

HOUSE BILL NO. 500

INTRODUCED BY T. DOWELL

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE IMPRISONMENT AND DRIVER'S LICENSE SUSPENSION OR REVOCATION PERIODS FOR DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL OR DRUG CONCENTRATION IN THE BODY; PROVIDING THAT COMMUNITY SERVICE MUST BE ORDERED AS A CONDITION OF ANY IMPRISONMENT SUSPENSION; AND AMENDING SECTIONS 61-5-208, 61-8-714, AND 61-8-722, MCA."

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

Section 1. Section 61-5-208, MCA, is amended to read:

"61-5-208. Period of suspension or revocation -- probationary license -- ignition interlock device required on second or subsequent offense. (1) The department may not suspend or revoke a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than 1 year, except as otherwise permitted by law.

(2) (a) Except as provided in 61-2-302, a person whose license or privilege to drive a motor vehicle on the public highways has been suspended or revoked may not have the license, endorsement, or privilege renewed or restored until the revocation or suspension period has been completed.

(b) (i) When a person is convicted or forfeits bail or collateral not vacated for the offense of operating or being in actual physical control of a motor vehicle while under the influence of alcohol or any drug or a combination of alcohol or drugs or for the offense of operation of a motor vehicle by a person with alcohol concentration of 0.10 or more, the department shall, upon receiving a report of conviction or forfeiture of bail or collateral not vacated, suspend the driver's license or driving privilege of the person for a period of ~~6 months~~ 1 year.

(ii) Upon receiving a report of a conviction or forfeiture of bail or collateral for a second, ~~third, or subsequent~~ offense within 5 years of the first offense, the department shall revoke the license or driving privilege of the person for a period of ~~1 year~~ 3 years. Upon receiving a report of a conviction or forfeiture of bail or collateral for a third or subsequent offense within 5 years of the prior offense, the department shall revoke the license or driving privilege of the person for a period of 5 years. ~~and, upon~~ Upon issuance of any restricted

1 probationary license during the period of revocation, the department shall restrict the person to driving only a
2 motor vehicle equipped with a functioning ignition interlock device. If the ~~1-year~~ revocation period passes and
3 the person has not completed a chemical dependency education course, treatment, or both, as ordered by the
4 sentencing court, the license revocation remains in effect until the course, treatment, or both, are completed.

5 (c) For the purposes of subsection (2)(b), a person is considered to have committed a second, third,
6 or subsequent offense if fewer than 5 years have passed between the date of an offense that resulted in a prior
7 conviction and the date of the offense that resulted in the most recent conviction.

8 (3) (a) If a person pays the reinstatement fee required in 61-2-107 and provides the department proof
9 of compliance with an ignition interlock restriction imposed under 61-8-442, the department shall stay the license
10 suspension of a person who has been convicted of a violation of 61-8-401 or 61-8-406 and return the person's
11 driver's license. The stay must remain in effect until the period of suspension has expired and any required
12 chemical dependency education course, treatment, or both, have been completed.

13 (b) If the department receives notice from a court, peace officer, or ignition interlock vendor that the
14 person has violated the court-imposed ignition interlock restriction by, including but not limited to operating a
15 motor vehicle not equipped with the device, tampering with the device, or removing the device before the period
16 of restriction has expired, the department shall lift the stay and reinstate the license suspension for the remainder
17 of the time period. The department may not issue a probationary driver's license to a person whose license
18 suspension has been reinstated because of violation of an ignition interlock restriction.

19 (4) The period for all revocations made mandatory by 61-5-205 is 1 year except as provided in
20 subsection (2).

21 (5) The period of revocation for a person convicted of any offense that makes mandatory the revocation
22 of the person's driver's license commences from the date of conviction or forfeiture of bail.

23 (6) If a person is convicted of a violation of 61-8-401 or 61-8-406 while operating a commercial motor
24 vehicle, the department shall suspend the person's driver's license as provided in 61-8-802."

25
26 **Section 2.** Section 61-8-714, MCA, is amended to read:

27 **"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense.**

28 (1) A person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24
29 ~~consecutive hours~~ 10 days or more than ~~6 months~~ 1 year and shall be punished by a fine of not less than \$100
30 or more than \$500. The initial 24 hours of the imprisonment term must be served in the county jail and may not

1 be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge
2 finds that the imposition of the imprisonment sentence will pose a risk to the defendant's physical or mental
3 well-being. Except for the initial 24 hours of the imprisonment term, notwithstanding 46-18-201(2), the
4 imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of
5 court-ordered chemical dependency assessment, education, or treatment by the defendant.

6 (2) On a second conviction, the person shall be punished by a fine of not less than \$300 or more than
7 \$500 and by imprisonment for not less than ~~7~~ 90 days or more than ~~6 months~~ 1 year. At least 48 hours of the
8 imprisonment term must be served consecutively in the county jail and may not be served under home arrest.
9 Three days of the imprisonment sentence may not be suspended unless the judge finds that the imposition of
10 the imprisonment sentence will pose a risk to the defendant's physical or mental well-being. Except for the initial
11 3 days of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended
12 for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the
13 defendant.

14 (3) On the third conviction, the person shall be punished by imprisonment for a term of not less than
15 ~~30~~ 120 days or more than 1 year and by a fine of not less than \$500 or more than \$1,000. At least 48 hours of
16 the imprisonment term must be served consecutively in the county jail and may not be served under home
17 arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended.
18 The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful
19 completion of a chemical dependency treatment program by the defendant.

20 (4) The court shall make the performance of community service of the type and in the amount of hours
21 or days determined by the court a condition of any sentence suspension under this section."

22
23 **Section 3.** Section 61-8-722, MCA, is amended to read:

24 **"61-8-722. Penalty for driving with excessive alcohol concentration -- first through third offense.**

25 (1) A person convicted of a violation of 61-8-406 shall be punished by imprisonment for not less than 10 days
26 and not more than ~~40 days~~ 1 year and shall be punished by a fine of not less than \$100 or more than \$500.

27 (2) On a second conviction of a violation of 61-8-406, the person shall be punished by imprisonment
28 for not less than ~~48 consecutive hours~~ 90 days, to be served in the county jail and not on home arrest, or more
29 than ~~30 days~~ 1 year and by a fine of not less than \$300 or more than \$500.

30 (3) On a third conviction of a violation of 61-8-406, the person shall be punished by imprisonment for

1 not less than ~~48 consecutive hours~~ 120 days, to be served in the county jail and not on home arrest, or more
2 than ~~6 months~~ 1 year and by a fine of not less than \$500 or more than \$1,000.

3 (4) The court shall make the performance of community service of the type and in the amount of hours
4 or days determined by the court a condition of any sentence suspension under this section."

5 - END -