

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE 1/28/05

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
REP. DIANE RICE, CHAIR	X		
REP. RON STOKER, VICE CHAIR	X		
REP. PAUL CLARK, VICE CHAIR	X		
REP. ARLENE BECKER	X		
REP. ROBYN DRISCOLL	X		
REP. GEORGE EVERETT	X		
REP. GAIL GUTSCHE	X		
REP. CHRISTOPHER HARRIS	X		
REP. ROGER KOOPMAN	X		
REP. MIKE LANGE	X		
REP. TOM MCGILLVRAY	X		
REP. MARK NOENNIG	X		
REP. ART NOONAN	X		
REP. JOHN PARKER	X		
REP. JON SONJU	X		
REP. JOHN WARD	X		
REP. BILL WILSON	X		
REP. JEANNE WINDHAM	X		



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HOUSE STANDING COMMITTEE REPORT

January 28, 2005

Page 1 of 1

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 100** (first reading copy -- white) **do pass as amended.**

Signed: *Diane Rice*
Representative Diane Rice, Chair

And, that such amendments read:

1. Title, page 1, line 4 through line 6.

Strike: "REQUIRING" on line 4 through "WARRANT;" on line 6

2. Page 1, line 6.

Following: "PERSONS"

Insert: "AT SEARCHED PREMISES"

3. Title, page 1, line 8 through line 11.

Strike: "REQUIRING" on line 8 through "PREMISES;" on line 11

Strike: "SECTIONS 46-5-221, 46-5-227, AND"

Insert: "SECTION"

4. Page 1, line 16 through page 2, line 5.

Strike: section 1 through section 2 in their entirety

Renumber: subsequent section

5. Page 2, line 12 through line 14.

Strike: "The entry" on line 12 through "premises." on line 14

- END -

Committee Vote:

Yes 15, No 3.

221312SC.hkh

1/28/05

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HOUSE STANDING COMMITTEE REPORT

January 28, 2005

Page 1 of 3

Mr. Speaker:

We, your committee on **Judiciary** recommend that **House Bill 46** (first reading copy -- white) do **pass as amended**.

Signed:

Diane Rice
Representative Diane Rice, Chair

And, that such amendments read:

1. Title, page 1, line 5.

Following: "HOMICIDE"

Strike: " ; "

Insert: "WHILE UNDER THE INFLUENCE; 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 WHILE UNDER THE INFLUENCE, 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 10.

Following: "homicide"

Insert: "while under influence"

3. Page 1, line 11.

Following: "homicide"

Insert: "while under the influence"

4. Page 1, line 12 through line 13.

Strike: "a state" on line 12 through "death" on line 13

Insert: "61-8-401 or 61-8-406"

Committee Vote:

Yes 17, No 1.

221318SC.hkh

1/28/05
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5. Page 1, line 14.

Following: "homicide"

Insert: "while under the influence"

6. Page 1, line 15.

Following: "homicide"

Insert: "while under the influence"

7. Page 1, line 16.

Strike: "20"

Insert: "30"

Following: "both."

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

8. 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], the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration."

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], the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration."

Renumber: subsequent sections

- END -

HOUSE OF REPRESENTATIVES

Roll Call Vote

JUDICIARY COMMITTEE

DATE 1/28/05 BILL NO HB 46 MOTION NO. 1
 MOTION: _____

Do Pass As Amended

<u>NAME</u>	AYE	NO	If Proxy Vote, check here and include signed Proxy Form with minutes.
REP. RON STOKER, VICE CHAIR	X		
REP. ARLENE BECKER	X		
REP. PAUL CLARK, VICE CHAIR	X		
REP. ROBYN DRISCOLL	X		
REP. GEORGE EVERETT	X		
REP. GAIL GUTSCHE	X		
REP. CHRISTOPHER HARRIS	X		
REP. ROGER KOOPMAN	X		
REP. MIKE LANGE	X		X
REP. TOM MCGILLVRAY	X		
REP. MARK NOENNIG	X		
REP. ART NOONAN	X		
REP. JOHN PARKER	X		
REP. JON SONJU	X		
REP. JOHN WARD	X		
REP. BILL WILSON	X		
REP. JEANNE WINDHAM	X		
REP. DIANE RICE, CHAIR		X	

COMMITTEE PROXY

DATE: 1/28/2005

I request to be excused from the H. Judiciary

Committee because of other commitments. I desire to leave my proxy vote with:

Ron Stokoe

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT

AYE NO

SENATE BILL/AMENDMENT

AYE NO

HB 46 +	X	
Amend 4600	X	

Rep./Sen. Mark Jay

(Signature)

COMMITTEE PROXY

DATE: 1/28/2005

I request to be excused from the H. Judiciary

Committee because of other commitments. I desire to leave my proxy vote with:
Paul Sten

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT AYE NO

SENATE BILL/AMENDMENT AYE NO

HR 100 +		X
Amend 10002		X
Amend 10001		X

Rep/Sen. Mark J...
 (Signature)

**Montana House of Representatives
Visitors Register**

JUDICIARY COMMITTEE

Date 1/28/05

Bill No. HB-284 Sponsor(s) Rep. R. Hawk

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PLEASE PRINT

PLEASE PRINT

Name and Address	Representing	Support	Oppose	Inf.
<u>GARY MARBUT</u>	<u>MSSA</u>	<u>X</u>		
<u>DOUG NULLE 37-D STONEY BROOK DR., CLANCY</u>	<u>SELF</u>	<u>X</u>		
<u>Jim Kemberl</u>	<u>MT Chiefs of Police</u>		<u>X</u>	
<u>Travis McAdam</u>	<u>MT Human Rights Network</u>		<u>X</u>	
<u>Jim Smith</u>	<u>MSPDA</u>		<u>✓</u>	
<u>Cheryl Kiedle</u>	<u>h/c S.O-MSPDA</u>		<u>✓</u>	
<u>Ratny Mefowan</u>	<u>MCAA</u>		<u>✓</u>	
<u>Don Dole</u>	<u>Self</u>	<u>✓</u>		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

/s/JudicVisitorReg.sample2003

