

HOUSE BILL NO. 61
INTRODUCED BY J. LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON UNDER 21 YEARS OF AGE MAY NOT BE ARRESTED FOR OR CHARGED WITH THE OFFENSE OF POSSESSION OR CONSUMPTION OF AN ALCOHOLIC BEVERAGE SOLELY BECAUSE THE PERSON WAS AT A PLACE WHERE OTHER PERSONS WERE POSSESSING OR CONSUMING ALCOHOLIC BEVERAGES; 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 may not be arrested for or charged with the offense solely because the person was at a place where other persons were possessing or consuming alcoholic beverages. A person does not commit the offense if the person consumes or gains possession of ~~the~~ an alcoholic 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) (a) 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:

(i) for the first offense, shall be fined an amount not to exceed \$150 and:

(A) may be ordered to perform community service; and

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

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

(A) may be ordered to perform community service; and

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

is available;

(iii) for a third or subsequent offense, shall be fined an amount not less than \$300 or more than \$500 and shall be ordered to complete and pay, either directly with money or indirectly through court-ordered community service, all costs of participation in a community-based substance abuse information course, if one is available, which may include alcohol or drug treatment, or both, approved by the department of public health and human services, if determined by the court to be appropriate.

(b) In addition to the penalties provided in subsection (2)(a), the court may order suspension of the offender's driver's license. The duration of the suspension must be set forth by court order and may not be less than 60 days or more than 1 year. Upon recommendation from the court, a restricted probationary driver's license under 61-2-302 may be issued during the suspension period after the person has completed at least 30 days of the suspension period.

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

(a) for a first offense, shall be fined an amount not to exceed \$150 and may be ordered to perform community service;

(b) for a second offense, shall be fined an amount not to exceed \$200 and may be ordered to perform community service;

(c) for a third or subsequent offense, shall be fined an amount not to exceed \$300 and:

(i) may be ordered to perform community service;

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

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

(4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating substance if the person knowingly attempts to purchase an alcoholic beverage. A person convicted of attempt to purchase an intoxicating substance shall be fined an amount not to exceed \$150 if the person was under 21 years of age at the time that the offense was committed and may be ordered to perform community service.

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

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

(7) A conviction or youth court adjudication under this section may not be reported by the court to the department of justice under 61-11-101 unless suspension of the offender's driver's license is ordered by the court pursuant to subsection (2)(b). (See compiler's comments for contingent termination of certain text.)"

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