

SENATE BILL NO. 204

INTRODUCED BY J. TREBAS, K. ZOLNIKOV, M. HOPKINS, K. REGIER, W. MCKAMEY, D. ZOLNIKOV, D. EMRICH, J. KARLEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DRIVING UNDER THE INFLUENCE; PROVIDING A DEFINITION OF "ACTUAL PHYSICAL CONTROL"; AND AMENDING SECTION 61-8-1001, MCA."

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

Section 1. Section 61-8-1001, MCA, is amended to read:

"61-8-1001. Definitions. As used in this part, unless the context requires otherwise and unless a different meaning plainly is required, the following definitions apply:

(1) (a) "Actual physical control" means a person is operating or driving a motor vehicle on the public roads and highways of this state.

(b) The term does not include:

(i) when a person is seated in any seat, including the driver's seat, of a motor vehicle and:

(A) the engine of the motor vehicle is in operation but the motor vehicle is not in a gear that allows self-propulsion; or

(B) the motor vehicle is disabled and incapable of self-propelled movement, except when the motor vehicle is disabled as a result of a collision when the person was operating or driving the motor vehicle; or

(ii) when a person is propelling a disabled motor vehicle on the public roads and highways of this state by means other than self-propulsion from the engine.

(4)(2) "Aggravated driving under the influence" means a person is in violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d) and:

(a) the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.16 or more;

(b) the person is under the order of a court or the department to equip any motor vehicle the

1 person operates with an approved ignition interlock device;

2 (c) the person's driver's license or privilege to drive is suspended, cancelled, or revoked as a result
3 of a prior violation of driving under the influence, including a violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d),
4 an offense that meets the definition of aggravated driving under the influence, or a similar offense under
5 previous laws of this state or the laws of another state; or

6 (d) the person refuses to give a breath sample as required in 61-8-1016 and the person's driver's
7 license or privilege to drive was suspended, cancelled, or revoked under the provisions of an implied consent
8 statute.

9 ~~(2)~~(3) "Alcoholic beverage" means a compound produced for human consumption as a drink that
10 contains 0.5% or more of alcohol by volume.

11 ~~(3)~~(4) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of
12 alcohol per 210 liters of breath, including as used in 16-6-305, 23-2-535, 45-5-207, 67-1-211, and this title.

13 ~~(4)~~(5) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more
14 passengers, including the driver.

15 ~~(5)~~(6) "Camper" has the meaning provided in 61-1-101.

16 ~~(6)~~(7) "Commercial motor vehicle" has the meaning provided in 61-1-101.

17 ~~(7)~~(8) "Drug" means any substance that when taken into the human body can impair a person's ability
18 to operate a vehicle safely. The term includes the meanings provided in 50-32-101(6), (7), and (14).

19 ~~(8)~~(9) "DUI court" means any court that has established a special docket for handling cases involving
20 persons convicted under 61-8-1007 or 61-8-1008 and that implements a program of incentives and sanctions
21 intended to assist a participant to complete treatment ordered pursuant to 61-8-1009 and to end the
22 participant's criminal behavior associated with the use of alcohol or drugs.

23 ~~(9)~~(10) "Highway" has the meaning provided in 61-1-101, including the shoulders of the highway.

24 ~~(10)~~(11) "Motor home" has the meaning provided in 61-1-101.

25 ~~(11)~~(12) "Motor vehicle" has the meaning provided in 61-1-101.

26 ~~(12)~~(13) "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that
27 contains any amount of an alcoholic beverage and that is open or has a broken seal or the contents of which
28 are partially removed.

