



IN THE HOUSE

MARCH 25, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 26, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

1 *House* BILL NO. 546  
 2 INTRODUCED BY *[Signature]*  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE  
 5 DEFINITION OF ABSOLUTE LIABILITY; TO PROVIDE IMPOSITION OF  
 6 ABSOLUTE LIABILITY FOR PERSONS CONVICTED OF DRIVING WHILE  
 7 UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; AND AMENDING  
 8 SECTIONS 45-2-104, 61-8-401, AND 61-8-406, MCA."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 45-2-104, MCA, is amended to read:

12 "45-2-104. Absolute liability. A person may be guilty  
 13 of an offense without having, as to each element thereof,  
 14 one of the mental states described in subsections (33),  
 15 (37), and (58) of 45-2-101 only if the offense is punishable  
 16 by a fine not exceeding \$500 and or the statute defining the  
 17 offense clearly indicates a legislative purpose to impose  
 18 absolute liability for the conduct described."

19 Section 2. Section 61-8-401, MCA, is amended to read:

20 "61-8-401. Persons under the influence of alcohol or  
 21 drugs. (1) It is unlawful and punishable as provided in  
 22 61-8-714 for any person who is under the influence of:

23 (a) alcohol to drive or be in actual physical control  
 24 of a vehicle upon the ways of this state open to the public;

25 (b) a narcotic drug to drive or be in actual physical

1 control of a vehicle within this state;

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

5 (d) alcohol and any drug to a degree that renders him  
 6 incapable of safely driving a vehicle to drive or be in  
 7 actual physical control of a vehicle within this state.

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

12 (3) Upon the trial of any civil or criminal action or  
 13 proceeding arising out of acts alleged to have been  
 14 committed by any person driving or in actual physical  
 15 control of a vehicle while under the influence of alcohol,  
 16 the concentration of alcohol in the person's blood at the  
 17 time alleged, as shown by chemical analysis of the person's  
 18 blood, urine, breath, or other bodily substance, shall give  
 19 rise to the following presumptions:

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

23 (b) If there was at that time an alcohol concentration  
 24 in excess of 0.05 but less than 0.10, that fact shall not  
 25 give rise to any presumption that the person was or was not



1 under the influence of alcohol but such fact may be  
 2 considered with other competent evidence in determining the  
 3 guilt or innocence of the person.

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

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

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

19 (6) Absolute liability will be imposed for a violation  
 20 of this section."

21 Section 3. Section 61-8-406, MCA, is amended to read:

22 "61-8-406. Operation of vehicle by a person with  
 23 alcohol concentration of 0.10 or more. It is unlawful and  
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 25 or be in actual physical control of a vehicle upon the ways

1 of this state open to the public while the alcohol  
 2 concentration in his blood, breath, or urine is 0.10 or  
 3 more. Absolute liability will be imposed for a violation of  
 4 this section."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 546  
INTRODUCED BY FRITZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO MODIFY THE  
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control of a vehicle within this state;

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(2) The fact that any person charged with a violation  
of subsection (1) is or has been entitled to use alcohol or  
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a defense against any charge of violating subsection (1).

(3) 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  
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(a) If there was at that time an alcohol concentration  
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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



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 4 more. Absolute liability AS PROVIDED IN 45-2-104 will be  
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-End-

# STANDING COMMITTEE REPORT

March 13

19 87

MR. PRESIDENT

We, your committee on SENATE JUDICIARY

having had under consideration HOUSE BILL No. ~~XXX~~ 546

Third reading copy ( blue )  
color

Modify absolute liability definition Apply to DUI offenses.  
Fritz (Halligan)

Respectfully report as follows: That HOUSE BILL No. 546

be amended as follows:

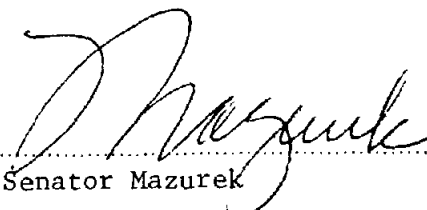
1. Page 1, lines 16 and 17.  
Following: "\$500" on line 16  
Strike: the remainder of line 16 through "AND" on line 17  
Insert: "or"
2. Page 3, line 20.  
Following: "liability"  
Insert: "as provided in 45-2-104"
3. Page 4, line 4.  
Following: "liability"  
Insert: "as provided in 45-2-104"

~~DO PASS~~

~~DO NOT PASS~~

AND AS AMENDED  
BE CONCURRED IN

*MPK*

  
Senator Mazurek

Chairman.