

HOUSE BILL NO. 163
INTRODUCED BY MERCER, SPAETH

IN THE HOUSE

JANUARY 13, 1987 INTRODUCED AND REFERRED TO COMMITTEE
 ON JUDICIARY.

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 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 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.

1 HB BILL NO. 163
2 INTRODUCED BY Maceo Spacht

3
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 ~~to--a--degree--which--renders--him~~
20 ~~incapable--of--safely--driving--a--vehicte~~ to drive or be in
21 actual physical control of a vehicle within this state; or

22 (d) alcohol and any drug ~~to-a-degree-that-renders-him~~
23 ~~incapable-of-safely-driving-a-vehicte~~ 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

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 lessened to the slightest degree.

8 ~~(3)~~(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



1 of 0.10 or more, it shall be presumed that the person was
2 under the influence of alcohol. Such presumption is
3 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 ~~(5)~~(6) Each municipality in this state is given
9 authority to enact 61-8-406, 61-8-408, 61-8-714, 61-8-722,
10 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 Section 2. Section 61-5-205, MCA, is amended to read:

17 "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 forfeiture has become final:

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

1 (2) driving a motor vehicle while under the influence
2 of alcohol or narcotic any drug; ~~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 motor
9 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."

21 Section 3. Section 61-5-208, MCA, is amended to read:

22 "61-5-208. Period of suspension or revocation. (1) The
23 department may not suspend or revoke a driver's license or
24 privilege to drive a motor vehicle on the public highways
25 for a period of more than 1 year, except as permitted under

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
 5 renewed or restored unless the revocation was for a cause
 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
 10 until it is satisfied, after investigation of the driving
 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
 14 convicted or forfeits bail or collateral not vacated for the
 15 offense of operating or being in actual physical control of
 16 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 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 second, third, or subsequent offense within 5 years of the
 3 first offense, the department shall revoke the license or
 4 driving privilege of the person for a period of 1 year.

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 NEW SECTION. 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.

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

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 2 INTRODUCED BY MERCER, SPAETH
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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 ~~to--a--degree--which--renders--him~~
20 ~~incapable--of--safely--driving--a--vehicie~~ to drive or be in
21 actual physical control of a vehicle within this state; or

22 (d) alcohol and any drug ~~to-a-degree-that-renders-him~~
23 ~~incapable-of-safely-driving-a-vehicie~~ 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

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 lessened---to---the---slightest---degree
8 DIMINISHED.

9 {3}(4) Upon the trial of any civil or criminal action
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 considered with other competent evidence in determining the
25 guilt or innocence of the person.



1 (c) If there was at that time an alcohol concentration
 2 of 0.10 or more, it shall be presumed that the person was
 3 under the influence of alcohol. Such presumption is
 4 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
 12 the word "state" in 61-8-406 and subsection (1) of this
 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
 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
 22 chauffeur's conviction or forfeiture of bail not vacated of
 23 any of the following offenses, when such conviction or
 24 forfeiture has become final:

25 (1) negligent homicide resulting from the operation of

1 a motor vehicle;

2 (2) driving a motor vehicle while under the influence
 3 of alcohol or narcotic 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 motor
 10 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."

22 Section 3. Section 61-5-208, MCA, is amended to read:

23 "61-5-208. Period of suspension or revocation. (1) The
 24 department may not suspend or revoke a driver's license or
 25 privilege to drive a motor vehicle on the public highways

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
14 licensed to drive in this state. When any person is
15 convicted or forfeits bail or collateral not vacated for the
16 offense of operating or being in actual physical control of
17 a motor vehicle while under the influence of alcohol or a
18 narcotic any drug or ~~knowingly--or--willingly--under--the~~
19 ~~influence--of--any--other--drug--to--a--degree--which--renders--him~~
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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

1 person for a period of 6 months. Upon receiving a report of
2 a conviction or forfeiture of bail or collateral for a
3 second, third, or subsequent offense within 5 years of the
4 first offense, the department shall revoke the license or
5 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 NEW SECTION. 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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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 to--a--degree--which--renders--him
20 incapable--of--safely--driving--a--vehicle to drive or be in
21 actual physical control of a vehicle within this state; or

22 (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

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 lessened---to---the---slightest---degree
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9 ~~(3)~~(4) Upon the trial of any civil or criminal action
10 or proceeding arising out of acts alleged to have been
11 committed by any person driving or in actual physical
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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 considered with other competent evidence in determining the
25 guilt or innocence of the person.

1 (c) If there was at that time an alcohol concentration
2 of 0.10 or more, it shall be presumed that the person was
3 under the influence of alcohol. Such presumption is
4 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
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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
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17 Section 2. Section 61-5-205, MCA, is amended to read:

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19 authority. The department upon proper authority shall revoke
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1 a motor vehicle;

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3 of alcohol or narcotic any drug, ~~or willfully or knowingly~~
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1 person for a period of 6 months. Upon receiving a report of
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14 time alleged, as shown by chemical analysis of the person's
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1 a motor vehicle;

2 (2) driving a motor vehicle while under the influence
 3 of alcohol or narcotic 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 motor
 10 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."

22 Section 3. Section 61-5-208, MCA, is amended to read:

23 "61-5-208. Period of suspension or revocation. (1) The
 24 department may not suspend or revoke a driver's license or
 25 privilege to drive a motor vehicle on the public highways

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
14 licensed to drive in this state. When any person is
15 convicted or forfeits bail or collateral not vacated for the
16 offense of operating or being in actual physical control of
17 a motor vehicle while under the influence of alcohol or a
18 narcotic 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

1 person for a period of 6 months. Upon receiving a report of
2 a conviction or forfeiture of bail or collateral for a
3 second, third, or subsequent offense within 5 years of the
4 first offense, the department shall revoke the license or
5 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 NEW SECTION. 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.

-End-

STANDING COMMITTEE REPORT

March 13 19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. XXX 163

Third reading copy (blue)
color

Providing definition of "under the influence"; replacing existing standard.
Mercer (Crippen)

Respectfully report as follows: That HOUSE BILL No. 163

Be amended as follows:

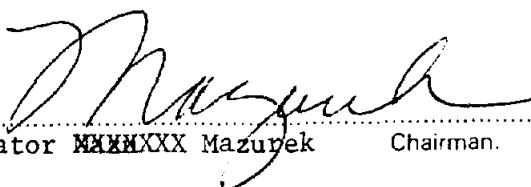
1. Page 2, line 7.
Following: "degree"
Insert: "appreciably"

~~XXXXXX~~

KMF

AND AS AMENDED
BE CONCURRED IN

~~XXXXXXXXXX~~


Senator ~~XXXXXXXX~~ Mazurek Chairman.

CONFERENCE COMMITTEE REPORT

Report No. One

4-9 19.87

MR. SPEAKER

We, your _____ Conference Committee on

HB 163

met and considered Senate Committee on Judiciary amendments to the third
reading copy, dated March 13, 1987.

We recommend as follows:

That House Bill ¹⁶³~~167~~, reference copy, be amended as indicated in
the instructions.

- 1) Pg. 2, line 8.
Strike: "APPRECIABLY"

And that this Conference Committee report be adopted.

FOR THE SENATE

[Signature]

Senator Halligan

[Signature]

Senator Bob Brown

[Signature]

Senator Yellowtail

FOR THE HOUSE

[Signature]

Rep. Mercer

[Signature]

Rep. Glascometto

[Signature]

Rep. Dave Brown

ADOPT REJECT

SW

1 HOUSE BILL NO. 163

2 INTRODUCED BY MERCER, SPAETH

3
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 ~~to-a-degree-which-renders-him~~
20 ~~incapable-of-safely-driving-a-vehicle~~ to drive or be in
21 actual physical control of a vehicle within this state; or

22 (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

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 lessened---to---the---slightest---degree
8 APPRECIABLY DIMINISHED.

9 ~~(3)~~(4) Upon the trial of any civil or criminal action
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 considered with other competent evidence in determining the
25 guilt or innocence of the person.

1 (c) If there was at that time an alcohol concentration
 2 of 0.10 or more, it shall be presumed that the person was
 3 under the influence of alcohol. Such presumption is
 4 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
 12 the word "state" in 61-8-406 and subsection (1) of this
 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
 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
 22 chauffeur's conviction or forfeiture of bail not vacated of
 23 any of the following offenses, when such conviction or
 24 forfeiture has become final:

25 (1) negligent homicide resulting from the operation of

1 a motor vehicle;

2 (2) driving a motor vehicle while under the influence
 3 of alcohol or narcotic any drug, ~~or willfully or knowingly~~
 4 ~~under the influence of any other drug to a degree which~~
 5 ~~renders him incapable of safety 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 motor
 10 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;

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 16 statement under oath to the department under this chapter or
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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
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20 ~~incapable of safely driving a motor vehicle,~~ or a
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25 vacated, suspend the license or driving privilege of the

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3 second, third, or subsequent offense within 5 years of the
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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 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.

-End-