HOUSE BILL NO. 606

INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK, HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY

IN THE HOUSE

FEBRUARY 8, 1989 INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.

FIRST READING.

- FEBRUARY 16, 1989 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 17, 1989 PRINTING REPORT.
- FEBRUARY 18, 1989 SECOND READING, DO PASS.
- FEBRUARY 20, 1989 ENGROSSING REPORT.
- FEBRUARY 21, 1989 THIRD READING, PASSED. AYES, 75; NOES, 19.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 28, 1989

MARCH 17, 1989

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FIRST READING.

ON JUDICIARY.

COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.

INTRODUCED AND REFERRED TO COMMITTEE

MARCH 20, 1989 SECOND READING, CONCURRED IN.

MARCH 22, 1989 THIRD READING, CONCURRED IN. AYES, 38; NOES, 11.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 22, 1989 RECEIVED FROM SENATE.

SENT TO ENROLLING.

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REPORTED CORRECTLY ENROLLED.

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SECTIONS

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HAUSE BILL NO. 604

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PARENT,

GUARDIAN, AND CERTAIN OTHER ADULTS TO LEGALLY PROVIDE

NONINTOXICATING AMOUNTS OF ALCOHOL TO A PERSON UNDER 21

YEARS OF AGE; TO MAKE THE PROVIDER OF AN INTOXICATING

QUANTITY OF ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE

SUBJECT TO CIVIL LIABILITY FOR TORTIOUS ACTS COMMITTED BY

16-6-305, 27-1-710, 45-5-622, 45-5-623, AND 61-8-407, MCA."

Section 1. Section 16-6-305, MCA, is amended to read:

*16-6-305. Age limit for sale or provision of

alcoholic beverages -- liability of provider. (1) (a) Except

in the case of an alcoholic beverage given provided in a

nonintoxicating guantity to a person under 21 years of age

by his parent or quardian, for--beverage--or--medicinal

purposes--or-administered-to-him-by-his physician or dentist

for medicinal purposes, or-sold--to--him--by a vendor--or

druggist licensed pharmacist upon the prescription of a

physician, or an ordained minister or priest in connection

with a religious observance, no a person shall may not sell,

giver or otherwise supply provide an alcoholic beverage to

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

THE PERSON WHILE INTOXICATED; AND AMENDING

INTRODUCED BY

any a person under 21 years of age or--permit--any--person 1 2 under-that-age-to-consume-an-alcoholic-beverage. 3 (b) A parent, quardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in 4 5 an intoxicating guantity to a person under 21 years of age. (c) For the purposes of this section, "intoxicating 6 quantity" means a quantity of an alcoholic beverage that is 7 sufficient to produce: 8 (i) a blood, breath, or urine alcohol concentration in 9 excess of 0.05; or 10 (ii) substantial or visible mental or physical 11 12 impairment. 13 (2) Any person shall-be is guilty of a misdemeanor 14 who: (a) invites a person under the age of 21 years into a 15 public place where an alcoholic beverage is sold and treats, 16 17 gives, or purchases an alcoholic beverage for such the 18 person; 19 (b) permits such the person in a public place where an alcoholic beverage is sold to treat, give, or purchase 20 21 alcoholic beverages for him; or 22 (c) holds out such the person to be 21 years of age or older to the owner of the establishment or his or her 23 employee or employees. 24 (3) It is unlawful for any person to fraudulently 25

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misrepresent his or her age to any dispenser of alcoholic
 beverages or to falsely procure any identification card or
 to alter any of the statements contained in any
 identification card.

(4) A person 21 years of age or older who violates the 5 provisions of subsection (1)(b) is, in addition to 6 7 applicable criminal penalties, subject to civil liability 8 for damages resulting from a tortious act committed by the 9 person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the 10 11 result of the intoxicated condition created by the violation." 12

13 Section 2. Section 27-1-710, MCA, is amended to read: 14 *27-1-710. Civil liability for injuries involving 15 alcohol consumption. (1) The purpose of this section is to 16 set statutory criteria governing the liability of a person 17 or entity that furnishes an alcoholic beverage for injury or 18 damage arising from an event involving the person who 19 consumed the beverage.

(2) A Except as provided in 16-6-305, a person or
entity furnishing an alcoholic beverage may not be found
liable for injury or damage arising from an event involving
the consumer wholly or partially on the basis of a provision
or a violation of a provision of Title 16.

25 (3) Furnishing a person with an alcoholic beverage is

not a cause of, or grounds for finding the furnishing person
 or entity liable for, injury or damage wholly or partly
 arising from an event involving the person who consumed the
 beverage unless:

5 (a) the consumer was under the legal drinking age and 6 the furnishing person knew that the consumer was underage or 7 did not make a reasonable attempt to determine the 8 consumer's age;

9 (b) the consumer was visibly intoxicated; or

10 (c) the furnishing person forced or coerced the 11 consumption or told the consumer that the beverage contained 12 no alcohol."

13 Section 3. Section 45-5-622, MCA, is amended to read: 14 "45-5-622. Endangering the welfare of children. (1) A 15 parent, guardian, or other person supervising the welfare of 16 a child less than 18 years old commits the offense of 17 endangering the welfare of children if he knowingly 18 endangers the child's welfare by violating a duty of care, 19 protection, or support.

(2) A Except as provided in 16-6-305, a parent or
guardian or any person who is 18 years of age or older,
whether or not he is supervising the welfare of the child,
commits the offense of endangering the welfare of children
if he knowingly contributes to the delinquency of a child
less than:

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levied or any bond forfeited upon a charge of endangering 1 (a) 18 years old by: 1 2 (i) supplying or encouraging the use of the welfare of children paid to or for the benefit of the 2 an intoxicating substances substance by the child; or persons whose welfare the defendant has 3 person or 3 (ii) assisting, promoting, or encouraging the child to endangered." 4 4 enter a place of prostitution; or 5 5 Section 4. Section 45-5-623, MCA, is amended to read: (b) 16 years old by assisting, promoting, or 6 "45-5-623. Unlawful transactions with children. (1) A 6 7 encouraging the child to: Except as provided for in 16-6-305, a person commits the 7 8 (i) abandon his place of residence without the consent offense of unlawful transactions with children if he 8 9 of his parents or quardian; or 9 knowingly: (ii) engage in sexual conduct. 10 10 (a) sells or gives explosives to a child under the age 11 (3) A person convicted of endangering the welfare of 11 of majority except as authorized under appropriate city children shall be fined not to exceed \$500 or imprisoned in 12 12 ordinances; the county jail for any term not to exceed 6 months, or 13 (b) sells or gives intoxicating substances other than 13 both. A person convicted of a second offense of endangering 14 alcoholic beverages to a child under the age of majority; 14 15 the welfare of children shall be fined not to exceed \$1,000 (c) sells or gives an alcoholic beverages beverage to 15 or imprisoned in the county jail for any term not to exceed 16 a person under 21 years of age; or 16 6 months, or both. 17 (d) being a junk dealer, pawnbroker, or secondhand 17 18 (4) On the issue of whether there has been a violation 18 dealer, receives or purchases goods from a child under the 19 of the duty of care, protection, and support, the following, age of majority without authorization of the parent or 19 in addition to all other admissible evidence, is admissible: 20 20 quardian. 21 cruel treatment; abuse; infliction of unnecessary and cruel (2) A person convicted of the offense of unlawful 21 22 punishment; abandonment; neglect; lack of proper medical transactions with children shall be fined not to exceed \$500 22 care, clothing, shelter, and food; and evidence of past 23 23 or be imprisoned in the county jail for any term not to 24 bodily injury. exceed 6 months, or both. A person convicted of a second 24

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25 (5) The court may order, in its discretion, any fine

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offense of unlawful transactions with children shall be

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1 fined not to exceed \$1,000 or be imprisoned in the county 2 jail for any term not to exceed 6 months, or both."

Section 5. Section 61-8-407, MCA, is amended to read: 3 "61-8-407. Definition of alcohol concentration. For 4 5 purposes of 16-6-305, 61-8-401, and 61-8-406, "alcohol 6 concentration" means either grams of alcohol per 100 7 milliliters of blood, grams of alcohol per 210 liters of 8 breath, or grams of alcohol per 75.3 milliliters of urine." 9 NEW SECTION. Section 6. Extension of authority. Any 10 existing authority to make rules on the subject of the 11 provisions of [this act] is extended to the provisions of 12 [this act].

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51st Legislature

HB 0606/02

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APPROVED BY COMMITTEE ON JUDICIARY

Montana Legislative Council

1	NOUSE BILL NO. 600
2	INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK,
3	HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PARENT,
6	GUARDIAN, AND CERTAIN OTHER ADULTS TO LEGALLY PROVIDE
7	NONINTOXICATING AMOUNTS OF ALCOHOL TO A PERSON UNDER 21
8	YEARS OF AGE; TO MAKE THE PROVIDER OF AN INTOXICATING
9	QUANTITY OF ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE
10	SUBJECT TO CIVIL LIABILITY FOR TORTIOUS ACTS COMMITTED BY
11	THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS
12	16-6-305, 27-1-710, 45-5-622, 45-5-623, <u>THROUGH 45-5-624</u> ,
13	AND 61-8-407, MCA."
14	
14 15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15 16	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-6-305, MCA, is amended to read:
15 16 17	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-6-305, MCA, is amended to read: *16-6-305. Age limit for sale <u>or provision</u> of
15 16 17 18	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-6-305, MCA, is amended to read: "16-6-305. Age limit for sale or provision of alcoholic beverages <u> liability of provider</u> . (1) (a) Except
15 16 17 18 19	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-6-305, MCA, is amended to read: "16-6-305. Age limit for sale or provision of alcoholic beverages <u> liability of provider</u> . (1) <u>(a)</u> Except in the case of an alcoholic beverage given provided in a
15 16 17 18 19 20	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-6-305, MCA, is amended to read: "16-6-305. Age limit for sale or provision of alcoholic beverages liability of provider. (1) (a) Except in the case of an alcoholic beverage given provided in a nonintoxicating quantity to a person under 21 years of age
15 16 17 18 19 20 21	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-6-305, MCA, is amended to read: "16-6-305. Age limit for sale or provision of alcoholic beverages liability of provider. (1) (a) Except in the case of an alcoholic beverage given provided in a nonintoxicating quantity to a person under 21 years of age by his parent or guardian, forbeverageormedicinal
15 16 17 18 19 20 21 22	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 16-6-305, MCA, is amended to read: "16-6-305. Age limit for sale or provision of alcoholic beverages liability of provider. (1) (a) Except in the case of an alcoholic beverage given provided in a nonintoxicating quantity to a person under 21 years of age by his parent or guardian, forbeverageormedicinal purposesor-administered-to-him-by-his physician or dentist

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with a religious observance, no a person shall may not selly 2 give, or otherwise supply provide an alcoholic beverage to 3 any a person under 21 years of age or-permit--any--person under-that-age-to-consume-an-alcoholic-beverage. 4 5 (b) A parent, quardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in 6 7 an intoxicating quantity to a person under 21 years of age. 8 (c) For the purposes of this section, "intoxicating 9 quantity" means a quantity of an alcoholic beverage that is 10 sufficient to produce: 11 (i) a blood, breath, or urine alcohol concentration in 12 excess of 0.05; or 13 (ii) substantial or visible mental or physical 14 impairment. (2) Any person shall-be is guilty of a misdemeanor 15 16 who: 17 (a) invites a person under the age of 21 years into a 18 public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such the 19 20 person; 21 (b) permits such the person in a public place where an 22 alcoholic beverage is sold to treat, give, or purchase 23 alcoholic beverages for him; or 24 (c) holds out such the person to be 21 years of age or 25 older to the owner of the establishment or his or her

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SECOND READING

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1 employee or employees.

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2 (3) It is unlawful for any person to fraudulently 3 misrepresent his or her age to any dispenser of alcoholic 4 beverages or to falsely procure any identification card or 5 to alter any of the statements contained in any 6 identification card.

7 (4) A person 21 years of age or older who violates the provisions of subsection (1)(b) is, in addition to 8 applicable criminal penalties, subject to civil liability 9 10 for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or 11 12 provided if the act is judicially determined to be the result of the intoxicated condition created by the 13 14 violation."

Section 2. Section 27-1-710, MCA, is amended to read: "27-1-710. Civil liability for injuries involving alcohol consumption. (1) The purpose of this section is to set statutory criteria governing the liability of a person or entity that furnishes an alcoholic beverage for injury or damage arising from an event involving the person who consumed the beverage.

(2) A Except as provided in 16-6-305, a person or
entity furnishing an alcoholic beverage may not be found
liable for injury or damage arising from an event involving
the consumer wholly or partially on the basis of a provision

1 or a violation of a provision of Title 16.

2 (3) Furnishing a person with an alcoholic beverage is 3 not a cause of, or grounds for finding the furnishing person 4 or entity liable for, injury or damage wholly or partly 5 arising from an event involving the person who consumed the 6 beverage unless:

7 (a) the consumer was under the legal drinking age and
8 the furnishing person knew that the consumer was underage or
9 did not make a reasonable attempt to determine the
10 consumer's age;

11 (b) the consumer was visibly intoxicated; or

12 (c) the furnishing person forced or coerced the 13 consumption or told the consumer that the beverage contained 14 no alcohol."

15 Section 3. Section 45-5-622, MCA, is amended to read: 16 "45-5-622. Endangering the welfare of children. (1) A 17 parent, guardian, or other person supervising the welfare of 18 a child less than 18 years old commits the offense of 19 endangering the welfare of children if he knowingly 20 endangers the child's welfare by violating a duty of care, 21 protection, or support.

(2) A Except as provided in 16-6-305, a parent or
guardian or any person who is 18 years of age or older,
whether or not he is supervising the welfare of the child,
commits the offense of endangering the welfare of children

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if he knowingly contributes to the delinquency of a child 1 2 less than: (a) 18 years old by: 3 (i) supplying or encouraging the use of an 4 intoxicating substances substance by the child; or 5 (ii) assisting, promoting, or encouraging the child to 6 enter a place of prostitution; or 7 (b) 16 years old by assisting, promoting, or 8 9 encouraging the child to: (i) abandon his place of residence without the consent 10 of his parents or quardian; or 11 (ii) engage in sexual conduct. 12 (3) A person convicted of endangering the welfare of 13 children shall be fined not to exceed \$500 or imprisoned in 14 the county jail for any term not to exceed 6 months, or 15 both. A person convicted of a second offense of endangering 16 the welfare of children shall be fined not to exceed \$1,000 17 or imprisoned in the county jail for any term not to exceed 18 19 6 months, or both. (4) On the issue of whether there has been a violation 20 of the duty of care, protection, and support, the following, 21 22 in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel 23 24 punishment: abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past 25

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bodily injury.

2 (5) The court may order, in its discretion, any fine 3 levied or any bond forfeited upon a charge of endangering 4 the welfare of children paid to or for the benefit of the 5 person or persons whose welfare the defendant has 6 endangered."

Section 4. Section 45-5-623, MCA, is amended to read:
"45-5-623. Unlawful transactions with children. (1) A
Except as provided for in 16-6-305, a person commits the
offense of unlawful transactions with children if he
knowingly:

12 (a) sells or gives explosives to a child under the age 13 of majority except as authorized under appropriate city 14 ordinances;

(b) sells or gives intoxicating substances other thanalcoholic beverages to a child under the age of majority;

17 (c) sells or gives an alcoholic beverages beverage to
18 a person under 21 years of age; or

(d) being a junk dealer, pawnbroker, or secondhand
dealer, receives or purchases goods from a child under the
age of majority without authorization of the parent or
guardian.

23 (2) A person convicted of the offense of unlawful
24 transactions with children shall be fined not to exceed \$500
25 or be imprisoned in the county jail for any term not to

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exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be fined not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both."

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SECTION 5. SECTION 45-5-624, MCA, IS AMENDED TO READ:

*45-5-624. Unlawful possession of an intoxicating 6 7 substance -- interference with sentence or court order, (1) 8 A person under the age of 18 years commits the offense of 9 possession of an intoxicating substance if he knowingly has 10 in his possession an intoxicating substance other than an 11 alcoholic beverage. A person under the age of 21 commits the 12 offense of possession of an intoxicating substance if he 13 knowingly has in his possession an alcoholic beverage. except as provided in 16-6-305 and except that he does not 14 15 commit the offense when in the course of his employment it 16 is necessary to possess alcoholic beverages.

17 (2) A person convicted of the offense of possession of18 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

3 (d) be sentenced to any combination of these4 penalties.

(3) A defendant who fails to comply with a sentence 5 and is under 21 years of age and was under 18 years of age 6 when he failed to comply must be transferred to the youth 7 8 court. If proceedings for violation of subsection (1) are 9 held in the youth court, the penalties in subsection (2) do not apply. If proceedings for violation of subsection (1) or 10 for failure to comply with a sentence are held in the youth 11 12 court, the offender shall be treated as an alleged youth in need of supervision as defined in 41-5-103. In such case, 13 14 the youth court may enter its judgment under 41-5-523.

15 (4) A person commits the offense of interference with 16 a sentence or court order if he purposely or knowingly 17 causes his child or ward to fail to comply with a sentence 18 imposed under this section or a youth court disposition 19 order for a youth found to have violated this section and 20 upon conviction shall be fined \$100 or imprisoned in the 21 county jail for 10 days, or both."

Section 6. Section 61-8-407, MCA, is amended to read:
"61-8-407. Definition of alcohol concentration. For
purposes of <u>16-6-305</u>, 61-8-401, and 61-8-406, "alcohol
concentration" means either grams of alcohol per 100

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1 milliliters of blood, grams of alcohol per 210 liters of 2 breath, or grams of alcohol per 75.3 milliliters of urine." 3 <u>NEW SECTION.</u> Section 7. Extension of authority. Any 4 existing authority to make rules on the subject of the 5 provisions of [this act] is extended to the provisions of 6 [this act].

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1	HOUSE BILL NO. 606	1	with a religious observance, no a person shall may not sell?
2	INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK,	2	give, or otherwise supply provide an alcoholic beverage to
3	HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY	3	any a person under 21 years of age orpermitanyperson
4		4	under-that-age-to-consume-an-alcoholic-beverage.
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PARENT,	5	(b) A parent, guardian, or other person may not
6	GUARDIAN, AND CERTAIN OTHER ADULTS TO LEGALLY PROVIDE	6	knowingly sell or otherwise provide an alcoholic beverage in
7	NONINTOXICATING AMOUNTS OF ALCOHOL TO A PERSON UNDER 21	7	an intoxicating quantity to a person under 21 years of age.
8	YEARS OF AGE; TO MAKE THE PROVIDER OF AN INTOXICATING	8	(c) For the purposes of this section, "intoxicating
9	QUANTITY OF ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE	9	quantity" means a quantity of an alcoholic beverage that is
10	SUBJECT TO CIVIL LIABILITY FOR TORTIOUS ACTS COMMITTED BY	10	sufficient to produce:
11	THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS	11	(i) a blood, breath, or urine alcohol concentration in
12	16-6-305, 27-1-710, 45-5-622, 45-5-6 23 7 <u>Through 45-5-624,</u>	12	excess of 0.05; or
13	AND 61-8-407, MCA."	13	(ii) substantial or visible mental or physical
14		14	impairment.
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	15	(2) Any person shall-be is guilty of a misdemeanor
16	Section 1. Section 16-6-305, MCA, is amended to read:	16	who:
17	"16-6-305. Age limit for sale or provision of	17	(a) invites a person under the age of 21 years into a
18	alcoholic beverages liability of provider. (1) (a) Except	18	public place where an alcoholic beverage is sold and treats,
19	in the case of an alcoholic beverage given provided in a	19	gives, or purchases an alcoholic beverage for such the
20	nonintoxicating quantity to a person under 21 years of age	20	person;
21	by his parent or guardian <u>, for-beverage-or-medicinal</u>	21	(b) permits such the person in a public place where an
22	purposesor-administered-to-him-by-his physician or dentist	22	alcoholic beverage is sold to treat, give, or purchase
23	for medicinal purposes, orsoldtohimby a vendoror	23	alcoholic beverages for him; or
24	druggist licensed pharmacist upon the prescription of a	24	(c) holds out such the person to be 21 years of age or
25	physician, or an ordained minister or priest in connection	25	older to the owner of the establishment or his or her
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THIRD READING

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1 employee or employees. 2 (3) It is unlawful for any person to fraudulently misrepresent his or her age to any dispenser of alcoholic 3 beverages or to falsely procure any identification card or ۵ to alter any of the statements contained in any 5 identification card. 6 7 (4) A person 21 years of age or older who violates the 8 provisions of subsection (1)(b) is, in addition to 9 applicable criminal penalties, subject to civil liability 10 for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or 11 12 provided if the act is judicially determined to be the 13 result of the intoxicated condition created by the 14 violation." 15 Section 2. Section 27-1-710, MCA, is amended to read: 16 "27-1-710. Civil liability for injuries involving 17 alcohol consumption. (1) The purpose of this section is to 18 set statutory criteria governing the liability of a person 19 or entity that furnishes an alcoholic beverage for injury or damage arising from an event involving the person who 20

21 consumed the beverage.

(2) A Except as provided in 16-6-305, a person or
entity furnishing an alcoholic beverage may not be found
liable for injury or damage arising from an event involving
the consumer wholly or partially on the basis of a provision

1 or a violation of a provision of Title 16. 2 (3) Furnishing a person with an alcoholic beverage is not a cause of, or grounds for finding the furnishing person 3 4 or entity liable for, injury or damage wholly or partly 5 arising from an event involving the person who consumed the 6 beverage unless: 7 (a) the consumer was under the legal drinking age and 8 the furnishing person knew that the consumer was underage or 9 did not make a reasonable attempt to determine the 10 consumer's age; 11 (b) the consumer was visibly intoxicated; or 12 (c) the furnishing person forced or coerced the 13 consumption or told the consumer that the beverage contained 14 no alcohol."

15 Section 3. Section 45-5-622, MCA, is amended to read: 16 "45-5-622. Endangering the welfare of children. (1) A 17 parent, guardian, or other person supervising the welfare of 18 a child less than 18 years old commits the offense of 19 endangering the welfare of children if he knowingly 20 endangers the child's welfare by violating a duty of care, 21 protection, or support.

(2) A Except as provided in 16-6-305, a parent or
guardian or any person who is 18 years of age or older,
whether or not he is supervising the welfare of the child,
commits the offense of endangering the welfare of children

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if he knowingly contributes to the delinquency of a child 1 less than: 2 3 (a) 18 years old by: (i) supplying or encouraging the use οĒ an 4 intoxicating substances substance by the child; or 5 (ii) assisting, promoting, or encouraging the child to 6 enter a place of prostitution; or 7 (b) 16 years old by assisting, promoting, or 8 encouraging the child to: g (i) abandon his place of residence without the consent 10 11 of his parents or guardian; or (ii) engage in sexual conduct. 12 (3) A person convicted of endangering the welfare of 13 children shall be fined not to exceed \$500 or imprisoned in 14 the county jail for any term not to exceed 6 months, or 15 both. A person convicted of a second offense of endangering 16 the welfare of children shall be fined not to exceed \$1,000 17 18 or imprisoned in the county jail for any term not to exceed 6 months, or both. 19 (4) On the issue of whether there has been a violation 20 of the duty of care, protection, and support, the following, 21 in addition to all other admissible evidence, is admissible: 22 23 cruel treatment; abuse; infliction of unnecessary and cruel 24 punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past

1 bodily injury.

2 (5) The court may order, in its discretion, any fine 3 levied or any bond forfeited upon a charge of endangering 4 the welfare of children paid to or for the benefit of the 5 person or persons whose welfare the defendant has endangered." 6 7 Section 4. Section 45-5-623, MCA, is amended to read: 8 "45-5-623. Unlawful transactions with children. (1) A Except as provided for in 16-6-305, a person commits the 9 offense of unlawful transactions with children if he 10 11 knowingly: (a) sells or gives explosives to a child under the age 12 13 of majority except as authorized under appropriate city 14 ordinances; (b) sells or gives intoxicating substances other than 15 alcoholic beverages to a child under the age of majority: 16 17 (c) sells or gives an alcoholic beverages beverage to 18 a person under 21 years of age; or 19 (d) being a junk dealer, pawnbroker, or secondhand 20 dealer, receives or purchases goods from a child under the age of majority without authorization of the parent or 21 quardian. 22 (2) A person convicted of the offense of unlawful 23 transactions with children shall be fined not to exceed \$500 24 25 or be imprisoned in the county jail for any term not to

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exceed 6 months, or both. A person convicted of a second
 offense of unlawful transactions with children shall be
 fined not to exceed \$1,000 or be imprisoned in the county
 jail for any term not to exceed 6 months, or both."

SECTION 5. SECTION 45-5-624, MCA, IS AMENDED TO READ: 5 6 "45-5-624. Unlawful possession of an intoxicating 7 substance -- interference with sentence or court order. (1) 8 A person under the age of 18 years commits the offense of 9 possession of an intoxicating substance if he knowingly has 10 in his possession an intoxicating substance other than an alcoholic beverage. A person under the age of 21 commits the 11 12 offense of possession of an intoxicating substance if he 13 knowingly has in his possession an alcoholic beverage, 14 except as provided in 16-6-305 and except that he does not commit the offense when in the course of his employment it 15 is necessary to possess alcoholic beverages. 16

17 (2) A person convicted of the offense of possession of18 an intoxicating substance shall:

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

19

(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

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1 physical control of a motor vehicle when the offense 2 occurred: or

3 (d) be sentenced to any combination of these4 penalties.

5 (3) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18 years of age 6 7 when he failed to comply must be transferred to the youth 8 court. If proceedings for violation of subsection (1) are held in the youth court, the penalties in subsection (2) do 9 10 not apply. If proceedings for violation of subsection (1) or 11 for failure to comply with a sentence are held in the youth 12 court, the offender shall be treated as an alleged youth in need of supervision as defined in 41-5-103. In such case, 13 14 the youth court may enter its judgment under 41-5-523.

15 (4) A person commits the offense of interference with 16 a sentence or court order if he purposely or knowingly 17 causes his child or ward to fail to comply with a sentence 18 imposed under this section or a youth court disposition 19 order for a youth found to have violated this section and 20 upon conviction shall be fined \$100 or imprisoned in the 21 county jail for 10 days, or both."

Section 6. Section 61-8-407, MCA, is amended to read:
"61-8-407. Definition of alcohol concentration. For
purposes of <u>16-6-305</u>, 61-8-401, and 61-8-406, "alcohol
concentration" means either grams of alcohol per 100

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milliliters of blood, grams of alcohol per 210 liters of breath, or grams of alcohol per 75.3 milliliters of urine." <u>NEW SECTION.</u> Section 7. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of {this act}.

-End-

1	HOUSE BILL NO. 606
2	INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK,
3	HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PARENT.
6	GUARDIAN, AND CERTAIN OTHER ADULTS TO LEGALLY PROVIDE
7	NONINTOXICATING AMOUNTS OF ALCOHOL TO A PERSON UNDER 21
8	YEARS OF AGE; TO MAKE THE PROVIDER OF AN INTOXICATING
9	QUANTITY OF ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE
10	SUBJECT TO CIVIL LIABILITY FOR TORTIOUS ACTS COMMITTED BY
11	THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS
1 2	16-5-305, 27-1-710, 45-5-622, 45-5-623; THROUGH 45-5-624,
13	AND 61-8-407, MCA."
14	
15	BE ID ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 16-6-305. MCA, is amended to read:
17	"16-6-30%. Age limit for sale or provision of
18	alconolic beverages liability of provider. (1) (a) Except
19	in the case of an alcoholic beverage given provided in a
20	nonintoxicating guantity to a person under 21 years of age
21	by his parent or guardian, forbeverageormedicinal
22	purposes-or-administered-to-him-by-his physician or dentist
23	for medicinal purposes, orsoldtohimby a vendoror
24	druggist licensed pharmacist upon the prescription of a
25	physician, or an ordained minister or priest in connection

1 with a religious observance, no a person shall may not selly 2 giver or otherwise supply provide an alcoholic beverage to 2 any a person under 21 years of age or--permit--env--person 5 under-that-age-to-consume-an-alcoholic-beverage. 5 (b) A parent, guardian, or other person may not 6 knowingly sell or otherwise provide an alcoholic beverage in 7 an intoxicating quantity to a person under 21 years of age. 8 (c) For the purposes of this section, "intoxicating 9 quantity" means a quantity of an alcoholic beverage that is sufficient to produce: 10 11 (i) a blood, breath, or urine alcohol concentration in 12 excess of 0.05; or 13 (ii) substantial or visible mental or physical 14 mpairment. 15 (?) Any person shall-be is guilty of a misdemeanor 16 who: 17 (a) invites a person under the age of 21 years into a 18 public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such the 19 20 person; 21 (b) permits such the person in a public place where an 22 alcoholic beverage is sold to treat, give, or purchase 23 alcoholic beverages for him; or 24 (c) holds out such the person to be 21 years of age or 25 older to the owner of the establishment or his or her

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REFERENCE BILL

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L	HOUSE BILL NO. 606
2	INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK,
3	HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY
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10	SUBJECT TO CIVIL LIABILITY FOR TORTIOUS ACTS COMMITTED BY
11	THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS
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13	AND 61-8-407, MCA."
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15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	Section 1. Section 16-6-305, MCA, is amended to read:
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18	alconolic beverages <u>liability of provider</u> . (1) <u>(a)</u> Except
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24	druggist licensed pharmacist upon the prescription of a
25	physician, or an ordained minister or priest in connection

a Legislative Council

2 give; or otherwise supply provide an alcoholic beverage to any a person under 21 years of age or-permit--any--person 7 under-that-age-to-consume-an-alcoholic-beverage. 3 (b) A parent, quardian, or other person may not 5 6 knowingly sell or otherwise provide an alcoholic beverage in 7 an intoxicating quantity to a person under 21 years of age. 8 (c) For the purposes of this section, "intoxicating 9 quantity" means a quantity of an alcoholic beverage that is 10 sufficient to produce: (i) a blood, breath, or urine alcohol concentration in 11 12 excess of 0.05; or (ii) substantial or visible mental or physical 13 14 Impairment. (2) Any person shall-be is guilty of a misdemeanor 1.5 16 who: 17 (a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, 18 19 gives, or purchases an alcoholic beverage for such the 20 person; (b) permits such the person in a public place where an 21 alcoholic beverage is sold to treat, give, or purchase 22 23 alcoholic beverages for him; or 24 (c) holds out such the person to be 21 years of age or

with a religious observance, no a person shall may not selly

25 older to the owner of the establishment or his or her

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REFERENCE BILL

1 employee or employees.

2 (3) It is unlawful for any person to fraudulently
3 misrepresent his or her age to any dispenser of alcoholic
4 beverages or to falsely procure any identification card or
5 to alter any of the statements contained in any
6 identification card.

7 (4) A person 21 years of age or older who violates the 8 provisions of subsection (1)(b) is, in addition to 9 applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the 10 person to whom the intoxicating substance was sold or 11 12 provided if the act is judicially determined to be the 13 result of the intoxicated condition created by the 14 violation."

15 Section 2. Section 27-1-710, MCA, is amended to read: 16 "27-1-710. Civil liability for injuries involving 17 alcohol consumption. (1) The purpose of this section is to 18 set statutory criteria governing the liability of a person 19 or entity that furnishes an alcoholic beverage for injury or 20 damage arising from an event involving the person who 21 consumed the beverage.

(2) A Except as provided in 16-6-305, a person or
entity furnishing an alcoholic beverage may not be found
liable for injury or damage arising from an event involving
the consumer wholly or partially on the basis of a provision

1 or a violation of a provision of Title 16.

2 (3) Furnishing a person with an alcoholic beverage is
3 not a cause of, or grounds for finding the turnishing person
4 or entity liable for, injury or damage wholly or partly
5 arising trom an event involving the person who consumed the
b beverage unless:

7 (a) the consumer was under the legal drinking age and
8 the furnishing person knew that the consumer was underage or
9 did not make a reasonable attempt to determine the
10 consumer's age;

11 (b) the consumer was visibly intoxicated; or

12 (c) the furnishing person forced or coerced the 13 consumption or told the consumer that the beverage contained 14 no alcohol."

15 Section 3. Section 45-5-622, MCA, is amended to read: 16 "45-5-622. Endangering the welfare of children. (1) A 17 parent, quardian, or other person supervising the welfare of 18 a child less than 18 years old commits the offense of 19 endangering the welfare of children if he knowingly 20 endangers the child's welfare by violating a duty of care, 21 protection, or support.

22 (2) A Except as provided in 16-6-305, is parent or 23 guardian or any person who is 18 years of age or older, 24 whether or not he is supervising the welfare of the child, 25 commits the offense of endangering the welfare of children

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1	if he knowingly contributes to the delinguency of a child
2	less than:
3	(a) 18 years old by:
4	(1) supplying or encouraging the use or <u>an</u>
5	intoxicating substances substance by the child; or
6	(ii) assisting, promoting, or encouraging the child to
7	enter a place of prostitution; or
8	(b) 16 years old by assisting, promoting, or
9	encouraging the child to:
10	(i) abandon his place of residence without the consent
11	of his parents or guardian; or
12	(ii) engage in sexual conduct.
13	(3) A person convicted of endangering the welfare of
14	cnildren shall be fined not to exceed \$500 or imprisoned in
15	the county jail for any term not to exceed 6 months, or
16	poth. A person convicted of a second offense of endangering
17	the welfare of children shall be fined not to exceed \$1,000
18	or imprisoned in the county jail for any term not to exceed
19	6 months, or both.
20	(4) On the issue of whether there has been a violation
21	of the duty of care, protection, and support, the following,
22	in addition to all other admissible evidence, is admissible:
23	crue: treatment; abuse; infliction of unnecessary and cruel
24	punishment; abandonment; neglect; lack of proper medical
25	care, clothing, shelter, and food; and evidence of past

1 bodily injury. 2 (5) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering 3 the welfare of children paid to or for the benefit of the 4 person or persons whose welfare the defendant has 5 endangered." 6 Section 4. Section 45-5-623, MCA, is amended to read: 7 "45-5-623. Unlawful transactions with children. (1) A 8 9 Except as provided for in 16-6-305, a person commits the 10 offense of unlawful transactions with children if he knowingly: 11 (a) sells or gives explosives to a child under the age 12 13 of majority except as authorized under appropriate city 14 ordinances; (b) sells or gives intoxicating substances other than 15 16 alcoholic beverages to a child under the age of majority: (c) sells or gives an alcoholic beverages beverage to 17 18 a person under 21 years of age; or 19 (d) being a junk dealer, pawnbroker, or secondhand dealer, receives or purchases goods from a child under the 20 age of majority without authorization of the parent or 21 quardian. 22 23 (2) A person convicted of the offense of unlawful transactions with children shall be fined not to exceed \$500 24

or be imprisoned in the county jail for any term not to

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25

1 exceed 6 months, or both. A person convicted of a second 2 offense of unlawful transactions with children shall be 3 fined not to exceed \$1,000 or be imprisoned in the county 4 jail for any term not to exceed 6 months, or both."

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"61-8-407. Definition of alcohol concentration. For
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concentration" means either grams of alcohol per 100

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1 milliliters of blood, grams of alcohol per 210 liters of 2 breath, or grams of alcohol per 75.3 milliliters of urine." 3 <u>NEW SECTION.</u> Section 7. Extension of authority. Any 4 existing authority to make rules on the subject of the 5 provisions of (this act) is extended to the provisions of 6 (this act).

-End-