

YMCA YOUTH LEGISLATURE OF THE STATE OF MONTANA

Ingalls Senate Bill Number 508

Legislative Action:

Introduced by:
Authored by: Whitney Giulio

House Committee: _____
House: _____
Senate Committee: _____
Senate: _____
Governor: _____

Delegation: Jefferson High School

Referred to Committee: Ingalls Senate Gold Committee

1 A BILL FOR AN ACT ENTITLED: “. AMMENDING SECTION 2, C, ii, MCA 45-5-624”

2

3 BE IT ENACTED BY THE MONTANA YMCA YOUTH LEGISLATURE:

4

5 **45-5-624. Unlawful attempt to purchase or possession of intoxicating substance --**

6 **interference with sentence or court order.** (1) A person under 21 years of age commits the
7 offense of possession of an intoxicating substance if the person knowingly consumes or has in
8 the person's possession an intoxicating substance. A person does not commit the offense if the
9 person consumes or gains possession of the beverage because it was lawfully supplied to the
10 person under [16-6-305](#) or when in the course of employment it is necessary to possess alcoholic
11 beverages.

12 (2) (a) In addition to any disposition by the youth court under [41-5-1512](#), a person under 18
13 years of age who is convicted under this section:

14 (i) for the first offense, shall be fined an amount not less than \$100 and not to exceed \$300
15 and:

16 (A) shall be ordered to perform 20 hours of community service;

17 (B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to
18 complete and pay all costs of participation in a community-based substance abuse information
19 course that meets the requirements of subsection (9), if one is available; and

20 (C) if the person has a driver's license, must have the license confiscated by the court for 30
21 days, except as provided in subsection (2)(b);

22 (ii) for a second offense, shall be fined an amount not less than \$200 and not to exceed \$600

23 (iii) will not be allowed to participate in high school extracurricular activities for a period of
24 one year from the date of the second offense.

25 and:

26 (A) shall be ordered to perform 40 hours of community service;

27 (B) shall be ordered, and the person's parent or parents or guardian shall be ordered, to
28 complete and pay all costs of participation in a community-based substance abuse information
29 course that meets the requirements of subsection (9), if one is available;

30 (C) if the person has a driver's license, must have the license confiscated by the court for 6
31 months, except as provided in subsection (2)(b); and

32 (D) shall be required to complete a chemical dependency assessment and treatment, if
33 recommended, as provided in subsection (8);

34 (iii) for a third or subsequent offense, shall be fined an amount not less than \$300 or more
35 than \$900, shall be ordered to perform 60 hours of community service, shall be ordered, and the
36 person's parent or parents or guardian shall be ordered, to complete and pay all costs of
37 participation in a community-based substance abuse information course that meets the
38 requirements of subsection (9), if one is available, and shall be required to complete a chemical
39 dependency assessment and treatment, if recommended, as provided in subsection (8). If the
40 person has a driver's license, the court shall confiscate the license for 6 months, except as
41 provided in subsection (2)(b).

42 (b) If the convicted person fails to complete the community-based substance abuse course and
43 has a driver's license, the court shall order the license suspended for 3 months for a first offense,
44 9 months for a second offense, and 12 months for a third or subsequent offense.

45 (c) The court shall retain jurisdiction for up to 1 year to order suspension of a license under
46 subsection (2)(b).

47 (3) A person 18 years of age or older who is convicted of the offense of possession of an
48 intoxicating substance:

49 (a) for a first offense:

50 (i) shall be fined an amount not less than \$100 or more than \$300;

51 (ii) shall be ordered to perform 20 hours of community service; and

52 (iii) shall be ordered to complete and pay all costs of participation in a community-based
53 substance abuse information course that meets the requirements of subsection (9);

54 (b) for a second offense:

55 (i) shall be fined an amount not less than \$200 or more than \$600;

56 (ii) will not be allowed to participate in high school extracurricular activities for a period of
57 one year from the date of the second offense.

58 (iii) shall be ordered to perform 40 hours of community service; and

59 (iv) shall be ordered to complete and pay for an alcohol information course at an alcohol
60 treatment program that meets the requirements of subsection (9), which may, in the court's
61 discretion and upon recommendation of a licensed addiction counselor, include alcohol or drug
62 treatment, or both;

63 (c) for a third or subsequent offense:

64 (i) shall be fined an amount not less than \$300 or more than \$900;

65 (ii) shall be ordered to perform 60 hours of community service;

66 (iii) shall be ordered to complete and pay for an alcohol information course at an alcohol
67 treatment program that meets the requirements of subsection (9), which may, in the sentencing
68 court's discretion and upon recommendation of a licensed addiction counselor, include alcohol or
69 drug treatment, or both; and

70 (iv) in the discretion of the court, shall be imprisoned in the county jail for a term not to
71 exceed 6 months.

72 (4) A person under 21 years of age commits the offense of attempt to purchase an intoxicating
73 substance if the person knowingly attempts to purchase an alcoholic beverage. A person
74 convicted of attempt to purchase an intoxicating substance shall be fined an amount not to
75 exceed \$150 if the person was under 21 years of age at the time that the offense was committed
76 and may be ordered to perform community service.

77 (5) A defendant who fails to comply with a sentence and is under 21 years of age and was
78 under 18 years of age when the defendant failed to comply must be transferred to the youth
79 court. If proceedings for failure to comply with a sentence are held in the youth court, the

80 offender must be treated as an alleged youth in need of intervention as defined in [41-5-103](#). The
81 youth court may enter its judgment under [41-5-1512](#).

82 (6) A person commits the offense of interference with a sentence or court order if the person
83 purposely or knowingly causes a child or ward to fail to comply with a sentence imposed under
84 this section or a youth court disposition order for a youth found to have violated this section and
85 upon conviction shall be fined \$100 or imprisoned in the county jail for 10 days, or both.

86 (7) A conviction or youth court adjudication under this section must be reported by the court
87 to the department of public health and human services if treatment is ordered under subsection
88 (8).

89 (8) (a) A person convicted of a second or subsequent offense of possession of an intoxicating
90 substance shall be ordered to complete a chemical dependency assessment.

91 (b) The assessment must be completed at a treatment program that meets the requirements of
92 subsection (9) and must be conducted by a licensed addiction counselor. The person may attend a
93 program of the person's choice as long as a licensed addiction counselor provides the services. If
94 able, the person shall pay the cost of the assessment and any resulting treatment.

95 (c) The assessment must describe the person's level of abuse or dependency, if any, and
96 contain a recommendation as to the appropriate level of treatment if treatment is indicated. A
97 person who disagrees with the initial assessment may, at the person's expense, obtain a second
98 assessment provided by a licensed addiction counselor or program that meets the requirements of
99 subsection (9).

100 (d) The treatment provided must be at a level appropriate to the person's alcohol or drug
101 problem, or both, if any, as determined by a licensed addiction counselor pursuant to diagnosis
102 and patient placement rules adopted by the department of public health and human services.
103 Upon the determination, the court shall order the appropriate level of treatment, if any. If more
104 than one counselor makes a determination, the court shall order an appropriate level of treatment
105 based upon the determination of one of the counselors.

106 (e) Each counselor providing treatment shall, at the commencement of the course of
107 treatment, notify the court that the person has been enrolled in a chemical dependency treatment
108 program. If the person fails to attend the treatment program, the counselor shall notify the court
109 of the failure.

110 (f) The court shall report to the department of public health and human services the name of
111 any person who is convicted under this section. The department of public health and human
112 services shall maintain a list of those persons who have been convicted under this section. This
113 list must be made available upon request to peace officers and to any court.

114 (9) (a) A community-based substance abuse information course required under subsection
115 (2)(a)(i)(B), (2)(a)(ii)(B), (2)(a)(iii), or (3)(a)(iii) must be:

116 (i) approved by the department of public health and human services under [53-24-208](#) or by a
117 court or provided under a contract with the department of corrections; or

118 (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical
119 dependency services and that is accredited by the joint commission on accreditation of healthcare
120 organizations to provide chemical dependency services.

121 (b) An alcohol information course required under subsection (3)(b)(iii) or (3)(c)(iii) must be
122 provided at an alcohol treatment program:

123 (i) approved by the department of public health and human services under [53-24-208](#) or by a
124 court or provided under a contract with the department of corrections; or

125 (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical

126 dependency services and that is accredited by the joint commission on accreditation of healthcare
127 organizations to provide chemical dependency services.

128 (c) A chemical dependency assessment required under subsection (8) must be completed at a
129 treatment program:

130 (i) approved by the department of public health and human services under [53-24-208](#) or by a
131 court or provided under a contract with the department of corrections; or

132 (ii) provided by a hospital licensed under Title 50, chapter 5, part 2, that provides chemical
133 dependency services and that is accredited by the joint commission on accreditation of healthcare
134 organizations to provide chemical dependency services.

135 (10) Information provided or statements made by a person under 21 years of age to a health
136 care provider or law enforcement personnel regarding an alleged offense against that person
137 under Title 45, chapter 5, part 5, may not be used in a prosecution of that person under this
138 section. This subsection's protection also extends to a person who helps the victim obtain
139 medical or other assistance or report the offense to law enforcement personnel. (*See compiler's*
140 *comments for contingent termination of certain text.*) **-end-**