

HOUSE BILL NO. 242
INTRODUCED BY C. HARRIS

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING POSSESSION OF AN UNSEALED ALCOHOLIC BEVERAGE CONTAINER IN THE PASSENGER AREA OF A MOTOR VEHICLE ON A STREET, ROAD, OR HIGHWAY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Possession of unsealed alcoholic beverage container in motor vehicle passenger area. (1) A person commits the offense of possession of an unsealed alcoholic beverage container in the passenger area of a motor vehicle if the person knowingly possesses in the passenger area of a motor vehicle an unsealed can, bottle, glass, cup, jar, or other receptacle containing more than 1/6 ounce of an alcoholic beverage while the motor vehicle is on a street, road, or highway, including a shoulder, open to the public.

(2) A person convicted under this section shall be incarcerated for not more than 10 days and fined an amount not less than \$100 or more than \$500.

(3) (a) The sentencing judge shall order a person convicted under this section to complete a chemical dependency assessment and education course approved by the department of public health and human services and conducted by a licensed addiction counselor. The court shall also order chemical dependency treatment for the person upon a finding of chemical dependency made by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. A person ordered to undergo treatment may attend a treatment program of the person's choice as long as the treatment services are provided by a licensed addiction counselor. If the court finds that the person is able to do so, the person shall pay the entire cost of the assessment, education course, and chemical dependency treatment.

(b) The assessment must describe the person's level of addiction, if any, and contain a recommendation as to education, treatment, or both. A person who disagrees with the initial assessment may, at the person's cost, obtain a second assessment provided by a licensed addiction counselor or a program approved by the department of public health and human services.

(c) Treatment must be at a level appropriate to the person's alcohol or drug problem, or both, as determined by a licensed addiction counselor pursuant to diagnosis and patient placement rules adopted by the department of public health and human services. Upon determination, the court shall order the person's

appropriate level of treatment. If more than one counselor makes a determination, the court shall order an appropriate level of treatment based upon the determination of one of the counselors.

(d) Each counselor providing education or treatment shall, at the commencement of the education or treatment, notify the court that the person has been enrolled in a chemical dependency education course or treatment program. If the person fails to attend the education course or treatment program, the counselor shall notify the court of the failure.

(e) A court or counselor may not require attendance at a self-help program other than at an open meeting as that term is defined by the self-help program. A person may voluntarily participate in self-help programs.

(4) As used in this section, the following definitions apply:

(a) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains more than 0.5% of alcohol by volume.

(b) "Motor vehicle" means a vehicle propelled by its own power and designed or used to transport persons or property upon the highways of this state and includes a snowmobile as defined in 23-2-601.

(c) (i) "Passenger area" means the area of a motor vehicle that is designed to seat the driver or the driver and one or more passengers. The term includes any area readily accessible to the driver or a passenger, including a glove box, the area behind the seat of a motor vehicle that does not have a rear seat or seats, and the cargo area at the rear of a sport utility vehicle or station wagon or similar motor vehicle.

(ii) The term does not include:

(A) the passenger area of a motor vehicle that comes with a driver and is rented from a licensed business to transport passengers, including but not limited to a taxi, limousine, or bus; or

(B) the living quarters of a camper as defined in 61-1-129 or a motor home as defined in 61-1-130.

(d) "Shoulder" means the area contiguous to the travel lanes of a road or highway, which has been altered to provide lateral support to the road or highway, or the area within 25 feet of the outside edge of the travel lanes of a road or highway, whichever is greater. Shoulder also means a median or other area between the travel lanes of a street, road, or highway that is not open to travel.

(e) "Unsealed" includes but is not limited to an alcoholic beverage:

(i) that was put under pressure when it was placed in the receptacle and all or part of the pressure has been released;

(ii) that was not put under pressure when it was placed in the receptacle and that:

(A) has a broken metallic, plastic, or other wrapping around the opening of the receptacle; or

(B) is contained in a receptacle that never had a metallic, plastic, or other wrapping around the opening

of the receptacle and the receptacle is not full; or

(iii) with a tax stamp placed over the opening that has been broken.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 61, chapter 8, and the provisions of Title 61 apply to [section 1].

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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