

SENATE BILL NO. 196

INTRODUCED BY J. TREBAS, M. NIKOLAKAKOS, D. EMRICH, B. MITCHELL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DRIVING UNDER THE INFLUENCE; PROVIDING A DEFINITION OF "ACTUAL PHYSICAL CONTROL"; AND AMENDING SECTION 61-8-1001, MCA."

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

Section 1. Section 61-8-1001, MCA, is amended to read:

"61-8-1001. Definitions. As used in this part, unless the context requires otherwise and unless a different meaning plainly is required, the following definitions apply:

(1) (a) "Actual physical control" means a person is operating or driving a motor vehicle on the public roads and highways of this state on a way of the state open to the public.

(b) The term does not include:

(i) when a person is seated in any seat, except the driver's seat, of a motor vehicle and:

(A) the engine of the motor vehicle is in operation but the motor vehicle is not in a gear that allows self-propulsion; or

(B) the motor vehicle is disabled and incapable of self-propelled movement, except when the motor vehicle is disabled as a result of a collision when the person was operating or driving the motor vehicle; or

(C) the person is asleep or attempting to sleep inside the motor vehicle;

(D) the motor vehicle is lawfully parked; or

(E) under the facts presented, it is evident that the person did not drive the motor vehicle to the location while under the influence of alcohol, a drug, or a combination of alcohol and a drug.

(ii) when a person is propelling a disabled motor vehicle on the public roads and highways of this state by means other than self-propulsion from the engine.

(1)(2) "Aggravated driving under the influence" means a person is in violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d) and:

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(a) the person's alcohol concentration, as shown by analysis of the person's blood, breath, or other bodily substance, is 0.16 or more;

(b) the person is under the order of a court or the department to equip any motor vehicle the person operates with an approved ignition interlock device;

(c) the person's driver's license or privilege to drive is suspended, cancelled, or revoked as a result of a prior violation of driving under the influence, including a violation of 61-8-1002(1)(a), (1)(b), (1)(c), or (1)(d), an offense that meets the definition of aggravated driving under the influence, or a similar offense under previous laws of this state or the laws of another state; or

(d) the person refuses to give a breath sample as required in 61-8-1016 and the person's driver's license or privilege to drive was suspended, cancelled, or revoked under the provisions of an implied consent statute.

~~(2)~~(3) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains 0.5% or more of alcohol by volume.

~~(3)~~(4) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath, including as used in 16-6-305, 23-2-535, 45-5-207, 67-1-211, and this title.

~~(4)~~(5) "Bus" means a motor vehicle with a manufacturer's rated seating capacity of 11 or more passengers, including the driver.

~~(5)~~(6) "Camper" has the meaning provided in 61-1-101.

~~(6)~~(7) "Commercial motor vehicle" has the meaning provided in 61-1-101.

~~(7)~~(8) "Drug" means any substance that when taken into the human body can impair a person's ability to operate a vehicle safely. The term includes the meanings provided in 50-32-101(6), (7), and (14).

~~(8)~~(9) "DUI court" means any court that has established a special docket for handling cases involving persons convicted under 61-8-1007 or 61-8-1008 and that implements a program of incentives and sanctions intended to assist a participant to complete treatment ordered pursuant to 61-8-1009 and to end the participant's criminal behavior associated with the use of alcohol or drugs.

~~(9)~~(10) "Highway" has the meaning provided in 61-1-101, including the shoulders of the highway.

~~(40)~~(11)"Motor home" has the meaning provided in 61-1-101.

~~(44)~~(12)"Motor vehicle" has the meaning provided in 61-1-101.

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1 ~~(12)~~(13)"Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains
2 any amount of an alcoholic beverage and that is open or has a broken seal or the contents of which are partially
3 removed.

4 ~~(13)~~(14)"Passenger area" means the area designed to seat the driver and passengers while a motor
5 vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a
6 passenger is seated in the vehicle, including an unlocked glove compartment.

7 ~~(14)~~(15)"Under the influence" means that as a result of taking into the body alcohol, drugs, or any
8 combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished.

9 ~~(15)~~(16)"Vehicle" has the meaning provided in 61-1-101, except that the term does not include a
10 bicycle."

11 - END -