

HOUSE BILL NO. 247
INTRODUCED BY J. WINDY BOY

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING A MISDEMEANOR CONVICTION FOR TRAFFIC OFFENSES FROM A DRIVING RECORD AFTER 3 CONSECUTIVE YEARS IN WHICH NO OTHER CONVICTIONS ARE MADE; ENSURING THAT THE ORIGINAL CONVICTION MAY NOT BE USED AS PART OF FUTURE SENTENCING CONSIDERATIONS; AND AMENDING SECTION 61-8-711, MCA."

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

Section 1. Section 61-8-711, MCA, is amended to read:

"61-8-711. Violation of chapter -- penalty. (1) It is a misdemeanor for a person to violate any of the provisions of this chapter unless the violation is declared to be a felony.

(2) Each person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction be punished by a fine of not less than \$10 or more than \$100. For a second conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$25 or more than \$200. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500.

(3) Except as provided for in 61-8-725(4)(b), the record of a person convicted of a misdemeanor for a violation of any of the provisions of this chapter must be expunged after a period of 3 years if the person is not convicted of another misdemeanor or felony under the provisions of this chapter. The expungement means that the conviction of the previous misdemeanor may not be considered in subsequent sentencing.

~~(3)~~(4) Except as provided in subsection ~~(4)~~ (5), failure to pay a fine imposed under this chapter is a civil contempt of the court. On failure of payment of a fine, the court may:

(a) order enforcement of the fine by execution in the manner provided in 25-13-204 and under the provisions of Title 25, chapter 13; or

(b) if the court finds that the person is unable to pay, order the person to perform community service.

~~(4)~~(5) If property is not found in an amount necessary to satisfy the unpaid portion of the fine and if the court makes a written finding that community service is inappropriate, the person shall be imprisoned in the county jail in the county in which the offense was committed, and the imprisonment shall be the number of days that the fine is divisible by the dollar amount of the incarceration credit contained in 46-18-403.

~~(5)~~(6) Upon conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court."

- END -