

## HOUSE BILL NO. 194

INTRODUCED BY D. SALOMON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT STATUTORILY IMPOSING ACCOUNTABILITY FOR THE  
5 OFFENSES OF VEHICULAR HOMICIDE UNDER THE INFLUENCE AND NEGLIGENT VEHICULAR ASSAULT  
6 ON A PASSENGER OF THE VEHICLE UNLESS THE PASSENGER MAKES A TIMELY REPORT OF THE  
7 OFFENSE; REQUIRING THE PASSENGER TO REPORT THE OFFENSE TO LAW ENFORCEMENT AND TO  
8 THE DEPARTMENT OF JUSTICE; AND AMENDING SECTIONS 45-2-302, 45-5-106, 45-5-205, AND 61-7-109,  
9 MCA."

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

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13 **Section 1.** Section 45-2-302, MCA, is amended to read:  
14 **"45-2-302. When accountability exists.** (1) A person is legally accountable for the conduct of another  
15 when:

16 ~~(1)~~(a) having a mental state described by the statute defining the offense, the person causes another  
17 to perform the conduct, regardless of the legal capacity or mental state of the other person;

18 ~~(2)~~(b) the statute defining the offense makes the person accountable; or

19 ~~(3)~~(c) either before or during the commission of an offense with the purpose to promote or facilitate the  
20 commission, the person solicits, aids, abets, agrees, or attempts to aid the other person in the planning or  
21 commission of the offense or is a passenger in a vehicle involved in vehicular homicide while under the influence  
22 or negligent vehicular assault. However, a person is not accountable if:

23 ~~(a)~~(i) the person is a victim of the offense committed, unless the statute defining the offense provides  
24 otherwise; or

25 ~~(b)~~(ii) before the commission of the offense, the person terminates the person's effort to promote or  
26 facilitate the commission and does one of the following:

27 ~~(i)~~(A) wholly deprives the person's prior efforts of effectiveness in the commission;

28 ~~(ii)~~(B) gives timely warning to the proper law enforcement authorities or timely reports to law enforcement  
29 the possible commission of an offense described in 45-5-106 or 45-5-205; or

30 ~~(iii)~~(C) otherwise makes proper effort to prevent the commission of the offense.

1           (2) For purposes of subsection (1)(c)(ii)(B), a report is timely if it is filed within 7 days of the commission  
2 of a reportable offense."

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4           **Section 2.** Section 45-5-106, MCA, is amended to read:

5           **"45-5-106. Vehicular homicide while under influence.** (1) (a) A person commits the offense of  
6 vehicular homicide while under the influence if the person negligently causes the death of another human being  
7 while the person is operating a vehicle in violation of 61-8-401 or 61-8-406.

8           (b) A passenger in a vehicle described in subsection (1)(a) who purposely or knowingly fails to make a  
9 timely report as provided in 45-2-302(1)(c)(ii)(B) is accountable for the conduct of the operator of the motor  
10 vehicle as provided in 45-2-302(1)(b).

11           (2) Vehicular homicide while under the influence is not an included offense of deliberate homicide as  
12 described in 45-5-102(1)(b).

13           (3) A person convicted of vehicular homicide while under the influence shall be imprisoned in a state  
14 prison for a term not to exceed 30 years or be fined an amount not to exceed \$50,000, or both. Imposition of a  
15 sentence may not be deferred."

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17           **Section 3.** Section 45-5-205, MCA, is amended to read:

18           **"45-5-205. Negligent vehicular assault -- penalty.** (1) (a) A person who negligently operates a vehicle,  
19 other than a bicycle as defined in 61-8-102, while under the influence of alcohol, a dangerous drug, any other  
20 drug, or any combination of the three, as provided for in 61-8-401(1), and who causes bodily injury to another  
21 commits the offense of negligent vehicular assault.

22           (b) A passenger in a vehicle described in subsection (1)(a) who purposely or knowingly fails to make a  
23 timely report as provided in 45-2-302(1)(c)(ii)(B) is accountable for the conduct of the operator of the motor  
24 vehicle as provided in 45-2-302(1)(b).

25           (2) Subject to subsection (3), a person convicted of the offense of negligent vehicular assault shall be  
26 fined an amount not to exceed \$1,000 or be incarcerated in a county jail for a term not to exceed 1 year, or both,  
27 and shall be ordered to pay restitution as provided in 46-18-241.

28           (3) A person convicted of the offense of negligent vehicular assault who caused serious bodily injury to  
29 another shall be fined an amount not to exceed \$10,000 or be incarcerated for a term not to exceed 10 years,  
30 or both, and shall be ordered to pay restitution as provided in 46-18-241.

1 (4) If a term of incarceration is imposed under subsection (2) or (3), the judge may suspend the term of  
2 incarceration upon the condition of payment of any fine imposed and of restitution. If the person does not pay the  
3 fine or restitution, the term of incarceration may be imposed."

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5 **Section 4.** Section 61-7-109, MCA, is amended to read:

6 **"61-7-109. ~~Written reports~~ Reports of accidents -- additional information -- form of report. (1) (a)**

7 The operator of a motor vehicle that is in any manner involved in an accident within this state in which a person  
8 is killed or injured or in which damage to the property of a person in excess of \$1,000 is sustained shall, within  
9 10 days after the accident, report the matter in writing to the department unless the accident was investigated  
10 and reported by a law enforcement officer as provided in subsection (3).

11 (b) A passenger in a vehicle involved in an accident referred to in subsection (1)(a) shall report the  
12 accident to the department within 7 days of the accident.

13 (2) The department may require the driver of a vehicle or a passenger involved in an accident of which  
14 report must be made as provided in this section to file supplemental reports whenever the original report is  
15 insufficient and may require witnesses of accidents to render reports.

16 (3) A law enforcement officer who in the regular course of duty investigates a motor vehicle accident in  
17 which a person is killed or injured or in which damage to the property of a person exceeds \$1,000, either at the  
18 time of and at the scene of the accident or after the accident by interviewing participants or witnesses, shall within  
19 10 days after completing the investigation forward a written report of the accident to the department.

20 (4) The form of the accident report required under this section must contain information sufficient to  
21 enable the department to determine whether the requirements for the deposit of security for safety responsibility  
22 are inapplicable by reason of the existence of insurance or other exemptions specified in chapter 6 of this title.

23 (5) A report required by subsection (1) or (2) may not be used as evidence in any trial, civil or criminal,  
24 arising out of an accident."

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