

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, AND 61-7-109, 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)~~ A PASSENGER IN A VEHICLE DESCRIBED IN SUBSECTION (1)(A) WHO KNOWINGLY OR PURPOSELY FAILS TO MAKE A TIMELY REPORT AS PROVIDED IN 45-2-302(3)(B)(II) IS ACCOUNTABLE FOR THE CONDUCT OF THE OPERATOR OF THE MOTOR VEHICLE, AS PROVIDED IN 45-2-302(2).

(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)~~ A PASSENGER IN A VEHICLE DESCRIBED IN SUBSECTION (1)(A) WHO KNOWINGLY OR PURPOSELY FAILS TO MAKE A TIMELY REPORT AS PROVIDED IN 45-2-302(3)(B)(II) IS ACCOUNTABLE FOR THE CONDUCT OF THE OPERATOR OF THE MOTOR VEHICLE, AS PROVIDED IN 45-2-302(2).

(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."

SECTION 4. SECTION 61-7-109, MCA, IS AMENDED TO READ:

"61-7-109. Written reports of accidents -- additional information -- form of report. (1) The operator of a motor vehicle and, as provided in 45-2-302, 45-5-106, and 45-5-205, a passenger in a motor vehicle that is in any manner involved in an accident within this state in which a person is killed or injured or the operator of a motor vehicle involved in an accident in which damage to the property of a person in excess of \$1,000 is sustained shall, within 10 days after the accident, report the matter in writing to the department unless the accident was investigated and reported by a law enforcement officer as provided in subsection (3).

(2) The department may require the driver of a vehicle or a passenger involved in an accident of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient and may require witnesses of accidents to render reports.

(3) A law enforcement officer who in the regular course of duty investigates a motor vehicle accident in which a person is killed or injured or in which damage to the property of a person exceeds \$1,000, either at the time of and at the scene of the accident or after the accident by interviewing participants or witnesses, shall within 10 days after completing the investigation forward a written report of the accident to the department.

(4) The form of the accident report required under this section must contain information sufficient to enable the department to determine whether the requirements for the deposit of security for safety responsibility are inapplicable by reason of the existence of insurance or other exemptions specified in chapter 6 of this title.

(5) A report required by subsection (1) or (2) may not be used as evidence in any trial, civil or criminal, arising out of an accident."

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