21 chauffeur's conviction or forfeiture of bail not vacated of 22 any of the following offenses, when such conviction or 23 24 forfeiture has become final:

25 (1) negligent homicide resulting from the operation of

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1 a motor vehicle;

(2) driving a motor vehicle while under the influence
of alcohol or nareotic any drugy-or-willfully-or-knowingly
under-the-influence-of-any-other--drug--to--a--degree--which
renders--him-incapable-of-safely-driving-a-motor-vehicler or
a combination thereof, except as provided in 61-5-208, or
operation of a motor vehicle by a person with a blood
alcohol concentration of 0.10 or more;

9 (3) any felony in the commission of which a motor10 vehicle is used;

11 (4) failure to stop and render aid as required under 12 the laws of this state in the event of a motor vehicle 13 accident resulting in the death or personal injury of 14 another;

15 (5) perjury or the making of a false affidavit or
16 statement under oath to the department under this chapter or
17 under any other law relating to the ownership or operation
18 of motor vehicles;

19 (6) conviction or forfeiture of bail not vacated upon
20 three charges of reckless driving committed within a period
21 of 12 months."

Section 3. Section 61-5-208, MCA, is amended to read:
"61-5-208. Period of suspension or revocation. (1) The
department may not suspend or revoke a driver's license or
privilege to drive a motor vehicle on the public highways

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for a period of more than 1 year, except as permitted under

2 61-5-207, 61-5-212, 61-6-123, and 61-11-211.

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person for a period of 6 months. Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, third, or subsequent offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of 1 year.

6 (3) The period for all revocations made mandatory by
7 61-5-205 shall be 1 year except as provided in subsection
8 (2) of this section.

9 (4) The period of revocation for any person convicted 10 of any offense which makes mandatory the revocation of the 11 operator's or chauffeur's license commences from date of 12 conviction or forfeiture of bail."

NEW SECTION. Section 4. Extension of authority. Any
existing authority of the department of justice to make
rules on the subject of the provisions of this act is
extended to the provisions of this act.

-End-

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