

ORDINANCES
MILES CITY, MONTANA

ORDINANCE NO. 1274

AN ORDINANCE ENACTING A NEW SECTION 22-151 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY, ENTITLED "REFUSAL TO SUBMIT TO ALCOHOL/DRUG BREATH AND/OR BLOOD TEST"

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Chapter 22 shall be amended by adding a new Section 22-151 entitled "Refusal to Submit to Alcohol/Drug Breath and/or Blood Test," as follows:

Section 22-151. Refusal to Submit to Alcohol/Drug Breath and/or Blood Test.

(a) Any person operating or in actual physical control of a motor vehicle while under the influence of alcohol and/or drugs creates a significant risk to public safety, health and general welfare. To help secure public safety, health and general welfare for all persons, the City of Miles City adopts this section in an effort to deter persons from engaging in this dangerous activity. This section is adopted pursuant to Montana Code Annotated 61-12-101 which grants authority and powers to local authorities to regulate the operation of motor vehicles by a person while under the influence of alcohol and/or drugs. This section is also adopted pursuant to other provisions of Montana State Law allowing municipal governments to regulate traffic upon streets such as Montana Code Annotated 7-14-4102 and 7-14-4103 as well as pursuant to the exercise of the City of Miles City's self- government powers.

(b) It is unlawful to refuse to submit to a breath or blood test for alcohol and/or drugs. It is unlawful and it constitutes a misdemeanor offense for any person operating or in actual physical control of a motor vehicle suspected of doing so under the influence of alcohol and/or drugs to refuse to submit to one or more tests to detect alcohol and/or drugs requested and designated by any peace officer as defined by Montana State Law. Prior to charging a person with a violation of this section, a peace officer must inform the person requested to take the designated breath and/or blood test that refusing the test is a misdemeanor offense under Miles City Municipal Code and identify the penalties associated with the offense. If any arrested person refuses to submit to one or more tests requested and designated by a peace officer as provided for pursuant to Montana State Law, the refused test may not be given. However, the person refusing to submit to any such requested tests may be charged with a misdemeanor offense pursuant to this section.

(c) The Penalties for violations of Section 22-151 are established as follows. Incarceration is not a penalty for a violation of this section. A person convicted under section 22-151 shall be subject to fines of:

1. For a first offense, the fine is \$300.00; no portion may be suspended, waived or deferred by the court; and
2. For a second or subsequent offense, the fine is \$500.00; no portion may be suspended, waived or deferred by the court.

(d) If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words

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have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 24th day of June, 2014.


C. A. Grenz, Mayor

ATTEST:


Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 8th day of July, 2014.


C. A. Grenz, Mayor

ATTEST:


Lorrie Pearce, City Clerk