

SENATE BILL NO. 508

INTRODUCED BY W. CURDY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT ANY LEVEL OF TETRAHYDROCANNABINOL CONSTITUTES DRIVING UNDER THE INFLUENCE FOR DRIVERS UNDER 21 YEARS OF AGE; AND AMENDING SECTION 61-8-1002, MCA."

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

Section 1. Section 61-8-1002, MCA, is amended to read:

"61-8-1002. Driving under influence. (1) A person commits the offense of driving under the influence if the person drives or is in actual physical control of:

(a) a vehicle or a commercial motor vehicle upon the ways of this state open to the public while under the influence of alcohol, any drug, or a combination of alcohol and any drug;

(b) a noncommercial vehicle upon the ways of this state open to the public while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.08 or more;

(c) a commercial motor vehicle within this state while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.04 or more;

(d) a noncommercial vehicle or commercial motor vehicle within this state while the person's tetrahydrocannabinol level, excluding inactive metabolites, as shown by analysis of the person's blood or other bodily substance, is 5 ng/ml or more; or

(e) (i) a vehicle within this state when the person is under 21 years of age at the time of the offense while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.02 or more; or

(ii) a vehicle within this state when the person is under 21 years of age at the time of the offense and the person has any amount of tetrahydrocannabinol, excluding inactive metabolites, in the person's body as shown by analysis of the person's blood or other bodily substance.

1 (2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have
2 been committed by any person driving or in actual physical control of a vehicle while under the influence of
3 alcohol, the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the
4 person's blood, breath, or other bodily substance drawn or taken within a reasonable time after the alleged act,
5 gives rise to the following inferences:

6 (a) if there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the
7 person was not under the influence of alcohol;

8 (b) if there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact
9 may not give rise to any inference that the person was or was not under the influence of alcohol, but the fact
10 may be considered with other competent evidence in determining the guilt or innocence of the person; and

11 (c) if there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the
12 person was under the influence of alcohol. The inference is rebuttable.

13 (3) The provisions of subsection (2) do not limit the introduction of any other competent evidence
14 bearing on the issue of whether the person was under the influence of alcohol, drugs, or a combination of
15 alcohol and drugs.

16 (4) Each municipality in this state is given authority to enact this section, with the word "state"
17 changed to read "municipality", as an ordinance and is given jurisdiction of the enforcement of the ordinance
18 and the imposition of the fines and penalties provided in the ordinance.

19 (5) Absolute liability, as provided in 45-2-104, is imposed for a violation of this section.

20 (6) When the same acts may establish the commission of an offense under subsection (1), a
21 person charged with the conduct may be prosecuted for a violation of another relevant subsection under
22 subsection (1). However, the person may be convicted of only one offense under this section or of a similar
23 offense under previous laws of this state."

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