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INTRODUCED BY

*House* BILL NO. *577*  
*Molner Bechtaulla Simpkins*

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT DELETING THE PROVISION THAT A PERSON UNDER 21 YEARS OF AGE NEED NOT BE CONSUMING OR IN POSSESSION OF THE INTOXICATING SUBSTANCE AT THE TIME OF ARREST TO COMMIT THE OFFENSE OF POSSESSION OF AN INTOXICATING SUBSTANCE; AMENDING SECTION 45-5-624, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

**"45-5-624. Unlawful attempt to purchase or possession of an intoxicating substance -- interference with sentence or court order.** (1) A person under ~~the 21 years of age of 21 years~~ commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. ~~The person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection.~~ A person does not commit the offense if the person consumes or gains possession of the beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

(2) In addition to any disposition by the youth court under 41-5-523, a person under 18 years of age who is convicted of the offense of possession of an intoxicating substance ~~shall~~:

(a) for the first offense, shall be fined an amount not to exceed \$100 and:

(i) must have the person's driver's license confiscated by the court for not less than 30 days and not more than 90 days and shall be ordered not to drive during that period if the person was driving or was otherwise in actual physical control of a motor vehicle when the offense occurred;

(ii) shall be ordered to perform community service if a community service program is available; and

(iii) shall be ordered to complete and pay, either directly with money or indirectly through court-ordered community service, if any is available, all costs of participation in a community-based substance abuse information course, if one is available;

1 (b) for a second offense, shall be fined an amount not to exceed \$200 and:

2 (i) must have the person's driver's license suspended for not less than 60 days and not more than  
3 120 days;

4 (ii) shall be ordered to perform community service if a community service program is available; and

5 (iii) shall be ordered to complete and pay, either directly with money or indirectly through  
6 court-ordered community service, if any is available, all costs of participation in a community-based  
7 substance abuse information course, if one is available;

8 (c) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than  
9 \$500 and:

10 (i) must have the person's driver's license suspended for not less than 120 days and not more than  
11 1 year, except that if the person was driving or was otherwise in actual physical control of a motor vehicle  
12 when the offense occurred, must have the person's driver's license revoked for 1 year or until the person  
13 reaches the age of 18, whichever occurs last;

14 (ii) shall be ordered to complete and pay, either directly with money or indirectly through  
15 court-ordered community service, if any is available, all costs of participation in a community-based  
16 substance abuse information course, if one is available, which may include alcohol or drug treatment, or  
17 both, approved by the department of corrections, if determined by the court to be appropriate.

18 (3) A person 18 years of age or older who is convicted of the offense of possession of an  
19 intoxicating substance ~~shall~~:

20 (a) for a first offense, shall be fined an amount not to exceed \$50 and be ordered to perform  
21 community service if a community service program is available;

22 (b) for a second offense, shall be fined an amount not to exceed \$100 and:

23 (i) shall be ordered to perform community service if a community service program is available; and

24 (ii) must have the person's driver's license suspended for not more than 60 days if the person was  
25 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

26 (c) for a third or subsequent offense, shall be fined an amount not to exceed \$200 and:

27 (i) shall be ordered to perform community service if a community service program is available;

28 (ii) must have the person's driver's license suspended for not more than 120 days if the person was  
29 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

30 (iii) shall be ordered to complete an alcohol information course at an alcohol treatment program

1 approved by the department of corrections, which may, in the sentencing court's discretion and upon  
2 recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both;  
3 and

4 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6  
5 months.

6 (4) A person under ~~the 21 years of age of 21~~ commits the offense of attempt to purchase an  
7 intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person  
8 convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$50  
9 if the person was 18 years of age or older at the time that the offense was committed or \$100 if the person  
10 was under 18 years of age at the time that the offense was committed.

11 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under  
12 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings  
13 for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged  
14 youth in need of supervision as defined in 41-5-103. The youth court may enter its judgment under  
15 41-5-523.

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

20 (7) A conviction or youth court adjudication under this section must be reported by the court to  
21 the department of justice under 61-11-101 for the purpose of keeping a record of the number of offenses  
22 committed but may not be considered part of the person's driving record for insurance purposes unless a  
23 second or subsequent conviction or adjudication under this section occurs. (See compiler's comments for  
24 contingent termination of certain text.)"

25

26 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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*House* BILL NO. *577*  
*Molner Bacchiavella Simpkins*

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT DELETING THE PROVISION THAT A PERSON UNDER 21 YEARS OF AGE NEED NOT BE CONSUMING OR IN POSSESSION OF THE INTOXICATING SUBSTANCE AT THE TIME OF ARREST TO COMMIT THE OFFENSE OF POSSESSION OF AN INTOXICATING SUBSTANCE; AMENDING SECTION 45-5-624, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

**"45-5-624. Unlawful attempt to purchase or possession of an intoxicating substance -- interference with sentence or court order.** (1) A person under ~~the 21 years of age of 21 years~~ commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. ~~The person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection.~~ A person does not commit the offense if the person consumes or gains possession of the beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

(2) In addition to any disposition by the youth court under 41-5-523, a person under 18 years of age who is convicted of the offense of possession of an intoxicating substance shall:

- (a) for the first offense, shall be fined an amount not to exceed \$100 and:
  - (i) must have the person's driver's license confiscated by the court for not less than 30 days and not more than 90 days and shall be ordered not to drive during that period if the person was driving or was otherwise in actual physical control of a motor vehicle when the offense occurred;
  - (ii) shall be ordered to perform community service if a community service program is available; and
  - (iii) shall be ordered to complete and pay, either directly with money or indirectly through court-ordered community service, if any is available, all costs of participation in a community-based substance abuse information course, if one is available;

1 (b) for a second offense, shall be fined an amount not to exceed \$200 and:

2 (i) must have the person's driver's license suspended for not less than 60 days and not more than  
3 120 days;

4 (ii) shall be ordered to perform community service if a community service program is available; and

5 (iii) shall be ordered to complete and pay, either directly with money or indirectly, through  
6 court-ordered community service, if any is available, all costs of participation in a community-based  
7 substance abuse information course, if one is available;

8 (c) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than  
9 \$500 and:

10 (i) must have the person's driver's license suspended for not less than 120 days and not more than  
11 1 year, except that if the person was driving or was otherwise in actual physical control of a motor vehicle  
12 when the offense occurred, must have the person's driver's license revoked for 1 year or until the person  
13 reaches the age of 18, whichever occurs last;

14 (ii) shall be ordered to complete and pay, either directly with money or indirectly through  
15 court-ordered community service, if any is available, all costs of participation in a community-based  
16 substance abuse information course, if one is available, which may include alcohol or drug treatment, or  
17 both, approved by the department of corrections, if determined by the court to be appropriate.

18 (3) A person 18 years of age or older who is convicted of the offense of possession of an  
19 intoxicating substance ~~shall~~:

20 (a) for a first offense, shall be fined an amount not to exceed \$50 and be ordered to perform  
21 community service if a community service program is available;

22 (b) for a second offense, shall be fined an amount not to exceed \$100 and:

23 (i) shall be ordered to perform community service if a community service program is available; and

24 (ii) must have the person's driver's license suspended for not more than 60 days if the person was  
25 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

26 (c) for a third or subsequent offense, shall be fined an amount not to exceed \$200 and:

27 (i) shall be ordered to perform community service if a community service program is available;

28 (ii) must have the person's driver's license suspended for not more than 120 days if the person was  
29 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

30 (iii) shall be ordered to complete an alcohol information course at an alcohol treatment program

1 approved by the department of corrections, which may, in the sentencing court's discretion and upon  
2 recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both;  
3 and

4 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6  
5 months.

6 (4) A person under ~~the 21 years of age of 21~~ commits the offense of attempt to purchase an  
7 intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person  
8 convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$50  
9 if the person was 18 years of age or older at the time that the offense was committed or \$100 if the person  
10 was under 18 years of age at the time that the offense was committed.

11 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under  
12 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings  
13 for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged  
14 youth in need of supervision as defined in 41-5-103. The youth court may enter its judgment under  
15 41-5-523.

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

20 (7) A conviction or youth court adjudication under this section must be reported by the court to  
21 the department of justice under 61-11-101 for the purpose of keeping a record of the number of offenses  
22 committed but may not be considered part of the person's driving record for insurance purposes unless a  
23 second or subsequent conviction or adjudication under this section occurs. (See compiler's comments for  
24 contingent termination of certain text.)"

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26 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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INTRODUCED BY

*House* BILL NO. *577*  
*Molner* *Boatman* *Simpkins*

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT DELETING THE PROVISION THAT A PERSON UNDER 21 YEARS OF AGE NEED NOT BE CONSUMING OR IN POSSESSION OF THE INTOXICATING SUBSTANCE AT THE TIME OF ARREST TO COMMIT THE OFFENSE OF POSSESSION OF AN INTOXICATING SUBSTANCE; AMENDING SECTION 45-5-624, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

**"45-5-624. Unlawful attempt to purchase or possession of an intoxicating substance -- interference with sentence or court order.** (1) A person under the 21 years of age ~~of 21 years~~ commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. ~~The person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection.~~ A person does not commit the offense if the person consumes or gains possession of the beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

(2) In addition to any disposition by the youth court under 41-5-523, a person under 18 years of age who is convicted of the offense of possession of an intoxicating substance ~~shall~~:

(a) for the first offense, shall be fined an amount not to exceed \$100 and:

(i) must have the person's driver's license confiscated by the court for not less than 30 days and not more than 90 days and shall be ordered not to drive during that period if the person was driving or was otherwise in actual physical control of a motor vehicle when the offense occurred;

(ii) shall be ordered to perform community service if a community service program is available; and

(iii) shall be ordered to complete and pay, either directly with money or indirectly through court-ordered community service, if any is available, all costs of participation in a community-based substance abuse information course, if one is available;

1 (b) for a second offense, shall be fined an amount not to exceed \$200 and:

2 (i) must have the person's driver's license suspended for not less than 60 days and not more than  
3 120 days;

4 (ii) shall be ordered to perform community service if a community service program is available; and

5 (iii) shall be ordered to complete and pay, either directly with money or indirectly through  
6 court-ordered community service, if any is available, all costs of participation in a community-based  
7 substance abuse information course, if one is available;

8 (c) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than  
9 \$500 and:

10 (i) must have the person's driver's license suspended for not less than 120 days and not more than  
11 1 year, except that if the person was driving or was otherwise in actual physical control of a motor vehicle  
12 when the offense occurred, must have the person's driver's license revoked for 1 year or until the person  
13 reaches the age of 18, whichever occurs last;

14 (ii) shall be ordered to complete and pay, either directly with money or indirectly through  
15 court-ordered community service, if any is available, all costs of participation in a community-based  
16 substance abuse information course, if one is available, which may include alcohol or drug treatment, or  
17 both, approved by the department of corrections, if determined by the court to be appropriate.

18 (3) A person 18 years of age or older who is convicted of the offense of possession of an  
19 intoxicating substance ~~shall~~:

20 (a) for a first offense, shall be fined an amount not to exceed \$50 and be ordered to perform  
21 community service if a community service program is available;

22 (b) for a second offense, shall be fined an amount not to exceed \$100 and:

23 (i) shall be ordered to perform community service if a community service program is available; and

24 (ii) must have the person's driver's license suspended for not more than 60 days if the person was  
25 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

26 (c) for a third or subsequent offense, shall be fined an amount not to exceed \$200 and:

27 (i) shall be ordered to perform community service if a community service program is available;

28 (ii) must have the person's driver's license suspended for not more than 120 days if the person was  
29 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

30 (iii) shall be ordered to complete an alcohol information course at an alcohol treatment program



1 approved by the department of corrections, which may, in the sentencing court's discretion and upon  
2 recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both;  
3 and

4 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6  
5 months.

6 (4) A person under ~~the~~ 21 years of age ~~of 21~~ commits the offense of attempt to purchase an  
7 intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person  
8 convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$50  
9 if the person was 18 years of age or older at the time that the offense was committed or \$100 if the person  
10 was under 18 years of age at the time that the offense was committed.

11 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under  
12 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings  
13 for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged  
14 youth in need of supervision as defined in 41-5-103. The youth court may enter its judgment under  
15 41-5-523.

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

20 (7) A conviction or youth court adjudication under this section must be reported by the court to  
21 the department of justice under 61-11-101 for the purpose of keeping a record of the number of offenses  
22 committed but may not be considered part of the person's driving record for insurance purposes unless a  
23 second or subsequent conviction or adjudication under this section occurs. (See compiler's comments for  
24 contingent termination of certain text.)"

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26 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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INTRODUCED BY

*House* BILL NO. *577*  
*Molner Pachiaulla Simpson*

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT DELETING THE PROVISION THAT A PERSON UNDER 21 YEARS OF AGE NEED NOT BE CONSUMING OR IN POSSESSION OF THE INTOXICATING SUBSTANCE AT THE TIME OF ARREST TO COMMIT THE OFFENSE OF POSSESSION OF AN INTOXICATING SUBSTANCE; AMENDING SECTION 45-5-624, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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

**"45-5-624. Unlawful attempt to purchase or possession of an intoxicating substance -- interference with sentence or court order.** (1) A person under ~~the 21 years of age of 21 years~~ commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. ~~The person need not be consuming or in possession of the intoxicating substance at the time of arrest to violate this subsection.~~ A person does not commit the offense if the person consumes or gains possession of the beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

(2) In addition to any disposition by the youth court under 41-5-523, a person under 18 years of age who is convicted of the offense of possession of an intoxicating substance ~~shall~~:

(a) for the first offense, shall be fined an amount not to exceed \$100 and:

(i) must have the person's driver's license confiscated by the court for not less than 30 days and not more than 90 days and shall be ordered not to drive during that period if the person was driving or was otherwise in actual physical control of a motor vehicle when the offense occurred;

(ii) shall be ordered to perform community service if a community service program is available; and

(iii) shall be ordered to complete and pay, either directly with money or indirectly through court-ordered community service, if any is available, all costs of participation in a community-based substance abuse information course, if one is available;

1 (b) for a second offense, shall be fined an amount not to exceed \$200 and:

2 (i) must have the person's driver's license suspended for not less than 60 days and not more than  
3 120 days;

4 (ii) shall be ordered to perform community service if a community service program is available; and

5 (iii) shall be ordered to complete and pay, either directly with money or indirectly through  
6 court-ordered community service, if any is available, all costs of participation in a community-based  
7 substance abuse information course, if one is available;

8 (c) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than  
9 \$500 and:

10 (i) must have the person's driver's license suspended for not less than 120 days and not more than  
11 1 year, except that if the person was driving or was otherwise in actual physical control of a motor vehicle  
12 when the offense occurred, must have the person's driver's license revoked for 1 year or until the person  
13 reaches the age of 18, whichever occurs last;

14 (ii) shall be ordered to complete and pay, either directly with money or indirectly through  
15 court-ordered community service, if any is available, all costs of participation in a community-based  
16 substance abuse information course, if one is available, which may include alcohol or drug treatment, or  
17 both, approved by the department of corrections, if determined by the court to be appropriate.

18 (3) A person 18 years of age or older who is convicted of the offense of possession of an  
19 intoxicating substance ~~shall~~:

20 (a) for a first offense, shall be fined an amount not to exceed \$50 and be ordered to perform  
21 community service if a community service program is available;

22 (b) for a second offense, shall be fined an amount not to exceed \$100 and:

23 (i) shall be ordered to perform community service if a community service program is available; and

24 (ii) must have the person's driver's license suspended for not more than 60 days if the person was  
25 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

26 (c) for a third or subsequent offense, shall be fined an amount not to exceed \$200 and:

27 (i) shall be ordered to perform community service if a community service program is available;

28 (ii) must have the person's driver's license suspended for not more than 120 days if the person was  
29 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

30 (iii) shall be ordered to complete an alcohol information course at an alcohol treatment program

1 approved by the department of corrections, which may, in the sentencing court's discretion and upon  
2 recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both;  
3 and

4 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6  
5 months.

6 (4) A person under ~~the~~ 21 years of age ~~of 21~~ commits the offense of attempt to purchase an  
7 intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person  
8 convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$50  
9 if the person was 18 years of age or older at the time that the offense was committed or \$100 if the person  
10 was under 18 years of age at the time that the offense was committed.

11 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under  
12 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings  
13 for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged  
14 youth in need of supervision as defined in 41-5-103. The youth court may enter its judgment under  
15 41-5-523.

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

20 (7) A conviction or youth court adjudication under this section must be reported by the court to  
21 the department of justice under 61-11-101 for the purpose of keeping a record of the number of offenses  
22 committed but may not be considered part of the person's driving record for insurance purposes unless a  
23 second or subsequent conviction or adjudication under this section occurs. (See compiler's comments for  
24 contingent termination of certain text.)"

25  
26 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

27 -END-

## 1 HOUSE BILL NO. 577

2 INTRODUCED BY MOLNAR, COCCHIARELLA, SIMPKINS

3 BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT DELETING THE PROVISION THAT A PERSON UNDER 21 YEARS  
6 OF AGE NEED NOT BE CONSUMING OR IN POSSESSION OF THE INTOXICATING SUBSTANCE AT THE  
7 TIME OF ARREST TO COMMIT THE OFFENSE OF POSSESSION OF AN INTOXICATING SUBSTANCE;  
8 AMENDING SECTION 45-5-624, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11  
12 **Section 1.** Section 45-5-624, MCA, is amended to read:

13 **"45-5-624. Unlawful attempt to purchase or possession of an intoxicating substance --**  
14 **interference with sentence or court order.** (1) A person under ~~the 21 years of age of 21 years~~ commits the  
15 offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's  
16 possession an intoxicating substance. ~~The person need not be consuming or in possession of the~~  
17 ~~intoxicating substance at the time of arrest to violate this subsection.~~ A person does not commit the  
18 offense if the person consumes or gains possession of the beverage because it was lawfully supplied to  
19 the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic  
20 beverages.

21 (2) In addition to any disposition by the youth court under 41-5-523, a person under 18 years of  
22 age who is convicted of the offense of possession of an intoxicating substance ~~shall~~:

23 (a) for the first offense, shall be fined an amount not to exceed \$100 and:

24 (i) must have the person's driver's license confiscated by the court for not less than 30 days and  
25 not more than 90 days and shall be ordered not to drive during that period if the person was driving or was  
26 otherwise in actual physical control of a motor vehicle when the offense occurred;

27 (ii) shall be ordered to perform community service if a community service program is available; and

28 (iii) shall be ordered to complete and pay, either directly with money or indirectly through  
29 court-ordered community service, if any is available, all costs of participation in a community-based  
30 substance abuse information course, if one is available;

1 (b) for a second offense, shall be fined an amount not to exceed \$200 and:

2 (i) must have the person's driver's license suspended for not less than 60 days and not more than  
3 120 days;

4 (ii) shall be ordered to perform community service if a community service program is available; and

5 (iii) shall be ordered to complete and pay, either directly with money or indirectly through  
6 court-ordered community service, if any is available, all costs of participation in a community-based  
7 substance abuse information course, if one is available;

8 (c) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than  
9 \$500 and:

10 (i) must have the person's driver's license suspended for not less than 120 days and not more than  
11 1 year, except that if the person was driving or was otherwise in actual physical control of a motor vehicle  
12 when the offense occurred, must have the person's driver's license revoked for 1 year or until the person  
13 reaches the age of 18, whichever occurs last;

14 (ii) shall be ordered to complete and pay, either directly with money or indirectly through  
15 court-ordered community service, if any is available, all costs of participation in a community-based  
16 substance abuse information course, if one is available, which may include alcohol or drug treatment, or  
17 both, approved by the department of corrections, if determined by the court to be appropriate.

18 (3) A person 18 years of age or older who is convicted of the offense of possession of an  
19 intoxicating substance ~~shall~~:

20 (a) for a first offense, shall be fined an amount not to exceed \$50 and be ordered to perform  
21 community service if a community service program is available;

22 (b) for a second offense, shall be fined an amount not to exceed \$100 and:

23 (i) shall be ordered to perform community service if a community service program is available; and

24 (ii) must have the person's driver's license suspended for not more than 60 days if the person was  
25 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

26 (c) for a third or subsequent offense, shall be fined an amount not to exceed \$200 and:

27 (i) shall be ordered to perform community service if a community service program is available;

28 (ii) must have the person's driver's license suspended for not more than 120 days if the person was  
29 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

30 (iii) shall be ordered to complete an alcohol information course at an alcohol treatment program

1 approved by the department of corrections, which may, in the sentencing court's discretion and upon  
2 recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both;  
3 and

4 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6  
5 months.

6 (4) A person under ~~the~~ 21 years of age ~~of 21~~ commits the offense of attempt to purchase an  
7 intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person  
8 convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$50  
9 if the person was 18 years of age or older at the time that the offense was committed or \$100 if the person  
10 was under 18 years of age at the time that the offense was committed.

11 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under  
12 18 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings  
13 for failure to comply with a sentence are held in the youth court, the offender must be treated as an alleged  
14 youth in need of supervision as defined in 41-5-103. The youth court may enter its judgment under  
15 41-5-523.

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

20 (7) A conviction or youth court adjudication under this section must be reported by the court to  
21 the department of justice under 61-11-101 for the purpose of keeping a record of the number of offenses  
22 committed but may not be considered part of the person's driving record for insurance purposes unless a  
23 second or subsequent conviction or adjudication under this section occurs. (See compiler's comments for  
24 contingent termination of certain text.)"

25

26 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

27

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