

HOUSE BILL NO. 88

INTRODUCED BY PECK R

A BILL FOR AN ACT ENTITLED: "AN ACT ENHANCING THE PROTECTION AGAINST UNWARRANTED MOTOR VEHICLE INSURANCE PREMIUM INCREASES FOR MINORS; AND AMENDING SECTION 45-5-624, MCA."

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

Section 1. Section 45-5-624, MCA, is amended to read:

"45-5-624. Unlawful attempt to purchase or possession of intoxicating substance -- interference with sentence or court order. (1) A person under 21 years of age commits the offense of possession of an intoxicating substance if the person knowingly consumes or has in the person's possession an intoxicating substance. A person does not commit the offense if the person consumes or gains possession of the beverage because it was lawfully supplied to the person under 16-6-305 or when in the course of employment it is necessary to possess alcoholic beverages.

(2) In addition to any disposition by the youth court under 41-5-1512, a person under 18 years of age who is convicted of the offense of possession of an intoxicating substance:

(a) for the first offense, shall be fined an amount not to exceed \$100 and:

(i) must have the person's driver's license confiscated by the court for not less than 30 days and not more than 90 days and shall be ordered not to drive during that period if the person was driving or was otherwise in actual physical control of a motor vehicle when the offense occurred;

(ii) shall be ordered to perform community service if a community service program is available; and

(iii) shall be ordered to complete and pay, either directly with money or indirectly through court-ordered community service, if any is available, all costs of participation in a community-based substance abuse information course, if one is available;

(b) for a second offense, shall be fined an amount not to exceed \$200 and:

(i) must have the person's driver's license suspended for not less than 60 days and not more than 120 days;

(ii) shall be ordered to perform community service if a community service program is available; and

1 (iii) shall be ordered to complete and pay, either directly with money or indirectly through court-ordered
2 community service, if any is available, all costs of participation in a community-based substance abuse
3 information course, if one is available;

4 (c) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than \$500 and:

5 (i) must have the person's driver's license suspended for not less than 120 days and not more than 1
6 year, except that if the person was driving or was otherwise in actual physical control of a motor vehicle when
7 the offense occurred, must have the person's driver's license revoked for 1 year or until the person reaches the
8 age of 18, whichever occurs last;

9 (ii) shall be ordered to complete and pay, either directly with money or indirectly through court-ordered
10 community service, if any is available, all costs of participation in a community-based substance abuse
11 information course, if one is available, which may include alcohol or drug treatment, or both, approved by the
12 department of public health and human services, if determined by the court to be appropriate.

13 (3) A person 18 years of age or older who is convicted of the offense of possession of an intoxicating
14 substance:

15 (a) for a first offense, shall be fined an amount not to exceed \$50 and be ordered to perform community
16 service if a community service program is available;

17 (b) for a second offense, shall be fined an amount not to exceed \$100 and:

18 (i) shall be ordered to perform community service if a community service program is available; and

19 (ii) must have the person's driver's license suspended for not more than 60 days if the person was driving
20 or otherwise in actual physical control of a motor vehicle when the offense occurred;

21 (c) for a third or subsequent offense, shall be fined an amount not to exceed \$200 and:

22 (i) shall be ordered to perform community service if a community service program is available;

23 (ii) must have the person's driver's license suspended for not more than 120 days if the person was
24 driving or otherwise in actual physical control of a motor vehicle when the offense occurred;

25 (iii) shall be ordered to complete an alcohol information course at an alcohol treatment program approved
26 by the department of public health and human services, which may, in the sentencing court's discretion and upon
27 recommendation of a certified chemical dependency counselor, include alcohol or drug treatment, or both; and

28 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to exceed 6 months.

29 (4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance
30 if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase

1 an intoxicating substance shall be fined an amount not to exceed \$50 if the person was 18 years of age or older
2 at the time that the offense was committed or \$100 if the person was under 18 years of age at the time that the
3 offense was committed.

4 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was under 18
5 years of age when the defendant failed to comply must be transferred to the youth court. If proceedings for failure
6 to comply with a sentence are held in the youth court, the offender must be treated as an alleged youth in need
7 of intervention as defined in 41-5-103. The youth court may enter its judgment under 41-5-1512.

8 (6) A person commits the offense of interference with a sentence or court order if the person purposely
9 or knowingly causes a child or ward to fail to comply with a sentence imposed under this section or a youth court
10 disposition order for a youth found to have violated this section and upon conviction shall be fined \$100 or
11 imprisoned in the county jail for 10 days, or both.

12 (7) A conviction or youth court adjudication under this section must be reported by the court to the
13 department of justice under 61-11-101 for the purpose of keeping a record of the number of offenses committed
14 but may not be considered part of the person's driving record for insurance purposes ~~unless a second or~~
15 ~~subsequent conviction or adjudication under this section occurs.~~ A person covered by a motor vehicle insurance
16 policy may not, when obtaining initial or renewed coverage, be asked or required by the insurer or any other
17 person or entity to disclose whether the person or another person covered by the policy has ever been arrested,
18 charged, or convicted under this section. (See compiler's comments for contingent termination of certain text.)"

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