## SENATE BILL NO. 78

## INTRODUCED BY GAGE

## IN THE SENATE

	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

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS

APRIL 3, 1993

CONCURRED IN.

APRIL 5, 1993

THIRD READING, AMENDMENTS CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1	SENATE BILL NO. 78
2	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 REPRESENT THE STATE IF THE INCIDENT LEADING TO THE SUSPENSION OR REVOCATION OCCURRED IN A CITY; 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 to the city attorney if the incident leading to

the suspension or revocation occurred in a city, and such the county attorney or city attorney shall 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."



#### 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, BUDGET DIRECTOR

DATE

Office of Budget and Program Planning

DELWYN GAGE, PRIMARY SPONSOR

DATE

Fiscal Note for SB0078, as introduced

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# APPROVED BY COMMITTEE ON JUDICIARY

2	INTRODUCED BY GAGE
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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-INACIT
9	RESULTED IN A CITY OR MUNICIPAL CHARGE; AND AMENDING SECTION
10	61-8-403, MCA."
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l	SENATE BILL NO. 70
2	INTRODUCED BY GAG

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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."

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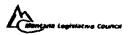
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### HOUSE STANDING COMMITTEE REPORT

March 27, 1993 Page 1 of 1

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

Signed: Turkle (. Jangarana)
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-

HOUSE 5B 78 690949SC.Hss

Committee Vote: Yes 13, No 5.

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