



State:

Montana

Statute/Law:

Section 61-8-401: *Driving under influence of alcohol or drugs.*

Per Se Law?:

No

Statute/Law Language:

(1) It is unlawful and punishable for a person who is under the influence of:

(a) Alcohol to drive or be in actual physical control of a vehicle upon the ways of this state open to the public;

(b) A dangerous drug to drive or be in actual physical control of a vehicle within this state;

(c) Any other drug to drive or be in actual physical control of a vehicle within this state; or

(d) Alcohol and any dangerous or other drug to drive or be in actual physical control of a vehicle within this state.

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

Penalties Following Conviction:

For first offense: 24 hours (mandatory) - 6 months imprisonment, \$300 (no mandatory) - \$1000 fine;

For second offense: 7 days (48 hours mandatory; the remainder may be served under house arrest) - 6 months imprisonment, \$600 - \$1000 fine;

For third offense: Not less than 30 days imprisonment - 1 year, \$1000 - \$5000 fine. The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of a chemical dependency treatment program by the person;

For fourth or subsequent offense (felony): 13 months (mandatory) to 5 year imprisonment, \$1000 - \$10,000 fine.





Minimum jail time penalties and fines are doubled if anyone under the age of 16 is in the vehicle at the time of the offense.

Discretionary Court-Ordered Penalties:

All violators shall complete: (a) a chemical dependency assessment; (b) a chemical dependency education course; and (c) on a fourth or subsequent conviction the defendant completes a residential alcohol treatment program. The court shall order that if the person successfully completes a residential alcohol treatment program, the remainder of the sentence can be served on probation.

For more information:

<http://leg.mt.gov/bills/mca/61/8/61-8-401.htm>

Current as of August 2016

