

HOUSE BILL NO. 214

INTRODUCED BY D. MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO OPERATING CERTAIN VESSELS WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS; PROVIDING ENFORCEMENT PROVISIONS; PROVIDING PENALTIES; AMENDING SECTIONS 23-1-122, 23-2-506, 23-2-523, 61-5-205, 61-8-401, 61-8-402, 61-8-404, 61-8-406, 61-8-407, 61-8-409, 61-8-410, 61-8-411, 61-8-442, 61-8-465, 61-8-714, 61-8-723, 61-8-731, 61-8-733, 61-8-734, AND 87-1-506, MCA; AND REPEALING SECTION 23-2-535, MCA."

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

**Section 1.** Section 23-1-122, MCA, is amended to read:

**"23-1-122. Enforcement powers of park rangers and game wardens.** (1) Park rangers appointed pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7.

(2) An authorized officer may:

(a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department, the board, or the commission;

(b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; ~~and~~

(c) enforce the provisions of Title 61, chapter 8, part 4, as they apply to operating a vessel, as defined in 61-8-401, while under the influence of alcohol or drugs; and

~~(e)(d)~~ exercise other powers of peace officers in the enforcement of:

(i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7;

(ii) rules of the department, the board, and the commission; and

(iii) judgments obtained for violations of the laws and rules specified in this subsection ~~(2)(e)~~ (2)(d)."



1           **Section 2.** Section 23-2-506, MCA, is amended to read:

2           **"23-2-506. Enforcement.** (1) The department is a criminal justice agency for the purpose of obtaining  
3 the technical assistance and support services provided by the board of crime control under the provisions of  
4 44-4-301. Authorized officers of the department are granted peace officer status with the power:

5           (a) of search, seizure, and arrest;

6           (b) to investigate activities in this state regulated by this part and rules of the department and the fish  
7 and wildlife commission;

8           (c) to enforce the provisions of Title 61, chapter 8, part 4, as they apply to operating a vessel, as defined  
9 in 61-8-401, while under the influence of alcohol or drugs; and

10           ~~(e)(d)~~ to report violations to the county attorney of the county in which they occur.

11           (2) All sheriffs and peace officers of the state of Montana and all United States coast guard law  
12 enforcement officers shall have authority to enforce provisions of this part, as amended."

13

14           **Section 3.** Section 23-2-523, MCA, is amended to read:

15           **"23-2-523. Prohibited operation and mooring -- enforcement.** (1) A person may not operate or  
16 knowingly permit a person to operate a ~~motorboat~~ or vessel or manipulate waterskis, a surfboard, or a similar  
17 device or other contrivance in a reckless or negligent manner so as to endanger the life, limb, or property of a  
18 person by:

19           (a) engaging in maneuvers that unreasonably or unnecessarily endanger life, limb, or property, including  
20 but not limited to weaving through congested vessel traffic or jumping the wake of another vessel unreasonably  
21 or unnecessarily close to the other vessel or when visibility around the other vessel is obstructed and including  
22 swerving at the last possible moment to avoid collision, following directly behind a waterskier, speeding in  
23 confined or restricted areas, and buzzing or wetting down others, which constitute reckless operation of a vessel;  
24 or

25           (b) crossing or jumping the wake of another vessel when within 100 yards of the vessel or within 100  
26 yards of a waterskier being towed by the vessel, except when directly entering or leaving a public or private  
27 marina, waterski facility, or other watercraft docking or loading area.

28           (2) A person may not ~~operate a motorboat, including a sailboat propelled by a motor of any kind, or~~  
29 manipulate waterskis, a surfboard, or a similar device attached to a motorboat while under the influence of  
30 alcohol, drugs, or a combination of the two.

1 (3) It is unlawful for the owner of a ~~motorboat or vessel~~ or a person ~~having the motorboat or vessel~~ in  
2 charge or in control of a vessel to authorize or knowingly permit the ~~motorboat or vessel~~ to be operated by a  
3 person who by reason of physical or mental disability is incapable of operating the ~~watercraft~~ vessel under the  
4 prevailing circumstances.

5 (4) A person may not operate or knowingly permit a person to operate a ~~motorboat or vessel~~ at a rate  
6 of speed greater than will permit the person, in the exercise of reasonable care, to bring the vessel to a stop  
7 within the assured clear distance ahead. However, nothing in this part is intended to prevent the operator of a  
8 vessel actually competing in a regatta that is sanctioned by an appropriate governmental unit from attempting to  
9 attain high speeds on a marked racing course.

10 (5) A person may not make a reckless approach to, departure from, or passage by a dock, ramp, diving  
11 board, or float.

12 (6) Skiers being pulled by motorboats must have on their person a United States coast guard approved  
13 personal flotation device in good and serviceable condition.

14 (7) A person may not moor a vessel to buoys or beacons placed in any waters of this state by the  
15 authority of the United States, an agency of the United States, or the department or in any manner hang on with  
16 a vessel to a buoy or beacon, except in the act of maintenance work on the buoy or beacon, nor may any person  
17 deface, remove, or destroy a buoy, beacon, or other authorized navigational marker maintained in the waters of  
18 this state.

19 (8) If an officer whose duty it is to enforce this law observes a vessel being used without sufficient  
20 lifesaving or firefighting devices or in an overloaded or other unsafe condition and in the officer's judgment the  
21 use creates an especially hazardous condition, the officer may direct the operator to take whatever immediate  
22 and reasonable steps would be necessary for the safety of those aboard the vessel, including directing the  
23 operator to return to a mooring or launching site and to remain there until the situation creating the hazard is  
24 corrected or ended.

25 (9) The population density and heavy recreational use of certain lakes require a noise standard more  
26 restrictive than the standard set in 23-2-526 in order to protect the public health and safety. Unless operated on  
27 a river or stream in compliance with a rule adopted under 23-2-521, a person may not operate a ~~motorboat or~~  
28 ~~personal watercraft~~ vessel on Flathead Lake, situated in Lake and Flathead Counties, Echo Lake, situated in  
29 Flathead County, or Swan Lake, situated in Lake County, in proximity to the shoreline if the noise emitted is  
30 greater than 75 dbA measured at the shoreline in accordance with the shoreline sound level measurement

1 procedure (SAE J1970).

2 (10) Unless accompanied by a person 18 years of age or older, a person 12 years of age or younger  
3 may not operate a ~~motorboat or a personal watercraft~~ vessel that is powered by a motor rated at more than 10  
4 horsepower. A person 13 or 14 years of age may not operate a vessel ~~or personal watercraft~~ powered by a motor  
5 rated at more than 10 horsepower without possessing a valid Montana motorboat operator's safety certificate or  
6 evidence of completion of a Montana-approved water safety course or unless accompanied by a person 18 years  
7 of age or older.

8 (11) A person who owns or ~~has~~ is in charge or control of a ~~motorboat or personal watercraft~~ vessel  
9 powered by a motor rated at more than 10 horsepower may not authorize or knowingly permit the ~~motorboat or~~  
10 ~~personal watercraft~~ vessel to be operated:

11 (a) by a person 12 years of age or younger unless accompanied by a person 18 years of age or older;  
12 or

13 (b) by a person 13 or 14 years of age unless the person possesses a valid Montana motorboat operator's  
14 safety certificate or evidence of completion of a Montana-approved water safety course or is accompanied by a  
15 person 18 years of age or older.

16 (12) A person may not rent a ~~motorboat or a personal watercraft~~ vessel powered by a motor rated at  
17 more than 10 horsepower to a person under 18 years of age."

18

19 **Section 4.** Section 61-5-205, MCA, is amended to read:

20 **"61-5-205. Mandatory revocation or suspension of license upon certain convictions -- duration**  
21 **of action -- exceptions.** (1) The department shall revoke an individual's driver's license or driving privilege if the  
22 department receives notice from a court or another licensing jurisdiction that the individual has been convicted  
23 of any of the following offenses:

24 (a) negligent homicide resulting from the operation of a motor vehicle;

25 (b) any felony in the commission of which a motor vehicle is used;

26 (c) failure to stop and render aid as required under the laws of this state in the event of a motor vehicle  
27 accident resulting in the death or personal injury of another;

28 (d) perjury or the making of a false affidavit or statement under oath to the department under this chapter  
29 or under any other law relating to the ownership or operation of motor vehicles;

30 (e) fleeing from or eluding a peace officer; or

- 1 (f) negligent vehicular assault as defined in 45-5-205 involving a motor vehicle.
- 2 (2) The department shall suspend an individual's driver's license or driving privilege if the department  
3 receives notice from a court or another licensing jurisdiction that the individual has been convicted of any of the  
4 following offenses:
- 5 (a) except for an incident involving actual physical control of a vessel, a driving offense under 61-8-401,  
6 61-8-406, or 61-8-411;
- 7 (b) three reckless driving offenses committed within a period of 12 months; or
- 8 (c) a theft offense under 45-6-301 if the theft consisted of theft of motor vehicle fuel and a motor vehicle  
9 was used in the commission of the offense.
- 10 (3) A revocation under subsections (1)(a), (1)(b), and (1)(d) through (1)(f) must be for a period of 1 year.  
11 A revocation under subsection (1)(c) must be for a period of 2 years if the offender received a felony conviction  
12 under 61-7-103.
- 13 (4) (a) Except as provided in subsections (4)(b) and (4)(c), a suspension under subsection (2) must be  
14 for a period of 1 year.
- 15 (b) A suspension under subsection (2)(a) must be for the period set forth in 61-5-208.
- 16 (c) A suspension under subsection (2)(c) must be for one of the following periods:
- 17 (i) 30 days for a first offense;
- 18 (ii) 6 months for a second offense; and
- 19 (iii) 1 year for a third or subsequent offense."

20  
21 **Section 5.** Section 61-8-401, MCA, is amended to read:

22 **"61-8-401. Driving under influence of alcohol or drugs -- definitions.** (1) It is unlawful and  
23 punishable, as provided in 61-8-442, 61-8-714, and 61-8-731 through 61-8-734, for a person who is under the  
24 influence of:

- 25 (a) alcohol to drive or be in actual physical control of a vehicle upon the ways or waters of this state open  
26 to the public;
- 27 (b) a dangerous drug to drive or be in actual physical control of a vehicle within this state;
- 28 (c) any other drug to drive or be in actual physical control of a vehicle within this state; or
- 29 (d) alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within  
30 this state.

1 (2) The fact that any person charged with a violation of subsection (1) is or has been entitled to use  
2 alcohol or a drug under the laws of this state does not constitute a defense against any charge of violating  
3 subsection (1).

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

6 (b) Subject to 61-8-440, as used in this part, "vehicle" has the meaning provided in 61-1-101, except that  
7 the term includes a vessel, as defined in subsection (3)(c), and does not include a bicycle.

8 (c) As used in this part, "vessel" means a motorboat, as defined in 23-2-502, or a sailboat, as defined  
9 in 23-2-502, that is 12 feet in length or longer.

10 (4) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been  
11 committed by any person driving or in actual physical control of a vehicle while under the influence of alcohol,  
12 the concentration of alcohol in the person at the time of a test, as shown by analysis of a sample of the person's  
13 blood or breath drawn or taken within a reasonable time after the alleged act, gives rise to the following  
14 inferences:

15 (a) If there was at that time an alcohol concentration of 0.04 or less, it may be inferred that the person  
16 was not under the influence of alcohol.

17 (b) If there was at that time an alcohol concentration in excess of 0.04 but less than 0.08, that fact may  
18 not give rise to any inference that the person was or was not under the influence of alcohol, but the fact may be  
19 considered with other competent evidence in determining the guilt or innocence of the person.

20 (c) If there was at that time an alcohol concentration of 0.08 or more, it may be inferred that the person  
21 was under the influence of alcohol. The inference is rebuttable.

22 (5) The provisions of subsection (4) do not limit the introduction of any other competent evidence bearing  
23 upon the issue of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and  
24 drugs.

25 (6) Each municipality in this state is given authority to enact 61-8-406, 61-8-408, 61-8-410, 61-8-411,  
26 61-8-714, 61-8-722, 61-8-731 through 61-8-734, and subsections (1) through (5) of this section, with the word  
27 "state" in 61-8-406, 61-8-411, and subsection (1) of this section changed to read "municipality", as an ordinance  
28 and is given jurisdiction of the enforcement of the ordinance and of the imposition of the fines and penalties  
29 provided in the ordinance.

30 (7) Absolute liability as provided in 45-2-104 is imposed for a violation of this section."

1  
2           **Section 6.** Section 61-8-402, MCA, is amended to read:  
3           **"61-8-402. Implied consent -- blood or breath tests for alcohol, drugs, or both -- refusal to submit**  
4 **to test -- administrative license suspension for motorists.** (1) A person who operates or is in actual physical  
5 control of a vehicle upon ways or waters of this state open to the public is considered to have given consent to  
6 a test or tests of the person's blood or breath for the purpose of determining any measured amount or detected  
7 presence of alcohol or drugs in the person's body.

8           (2) (a) The test or tests must be administered at the direction of a peace officer when:

9           (i) the officer has reasonable grounds to believe that the person has been driving or has been in actual  
10 physical control of a vehicle upon ways or waters of this state open to the public while under the influence of  
11 alcohol, drugs, or a combination of the two and the person has been placed under arrest for a violation of  
12 61-8-401 or 61-8-465;

13           (ii) the person is under the age of 21 and has been placed under arrest for a violation of 61-8-410; or

14           (iii) the officer has probable cause to believe that the person was driving or in actual physical control of  
15 a vehicle:

16           (A) in violation of 61-8-401 and the person has been involved in a motor vehicle or boating accident or  
17 collision resulting in property damage;

18           (B) involved in a motor vehicle or boating accident or collision resulting in serious bodily injury, as defined  
19 in 45-2-101, or death; or

20           (C) in violation of 61-8-465.

21           (b) The arresting or investigating officer may designate which test or tests are administered.

22           (3) A person who is unconscious or who is otherwise in a condition rendering the person incapable of  
23 refusal is considered not to have withdrawn the consent provided by subsection (1).

24           (4) If an arrested person refuses to submit to one or more tests requested and designated by the officer  
25 as provided in subsection (2), the refused test or tests may not be given except as provided in subsection (5),  
26 ~~but~~ However, except as provided in [section 15] for a person who was in control of a vessel, the officer shall, on  
27 behalf of the department, immediately seize the person's driver's license. The peace officer shall immediately  
28 forward the license to the department, along with a report certified under penalty of law stating which of the  
29 conditions set forth in subsection (2)(a) provides the basis for the testing request and confirming that the person  
30 refused to submit to one or more tests requested and designated by the peace officer. Upon receipt of the report,

1 the department shall suspend the license for the period provided in subsection (7).

2 (5) If the arrested person has refused to provide a breath, blood, or urine sample under 61-8-409 or this  
3 section in a prior investigation in this state or under a substantially similar statute in another jurisdiction or the  
4 arrested person has a prior conviction or pending offense for a violation of 45-5-104, 45-5-106, 45-5-205,  
5 61-8-401, 61-8-406, or 61-8-411 or a similar statute in another jurisdiction, the officer may apply for a search  
6 warrant to be issued pursuant to 46-5-224 to collect a sample of the person's blood for testing.

7 (6) Upon seizure of a driver's license, the peace officer shall issue, on behalf of the department, a  
8 temporary driving permit, which is effective 12 hours after issuance and is valid for 5 days following the date of  
9 issuance, and shall provide the driver with written notice of the license suspension and the right to a hearing  
10 provided in 61-8-403.

11 (7) (a) Except as provided in [section 15] for a person who was in control of a vessel and subsection  
12 (7)(b) of this section, the following ~~suspension periods are applicable~~ apply for suspension of a driver's license  
13 upon refusal to submit to one or more tests:

14 (i) upon a first refusal, a suspension of 6 months with no provision for a restricted probationary license;  
15 (ii) upon a second or subsequent refusal within 5 years of a previous refusal, as determined from the  
16 records of the department, a suspension of 1 year with no provision for a restricted probationary license.

17 (b) ~~Except as provided in [section 15] for a person who was in control of a vessel, if a person who~~  
18 refuses to submit to one or more tests under this section is the holder of a commercial driver's license, in addition  
19 to any action taken against the driver's noncommercial driving privileges, the department shall:

20 (i) upon a first refusal, suspend the person's commercial driver's license for a 1-year period; and  
21 (ii) upon a second or subsequent refusal, suspend the person's commercial driver's license for life,  
22 subject to department rules adopted to implement federal rules allowing for license reinstatement, if the person  
23 is otherwise eligible, upon completion of a minimum suspension period of 10 years. If the person has a prior  
24 conviction of a major offense listed in 61-8-802(2) arising from a separate incident, the conviction has the same  
25 effect as a previous testing refusal for purposes of this subsection (7)(b).

26 (8) A nonresident driver's license seized under this section must be sent by the department to the  
27 licensing authority of the nonresident's home state with a report of the nonresident's refusal to submit to one or  
28 more tests.

29 (9) The department may recognize the seizure of a license of a tribal member by a peace officer acting  
30 under the authority of a tribal government or an order issued by a tribal court suspending, revoking, or reinstating



1 a license or adjudicating a license seizure if the actions are conducted pursuant to tribal law or regulation  
 2 requiring alcohol or drug testing of motor vehicle operators and the conduct giving rise to the actions occurred  
 3 within the exterior boundaries of a federally recognized Indian reservation in this state. Action by the department  
 4 under this subsection is not reviewable under 61-8-403.

5 (10) A suspension under this section is subject to review as provided in this part.

6 (11) This section does not apply to tests, samples, and analyses of blood or breath used for purposes  
 7 of medical treatment or care of an injured motorist or boater, related to a lawful seizure for a suspected violation  
 8 of an offense not in this part, or performed pursuant to a search warrant.

9 (12) This section does not prohibit the release of information obtained from tests, samples, and analyses  
 10 of blood or breath for law enforcement purposes as provided in 46-4-301 and 61-8-405(6)."

11

12 **Section 7.** Section 61-8-404, MCA, is amended to read:

13 **"61-8-404. Evidence admissible -- conditions of admissibility.** (1) Upon the trial of a criminal action  
 14 or other proceeding arising out of acts alleged to have been committed by a person in violation of 61-8-401,  
 15 61-8-406, 61-8-410, 61-8-411, 61-8-465, or 61-8-805:

16 (a) evidence of any measured amount or detected presence of alcohol, drugs, or a combination of  
 17 alcohol and drugs in the person at the time of a test, as shown by an analysis of the person's blood or breath, is  
 18 admissible. A positive test result does not, in itself, prove that the person was under the influence of a drug or  
 19 drugs at the time the person was in control of a ~~motor~~ vehicle. A person may not be convicted of a violation of  
 20 61-8-401 based ~~upon~~ on the presence of a drug or drugs in the person unless some other competent evidence  
 21 exists that tends to establish that the person was under the influence of a drug or drugs while driving or in actual  
 22 physical control of a ~~motor~~ vehicle within this state.

23 (b) a report of the facts and results of one or more tests of a person's blood or breath is admissible in  
 24 evidence if:

25 (i) a breath test or preliminary alcohol screening test was performed by a person certified by the forensic  
 26 sciences division of the department to administer the test;

27 (ii) a blood sample was analyzed in a laboratory operated or certified by the department or in a laboratory  
 28 exempt from certification under the rules of the department and the blood was withdrawn from the person by a  
 29 person competent to do so under 61-8-405(1); and

30 (c) a report of the facts and results of a physical, psychomotor, or physiological assessment of a person

1 is admissible in evidence if it was made by a person trained by the department or by a person who has received  
2 training recognized by the department.

3 (2) If the person under arrest refused to submit to one or more tests under 61-8-402, whether or not a  
4 sample was subsequently collected for any purpose, proof of refusal is admissible in any criminal action or  
5 proceeding arising out of acts alleged to have been committed while the person was driving or in actual physical  
6 control of a vehicle upon the ways or waters of this state open to the public, while under the influence of alcohol,  
7 drugs, or a combination of alcohol and drugs. The trier of fact may infer from the refusal that the person was  
8 under the influence. The inference is rebuttable.

9 (3) The provisions of this part do not limit the introduction of any other competent evidence bearing on  
10 the question of whether the person was under the influence of alcohol, drugs, or a combination of alcohol and  
11 drugs."  
12

13 **Section 8.** Section 61-8-406, MCA, is amended to read:

14 **"61-8-406. Operation of noncommercial vehicle by person with alcohol concentration of 0.08 or**  
15 **more -- operation of commercial vehicle by person with alcohol concentration of 0.04 or more.** (1) It is  
16 unlawful and punishable as provided in 61-8-442, 61-8-722, 61-8-723, and 61-8-731 through 61-8-734 for any  
17 person to drive or be in actual physical control of:

18 (a) a noncommercial vehicle, including a vessel, upon the ways or waters of this state open to the public  
19 while the person's alcohol concentration, as shown by analysis of the person's blood, breath, or urine, is 0.08 or  
20 more; or

21 (b) a commercial motor vehicle upon the ways of this state open to the public while the person's alcohol  
22 concentration, as shown by analysis of the person's blood or breath, is 0.04 or more.

23 (2) Absolute liability, as provided in 45-2-104, will be imposed for a violation of this section."  
24

25 **Section 9.** Section 61-8-407, MCA, is amended to read:

26 **"61-8-407. Definition of alcohol concentration.** For purposes of 16-6-305, ~~23-2-535~~, 67-1-211, and  
27 this title, "alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per  
28 210 liters of breath."  
29

30 **Section 10.** Section 61-8-409, MCA, is amended to read:

1           **"61-8-409. Preliminary alcohol screening test.** (1) A person who operates or is in actual physical  
2 control of a vehicle upon ways or waters of this state open to the public is considered to have given consent to  
3 a preliminary alcohol screening test of the person's breath, for the purpose of estimating the person's alcohol  
4 concentration, upon the request of a peace officer who has a particularized suspicion that the person was driving  
5 or in actual physical control of a vehicle upon ways or waters of this state open to the public while under the  
6 influence of alcohol or in violation of 61-8-410 or 61-8-465.

7           (2) The person's obligation to submit to a test under 61-8-402 is not satisfied by the person submitting  
8 to a preliminary alcohol screening test pursuant to this section.

9           (3) The peace officer shall inform the person of the right to refuse the test and that, except as provided  
10 in [section 15] for a person who was in control of a vessel, the refusal to submit to the preliminary alcohol  
11 screening test will result in the suspension for up to 1 year of that person's driver's license.

12           (4) If the person refuses to submit to a test under this section, a test will not be given except as provided  
13 in 61-8-402(5). However, except as provided in [section 15] for a person who was in control of a vessel, the  
14 refusal is sufficient cause to suspend the person's driver's license as provided in 61-8-402.

15           (5) A hearing as provided for in 61-8-403 must be available. The issues in the hearing must be limited  
16 to determining whether a peace officer had a particularized suspicion that the person was driving or in actual  
17 physical control of a motor vehicle upon ways of this state open to the public while under the influence of alcohol  
18 or in violation of 61-8-410 and whether the person refused to submit to the test.

19           (6) The provisions of 61-8-402(3) through (9) that do not conflict with this section are applicable to  
20 refusals under this section. If a person refuses a test requested under 61-8-402 and this section for the same  
21 incident, the department may not consider each a separate refusal for purposes of suspension under 61-8-402.

22           (7) A test may not be conducted or requested under this section unless both the peace officer and the  
23 instrument used to conduct the preliminary alcohol screening test have been certified by the department pursuant  
24 to rules adopted under the authority of 61-8-405(5)."  
25

26           **Section 11.** Section 61-8-410, MCA, is amended to read:

27           **"61-8-410. Operation of vehicle by person under 21 years of age with alcohol concentration of**  
28 **0.02 or more.** (1) It is unlawful for a person under the age of 21 who has an alcohol concentration of 0.02 or more  
29 to drive or be in actual physical control of a vehicle upon ways or waters of this state open to the public. Absolute  
30 liability, as provided for in 45-2-104, is imposed for a violation of this section.

1 (2) Upon a first conviction under this section, a person shall be punished by a fine of not less than \$100  
2 or more than \$500.

3 (3) Upon a second conviction under this section, a person shall be punished by a fine of not less than  
4 \$200 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not more than 10 days.

5 (4) Upon a third or subsequent conviction under this section, a person shall be punished by a fine of not  
6 less than \$300 or more than \$500 and, if the person is 18 years of age or older, by incarceration for not less than  
7 24 consecutive hours or more than 60 days.

8 (5) In addition to the punishment provided in this section, regardless of disposition:

9 (a) the person shall comply with the chemical dependency education course and chemical dependency  
10 treatment provisions in 61-8-732 as ordered by the court; and

11 (b) except as provided in subsection (6), the department shall suspend the person's driver's license for  
12 90 days upon the first conviction, 6 months upon the second conviction, and 1 year upon the third or subsequent  
13 conviction. A restricted or probationary driver's license may not be issued during the suspension period until the  
14 person has paid a license reinstatement fee in accordance with 61-2-107 and, if the person was under the age  
15 of 18 at the time of the offense, has completed at least 30 days of the suspension period.

16 (6) The driver's license of a person convicted of being in actual physical control of a vessel in violation  
17 of this section may not be suspended, but that person is prohibited from operating a vessel:

18 (a) for 1 year upon a first or second conviction; or

19 (b) for 2 years upon a third or subsequent conviction.

20 ~~(6)(7)~~ A conviction under this section may not be counted as a prior conviction under 61-8-401 or  
21 61-8-406."

22

23 **Section 12.** Section 61-8-411, MCA, is amended to read:

24 **"61-8-411. Operation of noncommercial vehicle or commercial vehicle by person under influence**  
25 **of delta-9-tetrahydrocannabinol.** (1) It is unlawful and punishable as provided in 61-8-442, 61-8-722, 61-8-723,  
26 and 61-8-731 through 61-8-734 for any person to drive or be in actual physical control of:

27 (a) a noncommercial vehicle, including a vessel, upon the ways or waters of this state open to the public  
28 while the person's delta-9-tetrahydrocannabinol level, excluding metabolites, as shown by analysis of the person's  
29 blood, is 5 ng/ml or more; or

30 (b) a commercial motor vehicle upon the ways of this state open to the public while the person's

1 delta-9-tetrahydrocannabinol level, excluding metabolites, as shown by analysis of the person's blood, is 5 ng/ml  
2 or more.

3 (2) Absolute liability, as provided in 45-2-104, is imposed for a violation of this section."  
4

5 **Section 13.** Section 61-8-442, MCA, is amended to read:

6 **"61-8-442. Driving under influence of alcohol or drugs -- driving with excessive alcohol**  
7 **concentration -- ignition interlock device -- 24/7 sobriety and drug monitoring program -- forfeiture of**  
8 **motor vehicle.** (1) In addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition  
9 and if a probationary license is recommended by the court, the court may, for a person convicted of a first offense  
10 under 61-8-401, 61-8-406, or 61-8-411:

11 (a) except as provided in subsection (5), restrict the person to driving only a motor vehicle equipped with  
12 a functioning ignition interlock device during the probationary period and require the person to pay the reasonable  
13 cost of leasing, installing, and maintaining the device; or

14 (b) require the person to participate in a court-approved alcohol or drug detection testing program and  
15 pay the fees associated with the testing program.

16 (2) If a person is convicted of a second or subsequent violation of 61-8-401, 61-8-406, or 61-8-411, in  
17 addition to the punishments provided in 61-8-714 and 61-8-722, regardless of disposition, the court shall:

18 (a) except as provided in subsection (5), if recommending that a probationary license be issued to the  
19 person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device  
20 during the probationary period and require the person to pay the reasonable cost of leasing, installing, and  
21 maintaining the device;

22 (b) require the person to participate in the 24/7 sobriety and drug monitoring program provided for in  
23 44-4-1203 and pay the fees associated with the program or require the person to participate in a court-approved  
24 alcohol or drug detection testing program and pay the fees associated with the testing program; or

25 (c) except as provided in subsection (5), order that each motor vehicle owned by the person at the time  
26 of the offense be seized and subjected to the forfeiture procedure provided under 61-8-421.

27 (3) Any restriction or requirement imposed under this section must be included in a report of the  
28 conviction made by the court to the department in accordance with 61-11-101 and placed ~~upon~~ on the person's  
29 driving record maintained by the department in accordance with 61-11-102.

30 (4) The duration of a restriction imposed under this section must be monitored by the department.

1           (5) The provisions of subsections (1)(a), (2)(a), and (2)(c) do not apply to a person convicted of being  
2 in actual physical control of a vessel in violation of this part."

3

4           **Section 14.** Section 61-8-465, MCA, is amended to read:

5           **"61-8-465. Aggravated DUI.** (1) A person commits the offense of aggravated driving under the influence  
6 if the person is in violation of 61-8-401, 61-8-406, or 61-8-411 and at the time of the offense:

7           (a) the person's blood alcohol concentration is 0.16 or more;

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

10           (c) the person's driver's license, ~~or~~ privilege to drive, or privilege to operate a vessel is suspended,  
11 canceled, or revoked as a result of a prior violation of 61-8-401, 61-8-402, 61-8-406, or 61-8-411;

12           (d) the person refuses to provide a breath or blood sample as required in 61-8-402 and the person's  
13 driver's license or privilege to drive was suspended, canceled, or revoked under 61-8-402 within 10 years of the  
14 commission of the present offense; or

15           (e) the person has one prior conviction or pending charge for a violation of 45-5-106, 45-5-205, 61-8-401,  
16 61-8-406, 61-8-411, or this section within 10 years of the commission of the present offense or has two or more  
17 prior convictions or pending charges, or any combination thereof, for violations of 45-5-106, 45-5-205, 61-8-401,  
18 61-8-406, or 61-8-411.

19           (2) A person convicted of the offense of aggravated driving under the influence shall be punished by:

20           (a) a fine of \$1,000; and

21           (b) a term of imprisonment of not more than 1 year, part of which may be suspended, except for the  
22 mandatory minimum sentences set forth in 61-8-714.

23           (3) During the suspended sentence imposed by the court under subsection (2)(b):

24           (a) the person is subject to all conditions of the suspended sentence imposed by the court, including  
25 mandatory participation in drug or DUI courts if available;

26           (b) the person is subject to all conditions of the 24/7 sobriety and drug monitoring program if available  
27 and if imposed by the court; and

28           (c) if the person violates any condition of the suspended sentence or any treatment requirement, the  
29 court may impose the remainder of any imprisonment term that was imposed and suspended.

30           (4) Absolute liability, as provided for in 45-2-104, is imposed for a violation of this section."

1

2           **NEW SECTION. Section 15. Refusal by boater to submit to test -- penalties.** (1) If an arrested  
3 person who was believed to be in actual physical control of a vessel in violation of this part refuses to submit to  
4 a test requested and designated by a peace officer as provided in 61-8-402(2), the refused test or tests may not  
5 be given except as provided in 61-8-402(5). The driver's license of the person may not be suspended. However,  
6 upon the finding that an officer had reasonable grounds to believe that the person was in actual physical control  
7 of a vessel in violation of this part, that the specified conditions existed for testing pursuant to 61-8-402(2), and  
8 that the person refused to submit to a test, a court shall:

9           (a) order the person not to operate a vessel for 1 year; and

10           (b) impose a mandatory civil penalty of \$500.

11           (2) If a person does not pay the civil penalty imposed pursuant to subsection (1) by the time the 1-year  
12 order not to operate a vessel expires, the court shall extend the order not to operate for an additional year and  
13 may also impose penalties for contempt.

14           (3) A court may not defer judgment or sentencing or suspend execution of a penalty imposed under  
15 subsection (1).

16           (4) The penalties imposed under subsection (1) apply in addition to any other penalties imposed under  
17 this part or Title 61, chapter 8, part 7, except that the 1-year order not to operate a vessel must run concurrently  
18 with any other period of time that a person is ordered not to operate a vessel.

19

20           **Section 16.** Section 61-8-714, MCA, is amended to read:

21           **"61-8-714. Penalty for driving under influence of alcohol or drugs -- first through third offense.**

22           (1) (a) Except as provided in subsection (4) or (5), a person convicted of a first violation of 61-8-401 shall be  
23 punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not less  
24 than \$300 or more than \$1,000, except that if one or more passengers under 16 years of age were in the vehicle  
25 at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours  
26 or more than 1 year and by a fine of not less than \$600 or more than \$2,000.

27           (b) The mandatory minimum imprisonment term may not be served under home arrest and may not be  
28 suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's  
29 physical or mental well-being.

30           (c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending

1 successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

2 (2) (a) Except as provided in subsection (4) or (5), a person convicted of a second violation of 61-8-401  
3 shall be punished by a fine of not less than \$600 or more than \$1,000 and by imprisonment for not less than 7  
4 days or more than 1 year, except that if one or more passengers under 16 years of age were in the vehicle at the  
5 time of the offense, the person shall be punished by a fine of not less than \$1,200 or more than \$2,000 and by  
6 imprisonment for not less than 14 days or more than 1 year.

7 (b) The mandatory minimum imprisonment term may not be served under home arrest and may not be  
8 suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's  
9 physical or mental well-being.

10 (c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending  
11 the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

12 (3) (a) Except as provided in subsection (4) or (5), a person convicted of a third violation of 61-8-401  
13 shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not  
14 less than \$1,000 or more than \$5,000, except that if one or more passengers under 16 years of age were in the  
15 vehicle at the time of the offense, the person shall be punished by imprisonment for a term of not less than 60  
16 days or more than 1 year and by a fine of not less than \$2,000 or more than \$10,000.

17 (b) The mandatory minimum imprisonment term may not be served under home arrest and may not be  
18 suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's  
19 physical or mental well-being.

20 (c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending  
21 the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

22 (4) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in  
23 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive  
24 alcohol concentration.

25 (5) If the person has a prior conviction or pending charge for a violation of 61-8-465, the person shall  
26 be punished as provided in 61-8-465.

27 (6) In addition to other penalties imposed by this section, a person who is convicted of being in actual  
28 physical control of a vessel in violation of Title 61, chapter 8, part 4, is prohibited from operating a vessel:

29 (a) for 1 year upon a first or second conviction; or

30 (b) for 2 years upon a third conviction."



1

2 **Section 17.** Section 61-8-723, MCA, is amended to read:

3 **"61-8-723. Offenses committed by persons under 18 years of age.** A person under 18 years of age

4 who is convicted of an offense under this title may not be punished by incarceration, but shall be punished by:

5 (1) a fine not to exceed the fine that could be imposed on the person if the person were an adult,  
6 provided that the person may not be imprisoned for failure to pay the fine;

7 (2) except for an incident involving actual physical control of a vessel, as defined in 61-8-401, the  
8 revocation of the person's driver's license by the court or suspension of the license for a period set by the court;

9 (3) if the incident involved actual physical control of a vessel, as defined in 61-8-401, an order that the  
10 person may not operate a vessel:

11 (a) for 1 year upon a first or second conviction; or

12 (b) for 2 years upon a third or subsequent conviction;

13 ~~(3)~~(4) impoundment by a law enforcement officer designated by the court of the motor vehicle operated  
14 by the person for a period of time not exceeding 60 days if the court finds that the person either owns the motor  
15 vehicle or is the only person who uses the motor vehicle; or

16 ~~(4)~~(5) any combination of subsections (1) through ~~(3)~~ (4)."

17

18 **Section 18.** Section 61-8-731, MCA, is amended to read:

19 **"61-8-731. Driving under influence of alcohol or drugs -- driving with excessive alcohol**

20 **concentration -- penalty for fourth or subsequent offense.** (1) Except as provided in subsection (3), if a

21 person is convicted of a violation of 61-8-401, 61-8-406, or 61-8-411, the person has either a single conviction  
22 under 45-5-106 or any combination of three or more prior convictions under 45-5-104, 45-5-205, 61-8-401,

23 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a vehicle while  
24 under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three, as provided

25 in 61-8-401(1), the person is guilty of a felony and shall be punished by:

26 (a) sentencing the person to the department of corrections for placement in an appropriate correctional  
27 facility or program for a term of 13 months. The court shall order that if the person successfully completes a  
28 residential alcohol treatment program operated or approved by the department of corrections, the remainder of  
29 the 13-month sentence must be served on probation. The imposition or execution of the 13-month sentence may  
30 not be deferred or suspended, and the person is not eligible for parole.

1 (b) sentencing the person to either the department of corrections or the Montana state prison or Montana  
 2 women's prison for a term of not more than 5 years, all of which must be suspended, to run consecutively to the  
 3 term imposed under subsection (1)(a); and

4 (c) a fine in an amount of not less than \$1,000 or more than \$10,000.

5 (2) The department of corrections may place an offender sentenced under subsection (1)(a) in a  
 6 residential alcohol treatment program operated or approved by the department of corrections or in a state prison.

7 (3) If a person is convicted of a violation of 61-8-401, 61-8-406, or 61-8-411, the person has either a  
 8 single conviction under 45-5-106 or any combination of four or more prior convictions under 45-5-104, 45-5-205,  
 9 61-8-401, 61-8-406, or 61-8-465, and the offense under 45-5-104 occurred while the person was operating a  
 10 vehicle while under the influence of alcohol, a dangerous drug, any other drug, or any combination of the three,  
 11 as provided in 61-8-401(1), and the person was, upon a prior conviction, placed in a residential alcohol treatment  
 12 program under subsection (2), whether or not the person successfully completed the program, the person shall  
 13 be sentenced to the department of corrections for a term of not less than 13 months or more than 5 years or be  
 14 fined an amount of not less than \$1,000 or more than \$10,000, or both.

15 (4) The court shall, as a condition of probation, order that the person:

16 (a) ~~that the person~~ abide by the standard conditions of probation promulgated by the department of  
 17 corrections;

18 (b) ~~a person who is financially able to~~ pay the costs of imprisonment, probation, and alcohol treatment  
 19 under this section, if financially able;

20 (c) ~~that the person~~ may not frequent an establishment where alcoholic beverages are served;

21 (d) ~~that the person~~ may not consume alcoholic beverages;

22 (e) except for an incident involving actual physical control of a vessel, as defined in 61-8-401, ~~that the~~  
 23 ~~person~~ may not operate a motor vehicle unless authorized by the person's probation officer;

24 (f) if the incident involved actual physical control of a vessel, as defined in 61-8-401, may not operate  
 25 a vessel for 2 years;

26 (f)(g) ~~that the person~~ enter in and remain in an aftercare treatment program for the ~~entirety of the entire~~  
 27 probationary period;

28 (g)(h) ~~that the person~~ submit to random or routine drug and alcohol testing; and

29 (h)(i) ~~that~~ except for an incident involving actual physical control of a vehicle, as defined in 61-8-401, if  
 30 the person is permitted to operate a motor vehicle, the operate only a motor vehicle be equipped with an ignition

1 interlock system.

2 (5) The sentencing judge may impose ~~upon~~ on the defendant any other reasonable restrictions or  
3 conditions during the period of probation. Reasonable restrictions or conditions may include but are not limited  
4 to:

5 (a) payment of a fine as provided in 46-18-231;

6 (b) payment of costs as provided in 46-18-232 and 46-18-233;

7 (c) payment of costs of assigned counsel as provided in 46-8-113;

8 (d) community service;

9 (e) any other reasonable restrictions or conditions considered necessary for rehabilitation or for the  
10 protection of society; or

11 (f) any combination of the restrictions or conditions listed in subsections (5)(a) through (5)(e).

12 (6) Following initial placement of a defendant in a treatment facility under subsection (2), the department  
13 of corrections may, at its discretion, place the offender in another facility or program.

14 (7) The provisions of 46-18-203, 46-23-1001 through 46-23-1005, 46-23-1011 through 46-23-1014, and  
15 46-23-1031 apply to persons sentenced under this section."  
16

17 **Section 19.** Section 61-8-733, MCA, is amended to read:

18 **"61-8-733. Driving under influence of alcohol or drugs -- driving with excessive alcohol**  
19 **concentration -- ignition interlock device -- 24/7 sobriety and drug monitoring program -- forfeiture of**  
20 **vehicle.** (1) On the second or subsequent conviction of a violation of 61-8-401, 61-8-406, or 61-8-411 or a second  
21 or subsequent conviction under 61-5-212 when the reason for the suspension or revocation was that the person  
22 was convicted of a violation of 61-8-401, 61-8-406, or 61-8-411 or a similar offense under the laws of any other  
23 state or the suspension was under 61-8-402 or 61-8-409 or a similar law of any other state for refusal to take a  
24 test for alcohol or drugs requested by a peace officer who believed that the person might be driving under the  
25 influence, the court, in addition to the punishments provided in 61-5-212, 61-8-714, and 61-8-722 and any other  
26 penalty imposed by law, shall:

27 (a) except as provided in subsection (4), if recommending that a probationary license be issued to the  
28 person, restrict the person to driving only a motor vehicle equipped with a functioning ignition interlock device  
29 during the probationary period and require the person to pay the reasonable cost of leasing, installing, and  
30 maintaining the device;

1 (b) require the person to participate in the 24/7 sobriety and drug monitoring program provided for in  
2 44-4-1203 and pay the fees associated with the program or require the person to participate in a court-approved  
3 alcohol or drug detection testing program and pay the fees associated with the testing program; or

4 (c) except as provided in subsection (4), order that each motor vehicle owned by the person at the time  
5 of the offense be seized and subjected to the procedure provided under 61-8-421.

6 (2) A vehicle used by a person as a common carrier in the transaction of business as a common carrier  
7 is not subject to forfeiture unless it appears that the owner or other person in charge of the vehicle consented to  
8 or was privy to the violation. A vehicle may not be forfeited under this section for any act or omission established  
9 by the owner to have been committed or omitted by a person other than the owner while the vehicle was  
10 unlawfully in the possession of a person other than the owner in violation of the criminal laws of this state or the  
11 United States.

12 (3) Forfeiture of a vehicle encumbered by a security interest is subject to the secured person's interest  
13 if the person did not know and could not have reasonably known of the unlawful possession, use, or other act  
14 on which the forfeiture is sought.

15 (4) The provisions of subsections (1)(a) and (1)(c) do not apply to a person convicted of being in actual  
16 physical control of a vessel in violation of Title 61, chapter 8, part 4."

17

18 **Section 20.** Section 61-8-734, MCA, is amended to read:

19 **"61-8-734. Driving under influence of alcohol or drugs -- driving with excessive alcohol**  
20 **concentration -- conviction defined -- place of imprisonment -- home arrest -- exceptions -- deferral of**  
21 **sentence not allowed.** (1) (a) For the purpose of determining the number of convictions for prior offenses  
22 referred to in 61-8-465, 61-8-714, 61-8-722, or 61-8-731, "conviction" means a final conviction, as defined in  
23 45-2-101, in this state, conviction for a violation of a similar statute or regulation in another state or on a federally  
24 recognized Indian reservation, or a forfeiture of bail or collateral deposited to secure the defendant's appearance  
25 in court in this state, in another state, or on a federally recognized Indian reservation, which forfeiture has not  
26 been vacated.

27 (b) An offender is considered to have been previously convicted for the purposes of sentencing if less  
28 than 10 years have elapsed between the commission of the present offense and a previous conviction unless  
29 the offense is the offender's third or subsequent offense, in which case all previous convictions must be used for  
30 sentencing purposes.

1 (c) A previous conviction under 61-8-714 or 61-8-722 for violation of 61-8-401, 61-8-406, or 61-8-411  
 2 may be counted for purposes of determining the number of a subsequent conviction for violation of 61-8-401,  
 3 61-8-406, or 61-8-411.

4 (2) Except as provided in 61-8-731, the court may order that a term of imprisonment imposed under  
 5 61-8-714, 61-8-722, or 61-8-731 be served in another facility made available by the county and approved by the  
 6 sentencing court. The defendant, if financially able, shall bear the expense of the imprisonment in the facility. The  
 7 court may impose restrictions on the defendant's ability to leave the premises of the facility and require that the  
 8 defendant follow the rules of that facility. The facility may be, but is not required to be, a community-based  
 9 prerelease center as provided for in 53-1-203. The prerelease center may accept or reject a defendant referred  
 10 by the sentencing court.

11 (3) Subject to the limitations set forth in 61-8-714 and 61-8-722 concerning minimum periods of  
 12 imprisonment, the court may order that a term of imprisonment imposed under either section be served by  
 13 imprisonment under home arrest, as provided in Title 46, chapter 18, part 10.

14 (4) A court may not defer imposition of sentence under 61-8-714, 61-8-722, or 61-8-731.

15 (5) The provisions of 61-2-107, 61-5-205(2), and 61-5-208(2), relating to suspension of driver's licenses  
 16 and later reinstatement of driving privileges, apply to any conviction under 61-8-714 or 61-8-722 for a violation  
 17 of 61-8-401, 61-8-406, or 61-8-411, except a conviction involving actual physical control of a vessel, as defined  
 18 in 61-8-401."

19  
 20 **NEW SECTION. Section 21. Violation of order prohibiting operation of vessel.** (1) A person who  
 21 operates a vessel, as defined in 61-8-401, in violation of a court order made pursuant to Title 61, chapter 8, part  
 22 4, or this part is guilty of a misdemeanor and shall be punished by a fine of \$1,000 or by imprisonment in the  
 23 county jail for not more than 1 year, or both.

24 (2) In addition, the court shall extend the order not to operate a vessel for an additional length of time  
 25 equal to the time set out in the order that the person violated.

26  
 27 **Section 22.** Section 87-1-506, MCA, is amended to read:

28 **"87-1-506. Enforcement powers of wardens.** (1) A warden may:

- 29 (a) serve a subpoena issued by a court for the trial of a violator of the fish and game laws;  
 30 (b) search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket,

1 creel, crate, game bag, or package, or their contents upon probable cause to believe that any fish and game law  
2 or department rule for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals has  
3 been violated;

4 (c) search, with a search warrant, any dwelling house or other building;

5 (d) seize game, fish, game birds, and fur-bearing animals and any parts of them taken or possessed in  
6 violation of the law or the rules of the department;

7 (e) seize and hold, subject to law or the orders of the department, devices that have been used to  
8 unlawfully take game, fish, birds, or fur-bearing animals;

9 (f) arrest, in accordance with Title 46, chapter 6, a violator of a fish and game law or rule of the  
10 department, violation of which is a misdemeanor;

11 (g) enforce the disorderly conduct and public nuisance laws, 45-8-101 and 45-8-111, as they apply to  
12 the operation of motorboats on all waters of the state;

13 (h) enforce the provisions of Title 61, chapter 8, part 4, as they apply to operating a vessel, as defined  
14 in 61-8-401, while under the influence of alcohol or drugs;

15 ~~(h)~~(i) as provided for in 37-47-345, investigate and make arrests for violations of the provisions of Title  
16 37, chapter 47, and of any rules adopted pursuant to that chapter relating to the regulation of outfitters and guides  
17 in the state;

18 ~~(i)~~(j) enforce the provisions of Title 80, chapter 7, part 10, and rules adopted under Title 80, chapter 7,  
19 part 10, for those invasive species that are under the department's jurisdiction; and

20 ~~(j)~~(k) exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules  
21 of the department, and judgments obtained for violation of those laws or rules.

22 (2) The meat of game animals that are seized pursuant to subsection (1)(d) must be donated directly  
23 to the Montana food bank network or to public or charitable institutions to the extent reasonably feasible. Any  
24 meat that the department is unable to donate must be sold pursuant to 87-1-511, with the proceeds to be  
25 distributed as provided in 87-1-513(2)."

26  
27 **NEW SECTION. Section 23. Repealer.** The following section of the Montana Code Annotated is  
28 repealed:

29 23-2-535. Alcohol concentration standards -- evidence admissible -- administration of tests.

30

