

HOUSE BILL NO. 704

INTRODUCED BY S. KERNS, D. FERN, N. DURAM, L. BREWSTER, P. FIELDER, G. NIKOLAKAKOS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO EXPUNGEMENT OF DRIVING UNDER INFLUENCE OFFENSES; PROVIDING THAT EXPUNGEMENT IS PRESUMED WHEN THE VEHICLE THAT THE PERSON WAS INSIDE DID NOT MOVE; AND AMENDING SECTIONS 46-18-1107 AND 46-18-1108, MCA."

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

**Section 1.** Section 46-18-1107, MCA, is amended to read:

**"46-18-1107. When expungement presumed.** Expungement is presumed if the person requesting expungement is not currently being detained for the commission of an offense, is not charged with the commission of an offense, and does not have charges pending for the commission of a new offense, as verified by the prosecution office responsible for a conviction for which expungement is being requested, and:

(1) the person has not been convicted of any offense in this state, another state, or federal court for a period of 5 years since the person completed the sentencing terms for the offense or offenses for which expungement is being requested, including payment of any financial obligations or successful completion of court-ordered treatment; ~~or~~

(2) the person has applied to a United States military academy, has applied to enlist in the armed forces or national guard, or is currently serving in the armed forces or national guard and is being held back in any way from enlisting or holding a certain position due to prior conviction; or

(3) (A) the person was convicted of A first offense OF driving under the influence ~~or~~ OF alcohol or drugs, and the vehicle, as defined in 61-8-1001, that the person was inside at the time of the offense did not move, and was not in a gear that allows self-propulsion, AND HAD NOT BEEN INVOLVED IN A COLLISION.

(B) THIS SUBSECTION (3) DOES NOT APPLY TO A PERSON ~~DRIVING A COMMERCIAL MOTOR VEHICLE AS DEFINED IN 61-1-101 with a commercial driver's license.~~"