

HOUSE BILL NO. 206

INTRODUCED BY D. ZOLNIKOV

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING OPEN CONTAINER LAWS; PROVIDING THAT A PASSENGER MAY HAVE AN OPEN ALCOHOLIC BEVERAGE CONTAINER; AMENDING SECTIONS 61-8-460 AND 61-8-461, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 61-8-460, MCA, is amended to read:

"61-8-460. Unlawful possession of open alcoholic beverage container in motor vehicle on highway. (1) Except as provided in subsection (2), a person commits the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle if the person knowingly possesses an open alcoholic beverage container within the passenger area of a motor vehicle on a highway.

(2) This section does not apply to an open alcoholic beverage container:

- (a) in a locked glove compartment or storage compartment;
- (b) in a motor vehicle trunk or luggage compartment or in a truck bed or cargo compartment;
- (c) behind the last upright seat of a motor vehicle that is not equipped with a trunk;
- (d) in a closed container in the area of a motor vehicle that is not equipped with a trunk and that is not normally occupied by the driver or a passenger; or

(e) in the immediate possession of a passenger:

- ~~(i) of a motor vehicle, including a bus, taxi, or limousine, that is used for the transportation of persons for compensation and that includes the provision of a hired driver; or~~
- ~~(ii) in the living quarters of a camper, travel trailer, or motor home.~~

(3) (a) A person convicted of the offense of unlawful possession of an open alcoholic beverage container in a motor vehicle shall be fined an amount not to exceed \$100.

(b) A violation of this section is not a criminal offense within the meaning of 3-1-317, 3-1-318, 45-2-101, 46-18-236, 61-8-104, and 61-8-711 and may not be recorded or charged against a driver's record, and an insurance company may not hold a violation of this section against the insured or increase premiums because of the violation. The surcharges provided for in 3-1-317, 3-1-318, and 46-18-236 may not be imposed for a



1 violation of this section."

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3 **Section 2.** Section 61-8-461, MCA, is amended to read:

4 **"61-8-461. Definitions.** As used in 61-8-460, the following definitions apply:

5 (1) "Alcoholic beverage" means a compound produced for human consumption as a drink that contains
6 0.5% or more of alcohol by volume.

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

9 ~~—— (3) "Camper" has the meaning provided in 61-1-101.~~

10 ~~(4)(2)~~ "Highway" has the meaning provided in 61-1-101, including the shoulders of the highway.

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

12 ~~(6)(3)~~ "Motor vehicle" has the meaning provided in 61-1-101.

13 ~~(7)(4)~~ "Open alcoholic beverage container" means a bottle, can, jar, or other receptacle that contains
14 any amount of an alcoholic beverage and that is open or has a broken seal or the contents of which are partially
15 removed.

16 ~~(8)(5)~~ "Passenger area" means the area designed to seat the driver and passengers while a motor
17 vehicle is in operation and any area that is readily accessible to the driver or a passenger while the driver or a
18 passenger is seated in the vehicle, including an unlocked glove compartment."

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20 NEW SECTION. **Section 3. Applicability.** [This act] applies to violations committed on or after [the
21 effective date of this act].

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