

Amendments to House Bill No. 46  
1st Reading Copy

Requested by Representative John Parker

For the House Judiciary Committee

Prepared by John MacMaster  
January 19, 2005 (3:09pm)

1. Title, page 1, line 5.

**Following:** "HOMICIDE;"

**Insert:** "PROVIDING THAT ON THE FIRST THROUGH THIRD CONVICTION FOR DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL CONCENTRATION, IF THE PERSON HAS A PRIOR CONVICTION OF VEHICULAR HOMICIDE AND THE STATE LAW THAT WAS VIOLATED WITHIN THE MEANING OF THE VEHICULAR HOMICIDE OFFENSE WHILE THE PERSON WAS OPERATING THE VEHICLE AT THE TIME THAT THE OFFENSE OF VEHICULAR HOMICIDE OCCURRED WAS DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL CONCENTRATION, THE PERSON SHALL BE PUNISHED AS PROVIDED IN 61-8-731 FOR A FOURTH OR SUBSEQUENT OFFENSE OF DRIVING UNDER THE INFLUENCE OR WITH AN EXCESSIVE ALCOHOL CONCENTRATION; AMENDING SECTIONS 61-8-714 AND 61-8-722, MCA;"

2. Page 1, line 12 through line 13.

**Strike:** "and the" on line 12 through "death" on line 13

3. Page 1, line 16.

**Strike:** "20"

**Insert:** "30"

**Following:** "both."

**Insert:** "Imposition of a sentence may not be deferred."

4. Page 1, line 17.

**Insert:** "Section 2. Section 61-8-714, MCA, is amended to read:

"61-8-714. **Penalty for driving under influence of alcohol or drugs -- first through third offense.** (1) Except as provided in subsection (4), a person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and shall be punished by a fine of not less than \$300 or more than \$1,000. The initial 24 hours of the imprisonment term must be served in the county jail and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk

to the person's physical or mental well-being. Except for the initial 24 hours of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(2) On Except as provided in subsection (4), on a second conviction, the person shall be punished by a fine of not less than \$600 or more than \$1,000 and by imprisonment for not less than 7 days or more than 6 months. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 5 days of the imprisonment sentence may not be suspended. Except for the initial 5 days of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person.

(3) On Except as provided in subsection (4), on the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than \$1,000 or more than \$5,000. At least 48 hours of the imprisonment term must be served consecutively in the county jail and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person.

(4) If the person has a prior conviction under [section 1] and the state law that was violated within the meaning of [section 1] while the person was operating the vehicle at the time that the offense occurred under [section 1] was 61-8-401 or 61-8-406, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence or with an excessive alcohol concentration.

{ Internal References to 61-8-714: x

|          |          |          |          |
|----------|----------|----------|----------|
| 61-8-401 | 61-8-401 | 61-8-442 | 61-8-442 |
| 61-8-731 | 61-8-732 | 61-8-732 | 61-8-733 |
| 61-8-734 | 61-8-734 | 61-8-734 | 61-8-734 |
| 61-8-734 | 61-8-734 |          |          |

Insert: "Section 3. Section 61-8-722, MCA, is amended to read:

"61-8-722. **Penalty for driving with excessive alcohol concentration -- first through third offense.** (1) Except as provided in subsection (4), a person convicted of a violation of 61-8-406 shall be punished by imprisonment for not more than 10 days and shall be punished by a fine of not less than \$300 or more than \$1,000.

(2) On Except as provided in subsection (4), on a second conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than 5 days, to be served

in the county jail and not on home arrest, or more than 30 days and by a fine of not less than \$600 or more than \$1,000. The imposition or execution of the first 5 days of the imprisonment sentence may not be suspended.

(3) On Except as provided in subsection (4), on a third conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than 10 days, to be served in the county jail and not on home arrest, or more than 6 months and by a fine of not less than \$1,000 or more than \$5,000. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended.

(4) If the person has a prior conviction under [section 1] and the state law that was violated within the meaning of [section 1] while the person was operating the vehicle at the time that the offense occurred under [section 1] was 61-8-401 or 61-8-406, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence or with an excessive alcohol concentration."

{ Internal References to 61-8-722: x

|          |          |          |          |
|----------|----------|----------|----------|
| 61-8-401 | 61-8-406 | 61-8-442 | 61-8-442 |
| 61-8-731 | 61-8-732 | 61-8-733 | 61-8-734 |
| 61-8-734 | 61-8-734 | 61-8-734 | 61-8-734 |

61-8-734}"

**Renumber:** subsequent sections

- END -

