

HOUSE BILL NO. 111

INTRODUCED BY K. REGIER

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SENTENCING FOR FELONY DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; AMENDING SECTION 61-8-731, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 61-8-731, MCA, is amended to read:

"61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- penalty for fourth or subsequent offense. (1) Except as provided in subsection (3), if a person is convicted of a violation of 61-8-401, 61-8-406, or 61-8-411, the person has either a single conviction under 45-5-106 or any combination of three or more prior convictions under 45-5-104, 45-5-205, 61-8-401, 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), the person is guilty of a felony and shall be punished by:

(a) sentencing the person to the department of corrections for placement in an appropriate correctional facility or program for a term of not less than 13 months or more than 2 years. The court shall order that if the person successfully completes a residential alcohol treatment program ~~operated~~ or approved by the department of corrections, the remainder of the ~~13-month~~ sentence must be served on probation. The imposition or execution of the ~~13-month~~ sentence may not be deferred or suspended, and the person is not eligible for parole.

(b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and

(c) a fine in an amount of not less than \$1,000 or more than \$10,000.

(2) The department of corrections may place an offender sentenced under subsection (1)(a) in a residential alcohol treatment program ~~operated~~ or approved by the department of corrections ~~or in a state prison~~.

(3) If a person is convicted of a violation of 61-8-401, 61-8-406, or 61-8-411, the person has either a single conviction under 45-5-106 or any combination of four or more prior convictions under 45-5-104, 45-5-205,



1 61-8-401, 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a
2 vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three,
3 as provided in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment
4 program under subsection (2), whether or not the person successfully completed the program, the person shall
5 be sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be
6 fined an amount of not less than \$1,000 or more than \$10,000, or both.

7 (4) The court shall, as a condition of probation, order:

8 (a) that the person abide by the standard conditions of probation promulgated by the department of
9 corrections;

10 (b) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment
11 under this section;

12 (c) that the person may not frequent an establishment where alcoholic beverages are served;

13 (d) that the person may not consume alcoholic beverages;

14 (e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;

15 (f) that the person enter in and remain in an aftercare treatment program for the entirety of the
16 probationary period;

17 (g) that the person submit to random or routine drug and alcohol testing; and

18 (h) that if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition
19 interlock system.

20 (5) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions
21 during the period of probation. Reasonable restrictions or conditions may include but are not limited to:

22 (a) payment of a fine as provided in 46-18-231;

23 (b) payment of costs as provided in 46-18-232 and 46-18-233;

24 (c) payment of costs of assigned counsel as provided in 46-8-113;

25 (d) community service;

26 (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the
27 protection of society; or

28 (f) any combination of the restrictions or conditions listed in subsections (5)(a) through (5)(e).

29 (6) Following initial placement of a defendant in a treatment facility under subsection (2), the department
30 of corrections may, at its discretion, place the offender in another facility or program.

