

HOUSE BILL NO. 567
INTRODUCED BY R. KOOPMAN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA HIGHWAY SAFETY CORRIDOR ACT; REQUIRING THE TRANSPORTATION COMMISSION TO DESIGNATE HIGHWAY SAFETY CORRIDORS; REQUIRING STUDIES TO DETERMINE WHICH PORTIONS OF HIGHWAYS WARRANT DESIGNATION AS HIGHWAY SAFETY CORRIDORS; PROVIDING CERTAIN CRITERIA FOR DESIGNATION AS A HIGHWAY SAFETY CORRIDOR; REQUIRING PUBLIC HEARINGS BEFORE DESIGNATION; REQUIRING ERECTION OF SIGNS AND, WHERE APPROPRIATE, INSTALLATION OF EMERGENCY PHONES IN HIGHWAY SAFETY CORRIDORS; REQUIRING PRIORITIZED ENFORCEMENT AND USE OF APPROPRIATE TECHNOLOGY IN HIGHWAY SAFETY CORRIDORS; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO CONTRACT FOR AN ANNUAL REVIEW OF EACH CORRIDOR; PROVIDING FOR DOUBLED FINES FOR CERTAIN OFFENSES COMMITTED IN A HIGHWAY SAFETY CORRIDOR; AND AMENDING SECTIONS 61-8-410, 61-8-711, 61-8-714, 61-8-715, 61-8-716, 61-8-722, 61-8-724, 61-8-725, AND 61-8-731, MCA."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Montana Highway Safety Corridor Act".

NEW SECTION. **Section 2. Definition.** For the purposes of [sections 1 through 6], "highway safety corridor" means the portion of a highway determined by the commission to need enhanced safety measures, special traffic control devices, prioritized enforcement, and increased penalties, after a determination that the area designated poses a significantly greater risk to motorists based on studies conducted pursuant to [section 3].

NEW SECTION. **Section 3. Commission to designate highway safety corridors -- traffic study -- criteria for designation -- public hearing.** (1) The commission shall designate highway safety corridors in accordance with the provisions of [sections 1 through 6].

(2) (a) The commission may designate up to 12 highway safety corridors.

(b) Within 1 year after [the effective date of this act], the commission shall designate at least six highway safety corridors.

(c) The commission may remove the designation of a portion of a highway as a highway safety corridor if the commission determines, after a traffic safety study or the annual study conducted pursuant to [section 6], that the portion no longer meets the criteria for designation established under subsection (3) or that the portion has not significantly benefited from the designation.

(3) (a) The commission shall direct the department of transportation to design a traffic safety study and shall approve the criteria for designation to be used on all proposed highway safety corridors as part of the department's comprehensive safety plan. The study must include but is not limited to an investigation of the number of fatal crashes per mile during the last 10 years relative to the average annual vehicle miles traveled on that portion of highway.

(b) A portion of a highway may not be designated as a highway safety corridor unless the traffic safety study indicates a fatal crash rate of at least 150% of the statewide average during the same period of time.

(4) (a) Before designating a highway safety corridor, the commission shall hold a public hearing on the designation. The hearing must be held at least 30 days before the date of the proposed designation.

(b) If the commission intends to remove designation of a portion of a highway as a highway safety corridor as provided in subsection (2)(c), the commission shall hold a public hearing at least 30 days before making its final decision.

(5) Penalties for certain offenses committed within a highway safety corridor must be imposed as provided in [section 7].

NEW SECTION. Section 4. Installation of signs and emergency telephones in highway safety corridor. (1) At each entrance to a highway safety corridor designated under [section 3], the department shall erect signs that read: "Highway safety corridor -- fines doubled next ___ miles." The signs must also indicate that the use of headlights is encouraged at all hours of the day. At each end of a highway safety corridor designated under [section 3], the department shall erect signs that read "End highway safety corridor."

(2) Within the highway safety corridor, the department shall erect signs at approximately 5-mile intervals that read: "Highway safety corridor. Double fines enforced."

(3) The department shall install and maintain emergency telephone call boxes in highway safety corridors at appropriate locations not more than 5 miles apart whenever possible. The department shall erect signs indicating the approach of an emergency telephone.

NEW SECTION. Section 5. Priority for enforcement -- priority for technology. (1) The highway

patrol and other law enforcement agencies shall consider highway safety corridors as high priorities for enhanced enforcement and increased commitment of personnel.

(2) The commission shall, based on the results of the studies conducted pursuant to [section 3], consider highway safety corridors as high priorities for safety-related road improvements when prioritizing projects under 60-2-110. These improvements may include installing traffic control devices, widening of the highway, slope flattening, turn lane construction, rumble strips, center median barriers, and slow vehicle turnouts.

(3) The department and the department of justice shall consider highway safety corridors as high priorities for advanced technology that targets modifying driver behavior. The technology may include but is not limited to dynamic speed warning, pavement temperature monitoring and prediction, decision support systems, improved surveillance, and automated enforcement.

NEW SECTION. Section 6. Annual review of highway safety corridor effectiveness. (1) The department shall contract with a qualified independent rural highway safety research and education entity to conduct an annual review of each highway safety corridor to determine the effectiveness of modifications ordered by the commission and the enforcement actions taken in the corridor in reducing fatal and other crashes.

(2) The initial review must be completed not more than 18 months after the date of the original designation and annually after the initial review.

(3) The department shall publish the reports on its website and shall use the reports to determine whether a portion of highway designated as a highway safety corridor continues to meet the criteria for designation established under [section 3] or to determine whether the portion of highway is significantly benefiting from the designation.

NEW SECTION. Section 7. Penalties doubled in highway safety corridor -- disposition of fines. (1) Any monetary penalties provided in this part must be doubled for a person convicted of the following offenses while in a designated highway safety corridor, as defined in [section 2]:

- (a) reckless driving under 61-8-301;
- (b) careless driving under 61-8-302;
- (c) speeding under 61-8-303 or in a special speed zone established under 61-8-309 or 61-8-310;
- (d) passing requirements and requirements for overtaking on the right or left under 61-8-322 through 61-8-326; and
- (e) following too closely under 61-8-329.

(2) Any monetary penalties provided in Title 61, chapter 8, part 4, or this part must be doubled for a person convicted of any of the offenses related to driving under the influence of alcohol or drugs in Title 61, chapter 8, part 4, while in a designated highway safety corridor.

(3) Fine proceeds received under this section must be allocated as follows:

(a) 50% of the amount collected must be distributed as provided in 3-10-601, 46-17-402, and 46-18-235; and

(b) 50% of the amount collected must be deposited in the state special revenue fund to be used by the department of transportation to offset the costs of emergency telephone installation and signs required under [section 4] and by the department of justice to provide enhanced law enforcement pursuant to [section 5]. The allocation of money deposited in the state special revenue fund must be provided for through appropriations.

Section 8. Section 60-2-110, MCA, is amended to read:

"60-2-110. Setting priorities and selecting projects. (1) Except as provided in 60-2-133 and subject to [section 5], the commission shall establish priorities and select and designate segments for construction and reconstruction on the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways.

(2) The commission shall consult with the board of county commissioners of the county in which a highway is located when establishing priorities and when selecting and designating segments on the secondary highway system for construction and reconstruction.

(3) The commission shall consult with the appropriate local government authorities when establishing priorities and selecting and designating segments on the urban highway system for construction and reconstruction.

(4) The commission shall use information gathered or discovered by and documents prepared by the department, and department officials and employees shall provide assistance and advice.

(5) The commission shall establish and determine priorities and projects for rail and transit programs and, to the extent possible, coordinate intermodal transportation within the state.

(6) In carrying out the requirements of this section, the department shall:

(a) make recommendations to the commission;

(b) establish the requirements and procedures for administering this section; and

(c) take all reasonable steps to ensure the integrity and viability of agricultural and rural transportation and related needs."

Section 9. Section 61-8-410, MCA, is amended to read:

"61-8-410. Operation of vehicle by person under twenty-one with alcohol concentration of 0.02 or more. (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more to drive or be in actual physical control of a vehicle upon ways of this state open to the public. Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section.

(2) ~~Upon~~ Subject to [section 7], upon a first conviction under this section, a person shall be punished by a fine of not less than \$100 or more than \$500.

(3) ~~Upon~~ Subject to [section 7], upon a second conviction under this section, a person shall be punished by a fine of not less than \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

(4) ~~Upon~~ Subject to [section 7], upon a third or subsequent conviction under this section, a person shall be punished by a fine of not less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than 24 consecutive hours or more than 60 days.

(5) In addition to the punishment provided in this section, regardless of disposition:

(a) the person shall comply with the chemical dependency education course and chemical dependency treatment provisions in 61-8-732 as ordered by the court; and

(b) the department shall suspend the person's driver's license for 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent conviction. A restricted or probationary driver's license may not be issued during the suspension period until the person has paid a license reinstatement fee in accordance with 61-2-107 and, if the person was under the age of 18 at the time of the offense, has completed at least 30 days of the suspension period.

(6) A conviction under this section may not be counted as a prior conviction under 61-8-401 or 61-8-406."

Section 10. 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~~ Subject to [section 7], 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~~ [Subject to [section 7], 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~~ Subject to [section 7], 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 in subsection (4), 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) 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) Upon conviction, the court costs or any part of the court costs may be assessed against the defendant in the discretion of the court."

Section 11. Section 61-8-714, MCA, is amended to read:

"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense.

(1) Except as provided in subsection (4) and subject to [section 7], a person convicted of a violation of 61-8-401 shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less than \$300 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours or more than 12 months and by a fine of not less than \$600 or more than \$2,000. The initial 24 hours of the imprisonment term must be served and may not be served under home arrest. The mandatory imprisonment sentence may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being. Except for the initial 24 hours of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(2) Except as provided in subsection (4) and subject to [section 7], on a second conviction, the person shall be punished by a fine of not less than \$600 or more than \$1,000 and by imprisonment for not less than 7 days or more than 6 months, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by a fine of not less than \$1,200 or more than \$2,000 and by imprisonment for not less than 14 days or more than 12 months. At least 48 hours of the imprisonment term

must be served and served consecutively and may not be served under home arrest. The imposition or execution of the first 5 days of the imprisonment sentence may not be suspended. Except for the initial 5 days of the imprisonment term, notwithstanding 46-18-201(2), the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person.

(3) Except as provided in subsection (4) and subject to [section 7], on the third conviction, the person shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than \$1,000 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for a term of not less than 60 days or more than 12 months and by a fine of not less than \$2,000 or more than \$10,000. At least 48 hours of the imprisonment term must be served and served consecutively and may not be served under home arrest. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person.

(4) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration."

Section 12. Section 61-8-715, MCA, is amended to read:

"61-8-715. Reckless driving -- reckless endangerment of highway workers -- penalty. (1) Except as provided in subsection (2) and subject to [section 7], a person convicted of reckless driving under 61-8-301(1)(a) or (1)(b) or convicted of reckless endangerment of a highway worker under 61-8-301(4) shall be punished upon a first conviction by imprisonment for a term of not more than 90 days, by a fine of not less than \$25 or more than \$300, or both. On a second or subsequent conviction, the person shall be punished by imprisonment for a term of not less than 10 days or more than 6 months, by a fine of not less than \$50 or more than \$500, or both.

(2) ~~A~~ Subject to [section 7], a person who is convicted of reckless driving under 61-8-301 and whose offense results in the death or serious bodily injury of another person shall be punished by a fine in an amount not exceeding \$10,000, by incarceration for a term not to exceed 1 year, or both. Section 61-8-351(8) does not apply to a prosecution under 61-8-301(1)(b) that is punishable under this subsection."

Section 13. Section 61-8-716, MCA, is amended to read:

"61-8-716. Careless driving -- penalty. (1) A person who violates the provisions of 61-8-302 is guilty of the offense of careless driving and, except as provided in subsection (2), is punishable as provided in 61-8-711.

(2) A person whose violation of the provisions of 61-8-302 results in the death or serious bodily injury of another person shall be punished by a fine, subject to [section 7], in an amount not exceeding \$5,000, by incarceration for a term not to exceed 6 months, or both."

Section 14. Section 61-8-722, MCA, is amended to read:

"61-8-722. Penalty for driving with excessive alcohol concentration -- first through third offense.

(1) Except as provided in subsection (4) and subject to [section 7], a person convicted of a violation of 61-8-406 shall be punished by imprisonment for not more than 10 days and by a fine of not less than \$300 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not more than 20 days and by a fine of not less than \$600 or more than \$2,000.

(2) Except as provided in subsection (4) and subject to [section 7], on a second conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than 5 days, to be served in the county jail and not on home arrest, or more than 30 days and by a fine of not less than \$600 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 10 days, which may not be served on home arrest, or more than 60 days and by a fine of not less than \$1,200 or more than \$2,000. The imposition or execution of the first 5 days of the imprisonment sentence may not be suspended.

(3) Except as provided in subsection (4) and subject to [section 7], on a third conviction of a violation of 61-8-406, the person shall be punished by imprisonment for not less than 10 days, to be served in the county jail and not on home arrest, or more than 6 months and by a fine of not less than \$1,000 or more than \$5,000, except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 20 days, which may not be served on home arrest, or more than 12 months and by a fine of not less than \$2,000 or more than \$10,000. The imposition or execution of the first 10 days of the imprisonment sentence may not be suspended.

(4) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration."

Section 15. Section 61-8-724, MCA, is amended to read:

"61-8-724. No-passing zone violation -- penalty. ~~A~~ Subject to [section 7], a person convicted of a violation of 61-8-326 shall be punished upon conviction by imprisonment for a period of not more than 6 months or by a fine of not less than \$50 or more than \$500 or by both fine and imprisonment."

Section 16. Section 61-8-725, MCA, is amended to read:

"61-8-725. Penalty for violation of speed limits -- no record for certain violations. (1) ~~A~~ Subject to [section 7], a person violating the speed limit imposed pursuant to 61-8-303 shall be fined in accordance with the following schedule:

Amount of Fine	MPH in Excess of Speed Limit
\$ 20	1 - 10 (daytime)
20	1 - 10 (nighttime)
40	11 - 20
70	21 - 30
100	31+

(2) A violation of a speed limit imposed pursuant to 61-8-303 is not a criminal offense within the meaning of 3-1-317, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and, except as provided in subsection (4), may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of a speed limit against the insured or increase premiums because of the violation if the speed limit is exceeded by no more than:

- (a) 10 miles an hour during the daytime; or
 - (b) 5 miles an hour during the nighttime.
- (3) The surcharge provided for in 3-1-317 may not be imposed for a violation of 61-8-303.
- (4) The recordkeeping restrictions provided in subsection (2) with respect to a person's driving record

do not apply to a speed limit violation or conviction that was committed by:

- (a) a Montana resident in another state whose violation or conviction was reported to the department by a court or the licensing authority in the state in which the violation occurred; or
- (b) a person who holds a commercial driver's license regardless of whether or not the violation occurred while the person was operating a commercial motor vehicle."

Section 17. Section 61-8-731, MCA, is amended to read:

"61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol concentration -- penalty for fourth or subsequent offense. (1) Except as provided in subsection (3), if a person is convicted of a violation of 61-8-401 or 61-8-406 and the person has either a single conviction under 45-5-106 or any combination of three or more prior convictions under 45-5-104, 45-5-205, 61-8-401, or 61-8-406 and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), the person is guilty of a felony and shall be punished by:

(a) sentencing the person to the department of corrections for placement in an appropriate correctional facility or program for a term of 13 months. The court shall order that if the person successfully completes a residential alcohol treatment program operated or approved by the department of corrections, the remainder of the 13-month sentence must be served on probation. The imposition or execution of the 13-month sentence may not be deferred or suspended, and the person is not eligible for parole.

(b) sentencing the person to either the department of corrections or the Montana state prison or Montana women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the term imposed under subsection (1)(a); and

(c) subject to [section 7], a fine in an amount of not less than \$1,000 or more than \$10,000.

(2) The department of corrections may place an offender sentenced under subsection (1)(a) in a residential alcohol treatment program operated or approved by the department of corrections or in a state prison.

(3) If a person is convicted of a violation of 61-8-401 or 61-8-406, the person has either a single conviction under 45-5-106 or any combination of four or more prior convictions under 45-5-104, 45-5-205, 61-8-401, or 61-8-406 and the offense under 45-5-104 occurred while the person was operating a vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment program under subsection (2), whether or not the person successfully completed the program, the person shall be sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be fined, subject to [section 7], an amount of not less than \$1,000 or more than \$10,000, or both.

(4) The court shall, as a condition of probation, order:

(a) that the person abide by the standard conditions of probation promulgated by the department of corrections;

(b) a person who is financially able to pay the costs of imprisonment, probation, and alcohol treatment under this section;

- (c) that the person may not frequent an establishment where alcoholic beverages are served;
- (d) that the person may not consume alcoholic beverages;
- (e) that the person may not operate a motor vehicle unless authorized by the person's probation officer;
- (f) that the person enter in and remain in an aftercare treatment program for the entirety of the probationary period;
- (g) that the person submit to random or routine drug and alcohol testing; and
- (h) that if the person is permitted to operate a motor vehicle, the vehicle be equipped with an ignition interlock system.

(5) The sentencing judge may impose upon the defendant any other reasonable restrictions or conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited to:

- (a) payment of a fine as provided in 46-18-231;
- (b) payment of costs as provided in 46-18-232 and 46-18-233;
- (c) payment of costs of assigned counsel as provided in 46-8-113;
- (d) community service;
- (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the protection of society; or
- (f) any combination of the restrictions or conditions listed in subsections (5)(a) through (5)(e).

(6) Following initial placement of a defendant in a treatment facility under subsection (2), the department of corrections may, at its discretion, place the offender in another facility or program.

(7) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and 46-23-1031 apply to persons sentenced under this section."

NEW SECTION. Section 18. Codification instruction. (1) [Sections 1 through 6] are intended to be codified as an integral part of Title 60, chapter 2, part 1, and the provisions of Title 60, chapter 2, part 1, apply to [sections 1 through 6].

(2) [Section 7] is intended to be codified as an integral part of Title 61, chapter 8, part 7, and the provisions of Title 61, chapter 8, part 7, apply to [section 7].

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