

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

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

MARCH 17, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

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.

REPORTED CORRECTLY ENROLLED.

1 HOUSE BILL NO. 606
 2 INTRODUCED BY Sen. Bradley, Bob Brown, Haywood
 3 Haywood, Sen. Dan Brown, Randy, and Matt Addy
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A PARENT,
 5 GUARDIAN, AND CERTAIN OTHER ADULTS TO LEGALLY PROVIDE
 6 NONINTOXICATING AMOUNTS OF ALCOHOL TO A PERSON UNDER 21
 7 YEARS OF AGE; TO MAKE THE PROVIDER OF AN INTOXICATING
 8 QUANTITY OF ALCOHOL TO A PERSON UNDER 21 YEARS OF AGE
 9 SUBJECT TO CIVIL LIABILITY FOR TORTIOUS ACTS COMMITTED BY
 10 THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS
 11 16-6-305, 27-1-710, 45-5-622, 45-5-623, AND 61-8-407, MCA."
 12

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

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

15 "16-6-305. Age limit for sale or provision of
 16 alcoholic beverages -- liability of provider. (1) (a) Except
 17 in the case of an alcoholic beverage given provided in a
 18 nonintoxicating quantity to a person under 21 years of age
 19 by his parent or guardian, for--beverage--or--medicinal
 20 purposes--or-administered-to-him-by-his physician or dentist
 21 for medicinal purposes, or--sold--to--him--by a vendor--or
 22 druggist licensed pharmacist upon the prescription of a
 23 physician, or an ordained minister or priest in connection
 24 with a religious observance, no a person shall may not sell,
 25 give, or otherwise supply provide an alcoholic beverage to

1 any a person under 21 years of age or--permit--any--person
 2 under-that-age-to-consume-an-alcoholic-beverage.

3 (b) A parent, guardian, or other person may not
 4 knowingly sell or otherwise provide an alcoholic beverage in
 5 an intoxicating quantity to a person under 21 years of age.

6 (c) For the purposes of this section, "intoxicating
 7 quantity" means a quantity of an alcoholic beverage that is
 8 sufficient to produce:

9 (i) a blood, breath, or urine alcohol concentration in
 10 excess of 0.05; or

11 (ii) substantial or visible mental or physical
 12 impairment.

13 (2) Any person shall-be is guilty of a misdemeanor
 14 who:

15 (a) invites a person under the age of 21 years into a
 16 public place where an alcoholic beverage is sold and treats,
 17 gives, or purchases an alcoholic beverage for such the
 18 person;

19 (b) permits such the person in a public place where an
 20 alcoholic beverage is sold to treat, give, or purchase
 21 alcoholic beverages for him; or

22 (c) holds out such the person to be 21 years of age or
 23 older to the owner of the establishment or his or her
 24 employee or employees.

25 (3) It is unlawful for any person to fraudulently

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 provisions of subsection (1)(b) is, in addition to applicable criminal penalties, subject to civil liability for damages resulting from a tortious act committed by the person to whom the intoxicating substance was sold or provided if the act is judicially determined to be the result of the intoxicated condition created by the 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 or a violation of a provision of Title 16.

(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:

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

(b) the consumer was visibly intoxicated; or

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

Section 3. Section 45-5-622, MCA, is amended to read:

"45-5-622. Endangering the welfare of children. (1) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if he knowingly endangers the child's welfare by violating a duty of care, 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:

(a) 18 years old by:

(i) supplying or encouraging the use of an intoxicating substances substance by the child; or

(ii) assisting, promoting, or encouraging the child to enter a place of prostitution; or

(b) 16 years old by assisting, promoting, or encouraging the child to:

(i) abandon his place of residence without the consent of his parents or guardian; or

(ii) engage in sexual conduct.

(3) A person convicted of endangering the welfare of children shall be fined not to exceed \$500 or imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of children shall be fined not to exceed \$1,000 or imprisoned in the county jail for any term not to exceed 6 months, or both.

(4) On the issue of whether there has been a violation of the duty of care, protection, and support, the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury.

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

levied or any bond forfeited upon a charge of endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has 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:

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

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

(c) sells or gives an alcoholic beverages beverage to 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.

(2) A person convicted of the offense of unlawful transactions with children shall be fined not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of unlawful transactions with children shall be

LC 1397/01

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."

3 **Section 5.** Section 61-8-407, MCA, is amended to read:

4 **"61-8-407. Definition of alcohol concentration.** For
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].

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 606

INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK,

HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY

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 THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS 16-6-305, 27-1-710, 45-5-622, 45-5-623, THROUGH 45-5-624, AND 61-8-407, MCA."

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, 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, give, or otherwise supply provide an alcoholic beverage to any a person under 21 years of age or--permit--any--person under-that-age-to-consume-an-alcoholic-beverage.

(b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

(c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:

(i) a blood, breath, or urine alcohol concentration in excess of 0.05; or

(ii) substantial or visible mental or physical impairment.

(2) Any person shall-be is guilty of a misdemeanor who:

(a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such the person;

(b) permits such the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for him; or

(c) holds out such the person to be 21 years of age or older to the owner of the establishment or his or her

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
10 for damages resulting from a tortious act committed by the
11 person to whom the intoxicating substance was sold or
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.

22 (2) A Except as provided in 16-6-305, a person or
23 entity furnishing an alcoholic beverage may not be found
24 liable for injury or damage arising from an event involving
25 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.

22 (2) A Except as provided in 16-6-305, a 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

1 if he knowingly contributes to the delinquency of a child
2 less than:

3 (a) 18 years old by:

4 (i) supplying or encouraging the use of an
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 children shall be fined not to exceed \$500 or imprisoned in
15 the county jail for any term not to exceed 6 months, or
16 both. 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 cruel 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
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."

7 **Section 4.** Section 45-5-623, MCA, is amended to read:

8 "45-5-623. Unlawful transactions with children. (1) A
9 Except as provided for in 16-6-305, a person commits the
10 offense of unlawful transactions with children if he
11 knowingly:

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

15 (b) sells or gives intoxicating substances other than
16 alcoholic 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

19 (d) being a junk dealer, pawnbroker, or secondhand
20 dealer, receives or purchases goods from a child under the
21 age of majority without authorization of the parent or
22 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

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."

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

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
 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,
 14 except as provided in 16-6-305 and except that he does not
 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 of
 18 an intoxicating substance shall:

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

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

23 (c) have his driver's license confiscated by the court
 24 for not more than 90 days and be ordered not to drive during
 25 that period if he was driving or otherwise in actual

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

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

5 (3) A defendant who fails to comply with a sentence
 6 and is under 21 years of age and was under 18 years of age
 7 when he failed to comply must be transferred to the youth
 8 court. If proceedings for violation of subsection (1) are
 9 held in the youth court, the penalties in subsection (2) do
 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
 13 need of supervision as defined in 41-5-103. In such case,
 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."

22 **Section 6. Section 61-8-407, MCA, is amended to read:**

23 **"61-8-407. Definition of alcohol concentration. For**
 24 **purposes of 16-6-305, 61-8-401, and 61-8-406, "alcohol**
 25 **concentration" means either grams of alcohol per 100**

1 milliliters of blood, grams of alcohol per 210 liters of
2 breath, or grams of alcohol per 75.3 milliliters of urine."

3 NEW SECTION. **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-

HOUSE BILL NO. 606

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

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
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16-6-305, 27-1-710, 45-5-622, 45-5-623, THROUGH 45-5-624,
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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, 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,
give, or otherwise supply provide an alcoholic beverage to
any a person under 21 years of age or--permit--any--person
under-that-age-to-consume-an-alcoholic-beverage.

(b) A parent, guardian, or other person may not
knowingly sell or otherwise provide an alcoholic beverage in
an intoxicating quantity to a person under 21 years of age.

(c) For the purposes of this section, "intoxicating
quantity" means a quantity of an alcoholic beverage that is
sufficient to produce:

(i) a blood, breath, or urine alcohol concentration in
excess of 0.05; or

(ii) substantial or visible mental or physical
impairment.

(2) Any person ~~shall-be~~ is guilty of a misdemeanor
who:

(a) invites a person under the age of 21 years into a
public place where an alcoholic beverage is sold and treats,
gives, or purchases an alcoholic beverage for such the
person;

(b) permits such the person in a public place where an
alcoholic beverage is sold to treat, give, or purchase
alcoholic beverages for him; or

(c) holds out such the person to be 21 years of age or
older to the owner of the establishment or his or her

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
10 for damages resulting from a tortious act committed by the
11 person to whom the intoxicating substance was sold or
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.

22 (2) A Except as provided in 16-6-305, a person or
23 entity furnishing an alcoholic beverage may not be found
24 liable for injury or damage arising from an event involving
25 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.

22 (2) A Except as provided in 16-6-305, a 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

1 if he knowingly contributes to the delinquency of a child
2 less than:

3 (a) 18 years old by:

4 (i) supplying or encouraging the use of an
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 children shall be fined not to exceed \$500 or imprisoned in
15 the county jail for any term not to exceed 6 months, or
16 both. 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 cruel 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
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."

7 **Section 4.** Section 45-5-623, MCA, is amended to read:

8 **"45-5-623. Unlawful transactions with children.** (1) A
9 Except as provided for in 16-6-305, a person commits the
10 offense of unlawful transactions with children if he
11 knowingly:

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

15 (b) sells or gives intoxicating substances other than
16 alcoholic 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

19 (d) being a junk dealer, pawnbroker, or secondhand
20 dealer, receives or purchases goods from a child under the
21 age of majority without authorization of the parent or
22 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

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."

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

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
 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,
 14 except as provided in 16-6-305 and except that he does not
 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 of
 18 an intoxicating substance shall:

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

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

23 (c) have his driver's license confiscated by the court
 24 for not more than 90 days and be ordered not to drive during
 25 that period if he was driving or otherwise in actual

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

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

5 (3) A defendant who fails to comply with a sentence
 6 and is under 21 years of age and was under 18 years of age
 7 when he failed to comply must be transferred to the youth
 8 court. If proceedings for violation of subsection (1) are
 9 held in the youth court, the penalties in subsection (2) do
 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
 13 need of supervision as defined in 41-5-103. In such case,
 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."

22 **Section 6. Section 61-8-407, MCA, is amended to read:**

23 "61-8-407. Definition of alcohol concentration. For
 24 purposes of 16-6-305, 61-8-401, and 61-8-406, "alcohol
 25 concentration" means either grams of alcohol per 100

1 milliliters of blood, grams of alcohol per 210 liters of
2 breath, or grams of alcohol per 75.3 milliliters of urine."

3 NEW SECTION. **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-

HOUSE BILL NO. 606

INTRODUCED BY GRADY, BRADLEY, B. BROWN, BLAYLOCK,

HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY

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 THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS 16-6-305, 27-1-710, 45-5-622, 45-5-623, THROUGH 45-5-624, AND 61-8-407, MCA."

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, ~~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, give, or otherwise supply provide~~ an alcoholic beverage to any a person under 21 years of age ~~or--permit--any--person under--that--age--to--consume--an--alcoholic--beverage.~~

(b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

(c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:

(i) a blood, breath, or urine alcohol concentration in excess of 0.05; or

(ii) substantial or visible mental or physical impairment.

(2) Any person ~~shall-be~~ is guilty of a misdemeanor who:

(a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such the person;

(b) permits such the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for him; or

(c) holds out such the person to be 21 years of age or older to the owner of the establishment or his or her

HOUSE BILL NO. 606

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HANNAH, IVERSON, SPAETH, D. BROWN, RANEY, MCDONOUGH, ADDY

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 THE PERSON WHILE INTOXICATED; AND AMENDING SECTIONS 16-6-305, 27-1-710, 45-5-622, 45-5-623, THROUGH 45-5-624, AND 61-8-407, MCA."

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, 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, give, or otherwise supply provide an alcoholic beverage to any a person under 21 years of age or--permit--any--person under-that-age-to-consume-an-alcoholic-beverage.

(b) A parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.

(c) For the purposes of this section, "intoxicating quantity" means a quantity of an alcoholic beverage that is sufficient to produce:

(i) a blood, breath, or urine alcohol concentration in excess of 0.05; or

(ii) substantial or visible mental or physical impairment.

(2) Any person ~~shall-be~~ is guilty of a misdemeanor who:

(a) invites a person under the age of 21 years into a public place where an alcoholic beverage is sold and treats, gives, or purchases an alcoholic beverage for such the person;

(b) permits such the person in a public place where an alcoholic beverage is sold to treat, give, or purchase alcoholic beverages for him; or

(c) holds out such the person to be 21 years of age or older to the owner of the establishment or his or her

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
10 for damages resulting from a tortious act committed by the
11 person to whom the intoxicating substance was sold or
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.

22 (2) A Except as provided in 16-6-305, a person or
23 entity furnishing an alcoholic beverage may not be found
24 liable for injury or damage arising from an event involving
25 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.

22 (2) A Except as provided in 16-6-305, a 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

1 if he knowingly contributes to the delinquency of a child
2 less than:

3 (a) 18 years old by:

4 (i) supplying or encouraging the use or an
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 children shall be fined not to exceed \$500 or imprisoned in
15 the county jail for any term not to exceed 6 months, or
16 both. 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 cruel 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
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."

7 **Section 4.** Section 45-5-623, MCA, is amended to read:

8 "45-5-623. Unlawful transactions with children. (1) A
9 Except as provided for in 16-6-305, a person commits the
10 offense of unlawful transactions with children if he
11 knowingly:

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

15 (b) sells or gives intoxicating substances other than
16 alcoholic 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

19 (d) being a junk dealer, pawnbroker, or secondhand
20 dealer, receives or purchases goods from a child under the
21 age of majority without authorization of the parent or
22 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

exceed 6 months, or both. A person convicted of a second offense or 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:

"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 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 has in his possession an alcoholic beverage, except as provided in 16-6-305 and except that he does not commit the offense when in the course of his employment it is necessary to possess alcoholic beverages.

(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 not apply. If proceedings for violation of subsection (1) or for failure to comply with a sentence are held in the youth court, the offender shall be treated as an alleged youth in need of supervision as defined in 41-5-103. In such case, the youth court may enter its judgment under 41-5-523.

(4) A person commits the offense of interference with a sentence or court order if he purposely or knowingly causes his child or ward to fail to comply with a sentence imposed under this section or a youth court disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or imprisoned in the 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 16-6-305, 61-8-401, and 61-8-406, "alcohol concentration" means either grams of alcohol per 100

1 milliliters of blood, grams of alcohol per 210 liters of
2 breath, or grams of alcohol per 75.3 milliliters of urine."

3 NEW SECTION. **Section 7. Extension of authority.** Any
4 existing authority to make rules on the subject of the
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