

SENATE BILL NO. 78

INTRODUCED BY GAGE

IN THE SENATE

JANUARY 2, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 8, 1993	ON MOTION, REREFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 25, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 26, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 27, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

JANUARY 28, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 6.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 3, 1993	RECEIVED FROM HOUSE.
	SECOND READING, AMENDMENTS

APRIL 5, 1993

CONCURRED IN.

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 78

2 INTRODUCED BY GAGE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IN A
5 HEARING REQUESTED BY A PERSON WHOSE DRIVER'S LICENSE HAS
6 BEEN SUSPENDED OR REVOKED FOLLOWING A DUI CHARGE, THE CITY
7 ATTORNEY SHALL REPRESENT THE STATE IF THE INCIDENT LEADING
8 TO THE SUSPENSION OR REVOCATION OCCURRED IN A CITY; AND
9 AMENDING SECTION 61-8-403, MCA."

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

12 Section 1. Section 61-8-403, MCA, is amended to read:

13 "61-8-403. Right of appeal to court. The department
14 shall immediately notify in writing any person whose license
15 or privilege to drive has been suspended or revoked, as
16 hereinbefore--authorized,--in--writing and such the person
17 shall-have-the-right-to may file a petition within 30 days
18 thereafter for a hearing in on the matter in the district
19 court in the county wherein-such where the person resides or
20 in the district court in the county in which this arrest was
21 made. Such The court is hereby vested with jurisdiction and
22 it shall be-its-duty-to set the matter for hearing. upon The
23 court shall give 10 days' written notice of the hearing to
24 the county attorney of the county wherein where the appeal
25 is filed or to the city attorney if the incident leading to

1 the suspension or revocation occurred in a city, and such
2 the county attorney or city attorney shall represent the
3 state,--and--thereupon--the. The court shall take testimony and
4 examine into the facts of the case, except that the issues
5 shall must be limited to whether a peace officer had
6 reasonable grounds to believe that the person had been
7 driving or was in actual physical control of a vehicle upon
8 ways of this state open to the public, while under the
9 influence of alcohol, drugs, or a combination of the two,
10 whether the person was placed under arrest, and whether such
11 the person refused to submit to the test. The court shall
12 thereupon determine whether the petitioner is entitled to a
13 license or is subject to suspension as--heretofore--provided
14 or revocation."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0078, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing that in a hearing requested by a person whose driver's license has been suspended or revoked following a DUI charge, the city attorney shall represent the state if the incident leading to the suspension or revocation occurred in a city.

FISCAL IMPACT:

No fiscal impact to the State of Montana.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Shift of caseload from the county attorney to the city attorney may cause a fiscal impact for cities.

Dave Lewis 1-9-93
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Delwyn Gage 1-2-93
DELWYN GAGE, PRIMARY SPONSOR DATE

Fiscal Note for SB0078, as introduced

SB 78

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 78

INTRODUCED BY GAGE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IN A HEARING REQUESTED BY A PERSON WHOSE DRIVER'S LICENSE HAS BEEN SUSPENDED OR REVOKED FOLLOWING A DUI CHARGE, THE CITY ATTORNEY ~~SHALL~~ MAY REPRESENT THE STATE IF THE INCIDENT LEADING TO THE SUSPENSION OR REVOCATION ~~OCCURRED-IN--A--CITY~~ RESULTED IN A CITY OR MUNICIPAL CHARGE; AND AMENDING SECTION 61-8-403, MCA."

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

Section 1. Section 61-8-403, MCA, is amended to read:

"61-8-403. Right of appeal to court. The department shall immediately notify in writing any person whose license or privilege to drive has been suspended or revoked, ~~as hereinbefore--authorized,--in--writing~~ and ~~such the~~ person ~~shall-have-the-right-to~~ may file a petition within 30 days thereafter for a hearing in on the matter in the district court in the county ~~wherein-such~~ where the person resides or in the district court in the county in which this arrest was made. ~~Such~~ The court is hereby vested with jurisdiction and ~~it shall be-its-duty-to~~ set the matter for hearing. upon The court shall give 10 days' written notice of the hearing to the county attorney of the county ~~wherein~~ where the appeal

is filed ~~or~~ AND to the city attorney if the incident leading to the suspension or revocation ~~occurred-in-a-city~~ RESULTED IN A CHARGE FILED IN A CITY OR MUNICIPAL COURT, and ~~such the~~ county attorney ~~or city attorney shall~~ MAY represent the state, ~~and-thereupon-the.~~ The court shall take testimony and examine ~~into~~ the facts of the case, except that the issues ~~shall must~~ be limited to whether a peace officer had reasonable grounds to believe that the person had been driving or was in actual physical control of a vehicle upon ways of this state open to the public, while under the influence of alcohol, drugs, or a combination of the two, whether the person was placed under arrest, and whether ~~such the~~ person refused to submit to the test. The court shall ~~thereupon~~ determine whether the petitioner is entitled to a license or is subject to suspension ~~as-heretofore-provided~~ or revocation."

-End-

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5 HEARING REQUESTED BY A PERSON WHOSE DRIVER'S LICENSE HAS
6 BEEN SUSPENDED OR REVOKED FOLLOWING A DUI CHARGE, THE CITY
7 ATTORNEY SHALL MAY REPRESENT THE STATE IF THE INCIDENT
8 LEADING TO THE SUSPENSION OR REVOCATION ~~OCCURRED IN A CITY~~
9 RESULTED IN A CITY OR MUNICIPAL CHARGE; AND AMENDING SECTION
10 61-8-403, MCA."

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15 shall immediately notify in writing any person whose license
16 or privilege to drive has been suspended or revoked, as
17 ~~hereinbefore--authorized,--in--writing~~ and such the person
18 ~~shall have the right to~~ may file a petition within 30 days
19 thereafter for a hearing in on the matter in the district
20 court in the county ~~wherein such~~ where the person resides or
21 in the district court in the county in which this arrest was
22 made. ~~Such~~ The court is hereby vested with jurisdiction and
23 it shall ~~be its duty to~~ set the matter for hearing, upon The
24 court shall give 10 days' written notice of the hearing to
25 the county attorney of the county ~~wherein~~ where the appeal

1 is filed ~~or~~ AND to the city attorney if the incident leading
2 to the suspension or revocation occurred in a city RESULTED
3 IN A CHARGE FILED IN A CITY OR MUNICIPAL COURT, and such the
4 county attorney ~~or city attorney~~ shall MAY represent the
5 state, ~~and thereupon the~~. The court shall take testimony and
6 examine into the facts of the case, except that the issues
7 ~~shall must~~ be limited to whether a peace officer had
8 reasonable grounds to believe that the person had been
9 driving or was in actual physical control of a vehicle upon
10 ways of this state open to the public, while under the
11 influence of alcohol, drugs, or a combination of the two,
12 whether the person was placed under arrest, and whether such
13 the person refused to submit to the test. The court shall
14 thereupon determine whether the petitioner is entitled to a
15 license or is subject to suspension ~~as heretofore provided~~
16 or revocation."

-End-

HOUSE STANDING COMMITTEE REPORT

March 27, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 78 (third reading copy -- blue) be concurred in as amended.

Signed: Russell C. Fagg
Russ Fagg, ~~Chair~~

And, that such amendments read:

Carried by: Rep. Fagg

1. Page 2, line 5.

Following: "~~the~~."

Insert: "If the county attorney and the city attorney cannot agree on who will represent the state, the county attorney shall represent the state."

-END-

Committee Vote:
Yes 13, No 5.

HOUSE
SB 78
690949SC.Hss

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2 to the suspension or revocation occurred-in-a-city RESULTED
3 IN A CHARGE FILED IN A CITY OR MUNICIPAL COURT, and ~~such the~~
4 county attorney or city attorney shall MAY represent the
5 state;--and--thereupon--the. IF THE COUNTY ATTORNEY AND THE
6 CITY ATTORNEY CANNOT AGREE ON WHO WILL REPRESENT THE STATE,
7 THE COUNTY ATTORNEY SHALL REPRESENT THE STATE. The court
8 shall take testimony and examine into the facts of the case,
9 except that the issues ~~shall~~ must be limited to whether a
10 peace officer had reasonable grounds to believe that the
11 person had been driving or was in actual physical control of
12 a vehicle upon ways of this state open to the public, while
13 under the influence of alcohol, drugs, or a combination of
14 the two, whether the person was placed under arrest, and
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17 entitled to a license or is subject to suspension as
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-End-