

HOUSE BILL NO. 466
INTRODUCED BY R. JORE

A BILL FOR AN ACT ENTITLED: "AN ACT STATUTORILY IMPOSING ACCOUNTABILITY FOR THE OFFENSES OF VEHICULAR HOMICIDE UNDER THE INFLUENCE AND NEGLIGENT VEHICULAR ASSAULT ON PASSENGERS OF THE VEHICLE UNLESS THE PASSENGERS MAKE A TIMELY REPORT OF THE OFFENSE; AND AMENDING SECTIONS 45-2-302, 45-5-106, AND 45-5-205, MCA."

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

Section 1. Section 45-2-302, MCA, is amended to read:

"45-2-302. When accountability exists. A person is legally accountable for the conduct of another when:

(1) having a mental state described by the statute defining the offense, ~~he~~ the person causes another to perform the conduct, regardless of the legal capacity or mental state of the other person;

(2) the statute defining the offense makes ~~him~~ the person ~~so~~ accountable; or

(3) either before or during the commission of an offense with the purpose to promote or facilitate ~~such~~ the commission, ~~he~~ the person solicits, aids, abets, agrees, or attempts to aid ~~such~~ the other person in the planning or commission of the offense. However, a person is not ~~so~~ accountable if:

(a) ~~he~~ the person is a victim of the offense committed, unless the statute defining the offense provides otherwise; or

(b) before the commission of the offense, ~~he~~ the person terminates ~~his~~ the person's effort to promote or facilitate ~~such~~ the commission and does one of the following:

(i) wholly deprives ~~his~~ the person's prior efforts of effectiveness in ~~such~~ the commission;

(ii) gives timely warning to the proper law enforcement authorities or timely reports the commission of an offense described in 45-5-106 or 45-5-205; or

(iii) otherwise makes proper effort to prevent the commission of the offense."

Section 2. Section 45-5-106, MCA, is amended to read:

"45-5-106. Vehicular homicide while under influence. (1) (a) A person commits the offense of vehicular homicide while under the influence if the person negligently causes the death of another human being

while the person is operating a vehicle in violation of 61-8-401 or 61-8-406.

(b) A passenger in a vehicle described in subsection (1)(a) is accountable for the conduct of the operator of the motor vehicle, as provided in 45-2-302(2), unless the person makes a timely report, as provided in 45-2-302(3)(b)(ii).

(2) Vehicular homicide while under the influence is not an included offense of deliberate homicide as described in 45-5-102(1)(b).

(3) A person convicted of vehicular homicide while under the influence shall be imprisoned in a state prison for a term not to exceed 30 years or be fined an amount not to exceed \$50,000, or both. Imposition of a sentence may not be deferred."

Section 3. Section 45-5-205, MCA, is amended to read:

"45-5-205. Negligent vehicular assault -- penalty. (1) (a) A person who negligently operates a vehicle, other than a bicycle as defined in 61-8-102, while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided for in 61-8-401(1), and who causes bodily injury to another commits the offense of negligent vehicular assault.

(b) A passenger in a vehicle described in subsection (1)(a) is accountable for the conduct of the operator of the motor vehicle, as provided in 45-2-302(2), unless the person makes a timely report, as provided in 45-2-302(3)(b)(ii).

(2) Subject to subsection (3), a person convicted of the offense of negligent vehicular assault shall be fined an amount not to exceed \$1,000 or be incarcerated in a county jail for a term not to exceed 1 year, or both, and shall be ordered to pay restitution as provided in 46-18-241.

(3) A person convicted of the offense of negligent vehicular assault who caused serious bodily injury to another shall be fined an amount not to exceed \$10,000 or be incarcerated for a term not to exceed 10 years, or both, and shall be ordered to pay restitution as provided in 46-18-241.

(4) If a term of incarceration is imposed under subsection (2) or (3), the judge may suspend the term of incarceration upon the condition of payment of any fine imposed and of restitution. If the person does not pay the fine or restitution, the term of incarceration may be imposed."

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