

ORDINANCE NO. 420

AN ORDINANCE AMENDING CHAPTER 4, TITLE XX, OF THE CODE OF THE CITY OF POLSON, MONTANA, 1965, BY AMENDING SECTION 10-4-1(C) TO PRESCRIBE PUNISHMENT FOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLSON, MONTANA:

CHAPTER 4, TITLE XX, Section 10-4-1(C) shall be amended to read as follows:

10-4-1(C) PENALTY FOR DRIVING WHILE INTOXICATED: A person convicted of a violation of this Chapter may, in the discretion of the court, be punished by imprisonment in the City jail for up to 24 hours and shall be punished by a fine of not less than \$100 or more than \$500. The jail sentence may not be suspended unless the judge finds that the imposition of the sentence will pose a risk to the defendants' physical or mental well-being.

On a second conviction, he shall be punished by a fine of not less than \$300 or more than \$500 and by imprisonment for not less than 7 days or more than 30 days. Three days of the jail sentence may not be suspended unless the judge finds that the imposition of the jail sentence will pose a risk to the defendants' physical or mental well-being.

On the third or subsequent conviction, he shall be punished by imprisonment for a term of not less than 30 days or more than 1 year, to which may be added, in the discretion of the court, a fine of not less than \$500 or more than \$1,000. Notwithstanding any provision to the contrary providing for suspension of execution of a sentence imposed under this subsection, the imposition or execution of the first 10 days of the jail sentence imposed for a third or subsequent offense that occurred within five years of the first offense may not be deferred or suspended.

In addition to the punishment provided in this section, regardless of disposition, the defendant shall complete an alcohol information course at an alcohol treatment program approved by the department of institutions, which may include alcohol or drug treatment, or both, if considered necessary by the counselor conducting the program. Each counselor providing such education or treatment shall, at the commencement of the education or treatment, notify the court that the defendant has been enrolled in a course or treatment program. If the defendant fails to attend the course or the treatment program, the counselor shall notify the court of the failure.

For the purpose of determining the number of convictions under this section, "conviction" means a final conviction or a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, which forfeiture has not been vacated. An offender is considered to have been previously convicted for the purposes of this section if less than five years have elapsed between the commission of the present offense and a previous conviction. If there has been no additional conviction for an offense under this Chapter for a period of five years after a prior conviction hereunder, then such prior offense shall be expunged from the defendant's record.

REPEALING CLAUSE: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

EMERGENCY: A public emergency is hereby declared to exist and this Ordinance is hereby declared to be necessary for the immediate preservation of public peace and safety and therefore this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED this 15th day of November, 1982.

John Dowdall/s
JOHN DOWDALL, Mayor

ATTEST:

Kathy L. Cox/s
Kathy L. Cox, City Clerk