

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO DRIVING UNDER THE
5 INFLUENCE; PROVIDING A DEFINITION OF "ACTUAL PHYSICAL CONTROL"; AND AMENDING SECTION
6 61-8-1001, MCA."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9
10 **Section 1.** Section 61-8-1001, MCA, is amended to read:

11 **"61-8-1001. Definitions.** As used in this part, unless the context requires otherwise and unless a
12 different meaning plainly is required, the following definitions apply:

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

15 (b) The term does not include:

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

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

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

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

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

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

27 (b) the person is under the order of a court or the department to equip any motor vehicle the
28 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.

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

(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.

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

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

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

(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).

(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.

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

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

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

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

(14) "Passenger area" means the area designed to seat the driver and passengers while a motor

1 vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a
2 passenger is seated in the vehicle, including an unlocked glove compartment.

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

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

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