

HOUSE BILL NO. 219

INTRODUCED BY J. MCKENNEY, BROWN, SPRAGUE, YOUNKIN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE SUSPENSION OF THE LICENSE OF A DRIVER WHO STEALS FUEL FROM A RETAIL ESTABLISHMENT AT WHICH MOTOR VEHICLES ARE FUELED; PROVIDING THAT THE REGISTERED OWNER OF A VEHICLE USED IN THE COMMISSION OF THE THEFT IS PRESUMED TO HAVE BEEN THE DRIVER; AND AMENDING SECTIONS 45-6-301, 61-5-205, AND 61-8-734, MCA."

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

~~Section 1. Section 45-6-301, MCA, is amended to read:~~

~~"45-6-301. Theft. (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:~~

~~(a) has the purpose of depriving the owner of the property;~~

~~(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~

~~(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:~~

~~(a) has the purpose of depriving the owner of the property;~~

~~(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or~~

~~(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.~~

~~(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:~~

~~(a) has the purpose of depriving the owner of the property;~~

~~(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives~~



- 1 ~~the owner of the property; or~~
- 2 ~~—— (c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment~~
- 3 ~~probably will deprive the owner of the property.~~
- 4 ~~—— (4) A person commits the offense of theft when the person purposely or knowingly obtains or~~
- 5 ~~exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state~~
- 6 ~~or county agency, regardless of the original source of assistance, by means of:~~
- 7 ~~—— (a) a knowingly false statement, representation, or impersonation; or~~
- 8 ~~—— (b) a fraudulent scheme or device.~~
- 9 ~~—— (5) A person commits the offense of theft when the person purposely or knowingly obtains or~~
- 10 ~~exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under~~
- 11 ~~Title 39, chapter 71 or 72, by means of:~~
- 12 ~~—— (a) a knowingly false statement, representation, or impersonation; or~~
- 13 ~~—— (b) deception or other fraudulent action.~~
- 14 ~~—— (6) A person commits the offense of theft when the person purposely or knowingly commits~~
- 15 ~~insurance fraud as provided in 33-1-1202.~~
- 16 ~~—— (7) (a) A person convicted of the offense of theft of property not exceeding \$1,000 in value shall~~
- 17 ~~be fined not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months,~~
- 18 ~~or both. A person convicted of a second offense shall be fined \$1,000 or be imprisoned in the county jail~~
- 19 ~~for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense shall be~~
- 20 ~~fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or more than 6~~
- 21 ~~months.~~
- 22 ~~—— (b) A person convicted of the offense of theft of property exceeding \$1,000 in value or theft of~~
- 23 ~~any commonly domesticated hoofed animal shall be fined not to exceed \$50,000 or be imprisoned in the~~
- 24 ~~state prison for any a term not to exceed 10 years, or both.~~
- 25 ~~—— (8) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,~~
- 26 ~~whether from the same person or several persons, may be aggregated in determining the value of the~~
- 27 ~~property.~~
- 28 ~~—— (9) If the theft consists of theft of motor vehicle fuel offered for retail sale at a business at which~~
- 29 ~~motor vehicles are fueled and a motor vehicle is used in the commission of the offense:~~
- 30 ~~—— (a) it is presumed that the registered owner of the motor vehicle was the driver at the time of the~~

1 ~~offense; and~~

2 ~~—— (b) in addition to the penalties provided in subsection (7), the person's driver's license must be~~  
 3 ~~suspended for 30 days upon a first misdemeanor conviction, must be suspended for 6 months upon a~~  
 4 ~~second or subsequent misdemeanor conviction, and must be revoked as provided in 61-5-205(1) upon a~~  
 5 ~~felony conviction."~~

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7 **Section 1.** Section 61-5-205, MCA, is amended to read:

8 **"61-5-205. Mandatory revocation or suspension of license upon proper authority.** (1) The  
 9 department upon proper authority shall revoke the driver's license or the operating privilege of ~~any~~ a driver  
 10 upon receiving a record of the driver's conviction of or forfeiture of bail not vacated ~~of~~ for any of the  
 11 following offenses, when the conviction or forfeiture has become final:

12 (1)(a) negligent homicide resulting from the operation of a motor vehicle;

13 (2)(b) driving a motor vehicle while under the influence of alcohol or any drug or a combination  
 14 of alcohol or drugs, except as provided in 61-5-208, or operation of a motor vehicle by a person with a  
 15 blood alcohol concentration of 0.10 or more;

16 (3)(c) any felony in the commission of which a motor vehicle is used;

17 (4)(d) failure to stop and render aid as required under the laws of this state in the event of a motor  
 18 vehicle accident resulting in the death or personal injury of another;

19 (5)(e) perjury or the making of a false affidavit or statement under oath to the department under  
 20 this chapter or under any other law relating to the ownership or operation of motor vehicles;

21 (6)(f) conviction or forfeiture of bail not vacated upon three charges of reckless driving committed  
 22 within a period of 12 months; or

23 (7)(g) negligent vehicular assault as defined in 45-5-205.

24 (2) The department upon proper authority shall suspend the driver's license or the operating  
 25 privilege of a driver upon receiving a record of the driver's conviction of or forfeiture of bail not vacated  
 26 for a misdemeanor theft offense punishable under 45-6-301(9) 45-6-301 when the conviction or forfeiture  
 27 has become final IF THE THEFT CONSISTED OF THEFT OF MOTOR VEHICLE FUEL AND A MOTOR VEHICLE WAS USED IN THE  
 28 COMMISSION OF THE OFFENSE. THE SUSPENSION MUST BE FOR 30 DAYS FOR A FIRST OFFENSE, 6 MONTHS FOR A SECOND  
 29 OFFENSE, AND 1 YEAR FOR A THIRD OR SUBSEQUENT OFFENSE."

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