

LAW AND JUSTICE INTERIM COMMITTEE

Preliminary actions

SJR 39 - Study of DUI laws

After a two-day agenda that included a presentation on the economic costs of alcohol abuse in Montana, a report of findings from a survey of felony drunk driving offenders in the Department of Corrections' Warm Springs Additional Treatment and Change program (WATCH), and information on special courts and treatment alternatives for misdemeanor drunk driving offenders, the Law and Justice Interim Committee voted on February 9 to request preliminary bill drafts to revise Montana's driving under influence (DUI) laws. The committee action on ideas forwarded by individual committee members during a committee work session wrapped up the committee's fourth of eight scheduled meetings this interim. Each idea that received a majority vote will be developed by staff into a bill draft for further discussion at the committee's next meeting April 5-6 in Helena.

SJR 29 - Study on preservation of biological evidence

The committee also requested a preliminary bill draft revising how long local law enforcement agencies must preserve biological evidence for DNA analysis in felony criminal cases. Specific provisions of the bill draft will be developed by staff based on the committee's guidance and in consultation with various stakeholders. This discussion bill will also be presented at the committee's April meeting.

Votes on bill draft concepts to revise DUI laws

Eleven of 18 committee bill draft ideas to revise DUI laws received majority votes. Proxy votes were cast for five absent committee members (Sen. Hinkle, Sen. Moss, Rep. Howard, Rep. Ebinger, and Rep. Stoker). The bill draft concept, the name of the committee member who forwarded the idea, and the vote tally on each idea are listed below in the order that the committee took action.

- Provide that a driver's refusal to submit to a blood alcohol test is a crime punishable either by making test refusal equivalent to a drunk driving offense or by making the refusal a separate crime. (Rep. Peterson) FAILED 5 to 7.
- Provide that if a young person does not yet have a drivers' license and is found guilty of any type of drug or alcohol offense, the young person may not obtain a driver's license until 18 years of age; and that if the young person is under 18 years of age and already has a drivers' license, then the young person's driver's license must be suspended at least until the person reaches 18 years of age. (Sen. Hinkle) PASSED 11 to 1.

- Provide that all persons who sell or serve alcohol must complete the responsible alcohol sales and service training program provided for by the Liquor Control Division of the Department of Revenue. (Sen. Juneau) PASSED 8 to 4.
- Provide that driver's license suspension penalties increase with the number of a person's prior drunk driving offenses. (Rep. Menehan) FAILED 4 to 8.
- Provide support for DUI courts and a guaranteed funding stream, such as the fines collected for drunk driving offenses. (Rep. Menehan) PASSED 9 to 3.
- Provide that a law enforcement official may contact an "on call" judge to request a search warrant to obtain a blood alcohol test from a driver who has refused to submit to the test. (Sen. Shockley) PASSED 7 to 5.
- Instruct staff to work with interested stakeholders to develop a discussion bill draft that would strengthen current laws concerning substance abuse assessment, an education course, and treatment (i.e., A.C.T.) for drunk driving offenders. (Sen. Laslovich) PASSED 10-2.
- Provide that any amount of any dangerous drug in a driver's system is considered drunk driving per se. (Rep. Peterson) PASSED 9-3.
- Provide that when sentencing for a second or third drunk driving offense, judges may mandate residential treatment. (Rep. Peterson) PASSED 10 to 2.
- Provide that a person convicted of a second or subsequent drunk driving offense must be identified as a drunk driving offender on the person's identification card or driver's license and that alcohol may not be sold or served to that person. (Rep. Peterson) FAILED 3 to 9.
- Provide that any purveyor of alcohol (e.g., server, business owner, employer, etc.) who is responsible for providing alcohol to a person who then commits a second or subsequent drunk driving offense may be held strictly liable for any injury or property damage caused by that driver and that there be a presumption that providing the alcohol to the person was a substantial cause of the accident. (Rep. Peterson) FAILED 4 to 8.
- Provide that anyone hosting a party in which alcohol is consumed is liable for the actions of a person who leaves the party and then commits a drunk driving offense (i.e., provide for a state social host liability law). (Rep. Peterson) FAILED 4 to 8.
- Provide that cities may establish courts of record. (Sen. Shockley) PASSED 11 to 1.
- Allow game wardens to issue citations to youth under 21 years of age for illegal

possession of drugs or alcohol. (Sen. Shockley) PASSED 11 to 1.

- Provide that a person's prior drunk driving convictions are admissible evidence if the person is charged with a new drunk driving offense. (Rep. Menehan) FAILED 5 to 7.
- Extend court jurisdiction for misdemeanor drunk driving offenses to one year. (Sen. Laslovich) PASSED 12 to 0.
- Eliminate the 5-year "look-back" restriction on counting prior misdemeanor drunk driving convictions so that all prior misdemeanor convictions count for the purposes of sentencing a drunk driving offender who has less than four prior drunk driving convictions. (Sen. Laslovich) PASSED 7 to 5.
- Draft a referendum for a constitutional amendment that will eliminate the right to a new trial for drunk driving offenders. (Sen. Shockley) FAILED 1 to 11.

Next meeting

The committee's next meeting will be April 5-6 in Room 137 of the Capitol beginning at 8:00 a.m. on both days. In addition to committee discussion on preliminary bill drafts requested under the SJR 29 study of biological evidence and the SJR 39 study of DUI laws, agenda items for the April committee meeting will cover information about DUI court funding, how DUI task forces are funded, the disposition of court fees, and the costs of A.C.T. The committee will also further examine South Dakota's 24/7 sobriety program. Emerging oversight issues on the agenda include prerelease placement of sexual offenders and a new family treatment model for youth in the juvenile justice system.

Further information

For more information about committee activities, please visit www.leg.mt.gov/ljic or contact Sheri Heffelfinger at sheffelfinger@mt.gov or (406) 444-3596.