

HOUSE BILL NO. 495  
INTRODUCED BY STRIZICH, DARKO, CONNELLY

IN THE HOUSE

JANUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 30, 1989	FIRST READING.
FEBRUARY 15, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 16, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS AS AMENDED.
FEBRUARY 20, 1989	ENGROSSING REPORT.
FEBRUARY 21, 1989	THIRD READING, PASSED. AYES, 87; NOES, 8.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 17, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 18, 1989	SECOND READING, PASS CONSIDERATION.
MARCH 20, 1989	SECOND READING, CONCURRED IN AS AMENDED.
MARCH 22, 1989	THIRD READING, CONCURRED IN. AYES, 42; NOES, 7.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 31, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

APRIL 1, 1989

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 495  
2 INTRODUCED BY Mr. Marko Connolly  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT FOR THE  
5 OFFENSE OF UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE  
6 BY A PERSON UNDER 21 YEARS OF AGE TO BE COMMITTED, THE  
7 PERSON NEED NOT BE IN POSSESSION OF THE SUBSTANCE AT THE  
8 TIME OF ARREST; PROVIDING THAT CONSUMPTION OR ACCEPTANCE OF  
9 THE SUBSTANCE CONSTITUTES POSSESSION; AND AMENDING SECTION  
10 45-5-624, MCA."

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

13 **Section 1.** 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 21 commits the  
20 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. The person need not be in possession  
25 of the intoxicating substance at the time of his arrest to

1 violate this section. It is sufficient if it is proved that  
2 he possessed the intoxicating substance at some time prior  
3 to his arrest. Evidence that he consumed the intoxicating  
4 substance or accepted it from another person is evidence of  
5 possession.

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

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

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

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

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

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

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1 court, the offender shall be treated as an alleged youth in  
2 need of supervision as defined in 41-5-103. ~~in--such--case,~~  
3 the The youth court may enter its judgment under 41-5-523.  
4 (4) A person commits the offense of interference with  
5 a sentence or court order if he purposely or knowingly  
6 causes his child or ward to fail to comply with a sentence  
7 imposed under this section or a youth court disposition  
8 order for a youth found to have violated this section and  
9 upon conviction shall be fined \$100 or imprisoned in the  
10 county jail for 10 days, or both."

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

## HOUSE BILL NO. 495

INTRODUCED BY STRIZICH, DARKO, CONNELLY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT FOR THE OFFENSE OF UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE BY A PERSON UNDER 21 YEARS OF AGE TO BE COMMITTED, THE PERSON NEED NOT BE IN POSSESSION OF THE SUBSTANCE AT THE TIME OF ARREST; PROVIDING THAT CONSUMPTION OR ACCEPTANCE OF THE SUBSTANCE CONSTITUTES POSSESSION; AND AMENDING SECTION 45-5-624, MCA."

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

**Section 1.** Section 45-5-624, MCA, is amended to read:

"45-5-624. Unlawful possession of an intoxicating substance -- interference with sentence or court order. (1) A person under the age of 18 years commits the offense of possession of an intoxicating substance if he knowingly CONSUMES OR has in his possession an intoxicating substance other than an alcoholic beverage. A person under the age of 21 commits the offense of possession of an intoxicating substance if he knowingly CONSUMES OR has in his possession an alcoholic beverage, except that he does not commit the offense IF HE CONSUMES OR GAINS POSSESSION OF THE BEVERAGE BECAUSE IT WAS LAWFULLY SUPPLIED TO HIM UNDER 16-6-305 OR when in the course of his employment it is necessary to

possess alcoholic beverages. The person need not be CONSUMING OR in possession of the intoxicating substance at the time of his arrest to violate this section. It is sufficient if it is proved that he possessed the intoxicating substance at some time prior to his arrest. Evidence that he consumed the intoxicating substance or accepted it from another person is evidence of possession.

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

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

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

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

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

(3) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when he failed to comply must be transferred to the youth court. If proceedings for violation of subsection (1) are held in the youth court, the penalties in subsection (2) do

1 not apply. If proceedings for violation of subsection (1) or  
2 for failure to comply with a sentence are held in the youth  
3 court, the offender shall be treated as an alleged youth in  
4 need of supervision as defined in 41-5-103. ~~In such case,~~  
5 ~~the~~ The youth court may enter its judgment under 41-5-523.  
6 (4) A person commits the offense of interference with  
7 a sentence or court order if he purposely or knowingly  
8 causes his child or ward to fail to comply with a sentence  
9 imposed under this section or a youth court disposition  
10 order for a youth found to have violated this section and  
11 upon conviction shall be fined \$100 or imprisoned in the  
12 county jail for 10 days, or both."

-End-

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INTRODUCED BY STRIZICH, DARKO, CONNELLY

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT FOR THE OFFENSE OF UNLAWFUL POSSESSION OF AN INTOXICATING SUBSTANCE BY A PERSON UNDER 21 YEARS OF AGE TO BE COMMITTED, THE PERSON NEED NOT BE IN POSSESSION OF THE SUBSTANCE AT THE TIME OF ARREST; PROVIDING THAT CONSUMPTION OR ACCEPTANCE OF THE SUBSTANCE CONSTITUTES POSSESSION FOR A PERSON UNDER THE AGE OF 18; AND AMENDING SECTION 45-5-624, MCA."

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

**Section 1.** Section 45-5-624, MCA, is amended to read:

"45-5-624. Unlawful possession of an intoxicating substance -- interference with sentence or court order. (1) A person under the age of 18 years commits the offense of possession of an intoxicating substance if he knowingly CONSUMES OR has in his possession an intoxicating substance ~~other--than-an-alcoholic-beverage~~. A person under the age of 21 commits the offense of possession of an intoxicating substance if he knowingly CONSUMES OR has in his possession an alcoholic beverage, except that he does not commit the offense IF HE CONSUMES OR GAINS POSSESSION OF THE BEVERAGE BECAUSE IT WAS LAWFULLY SUPPLIED TO HIM UNDER 16-6-305 OR when in the course of his employment it is necessary to

possess alcoholic beverages. The person need not be CONSUMING OR in possession of the intoxicating substance at the time of his arrest to violate this section. It--is sufficient---if---it---is---proved--that--he--possessed--the intoxicating-substance-at-some-time-prior--to--his--arrest. Evidence--that--he--consumed--the--intoxicating-substance-or accepted-it-from-another-person-is-evidence--of--possession.

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

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

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

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

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

(3) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age when he failed to comply must be transferred to the youth court. If proceedings for violation of subsection (1) are held in the youth court, the penalties in subsection (2) do

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1 not apply. If proceedings for violation of subsection (1) or  
2 for failure to comply with a sentence are held in the youth  
3 court, the offender shall be treated as an alleged youth in  
4 need of supervision as defined in 41-5-103. ~~in such case,~~  
5 ~~the~~ The youth court may enter its judgment under 41-5-523.  
6 (4) A person commits the offense of interference with  
7 a sentence or court order if he purposely or knowingly  
8 causes his child or ward to fail to comply with a sentence  
9 imposed under this section or a youth court disposition  
10 order for a youth found to have violated this section and  
11 upon conviction shall be fined \$100 or imprisoned in the  
12 county jail for 10 days, or both."

-End-



SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 20, 1989 3:20 pm

Mr. Chairman: I move to amend HB 495 (third reading copy -- blue)  
as follows:

1. Title, line 10.

Strike: "18"

Insert: "19"

2. Page 1, line 15.

Following: "(1)"

Insert: "(a)"

3. Page 1, line 16.

Strike: "18"

Insert: "19"

4. Page 1, line 19.

Following: "~~beverage.~~"

Insert: "The person need not be consuming or in possession of the  
intoxicating substance at the time of his arrest to violate  
this subsection.

(b)"

5. Page 2, lines 1 through 3.

Following: "beverages." on line 1

Strike: remainder of line 1 through "section."

ADOPT

REJECT

Signed: \_\_\_\_\_

  
Senator Halligan

SENATE  
HB 495

## 1 HOUSE BILL NO. 495

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT FOR THE  
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8 TIME OF ARREST; PROVIDING THAT CONSUMPTION OR ACCEPTANCE OF  
9 THE SUBSTANCE CONSTITUTES POSSESSION FOR A PERSON UNDER THE  
10 AGE OF 18 19; AND AMENDING SECTION 45-5-624, MCA."

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13 Section 1. 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.

16 (1) (A) A person under the age of 18 19 years commits the  
17 offense of possession of an intoxicating substance if he  
18 knowingly CONSUMES OR has in his possession an intoxicating  
19 substance ~~other than an alcoholic beverage~~. THE PERSON NEED  
20 NOT BE CONSUMING OR IN POSSESSION OF THE INTOXICATING  
21 SUBSTANCE AT THE TIME OF HIS ARREST TO VIOLATE THIS  
22 SUBSECTION.

23 (B) A person under the age of 21 commits the offense  
24 of possession of an intoxicating substance if he knowingly  
25 CONSUMES--OR has in his possession an alcoholic beverage,

1 except that he does not commit the offense IF HE CONSUMES OR  
2 GAINS POSSESSION OF THE BEVERAGE BECAUSE IT WAS LAWFULLY  
3 SUPPLIED TO HIM UNDER 16-6-305 OR when in the course of his  
4 employment it is necessary to possess alcoholic beverages.  
5 ~~The person need not be consuming or in possession of the~~  
6 ~~intoxicating substance at the time of his arrest to violate~~  
7 ~~this section. It is sufficient if it is proved that he~~  
8 ~~possessed the intoxicating substance at some time prior to~~  
9 ~~his arrest. Evidence that he consumed the intoxicating~~  
10 ~~substance or accepted it from another person is evidence of~~  
11 ~~possession.~~

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

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

15 (b) be ordered to complete and, if financially able,  
16 pay all costs of his participation in a community-based  
17 substance abuse information course;18 (c) have his driver's license confiscated by the court  
19 for not more than 90 days and be ordered not to drive during  
20 that period if he was driving or otherwise in actual  
21 physical control of a motor vehicle when the offense  
22 occurred; or23 (d) be sentenced to any combination of these  
24 penalties.

25 (3) A defendant who fails to comply with a sentence

1 and is under 21 years of age and was under 18 years of age  
2 when he failed to comply must be transferred to the youth  
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4 held in the youth court, the penalties in subsection (2) do  
5 not apply. If proceedings for violation of subsection (1) or  
6 for failure to comply with a sentence are held in the youth  
7 court, the offender shall be treated as an alleged youth in  
8 need of supervision as defined in 41-5-103. ~~in-such-case,~~  
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11 a sentence or court order if he purposely or knowingly  
12 causes his child or ward to fail to comply with a sentence  
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14 order for a youth found to have violated this section and  
15 upon conviction shall be fined \$100 or imprisoned in the  
16 county jail for 10 days, or both."

-End-