

## HOUSE BILL NO. 383

INTRODUCED BY C. FISCUS

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A BUFFER ZONE BETWEEN A PROPOSED HIGHWAY BYPASS AND CERTAIN RESIDENTIAL ZONES; REQUIRING NOTIFICATION ABOUT A PROPOSED HIGHWAY BYPASS TO PROPERTY OWNERS; AMENDING SECTION 60-2-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the fundamental purpose of a highway bypass is to mitigate the risks to safety, the environment, property value, and quality of life that arise from increased road traffic; and

WHEREAS, it is eminently reasonable to expect that a highway bypass will not be constructed so close to a residential area that it exacerbates the very risks that it is supposed to mitigate; and

WHEREAS, as a matter of fair and democratic process, the property owners who might be affected by a proposed highway bypass should be directly notified about the proposed construction early in the planning process.

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

**Section 1.** Section 60-2-211, MCA, is amended to read:

**"60-2-211. Bypassing of municipalities -- buffer zone -- consent of municipal governing body -- notification of property owners -- definition.** (1) The department may not construct highway bypasses or highway relocation projects:

(a) without providing a buffer zone of at least 1,500 feet between the proposed project and an area that is zoned primarily for single-family residences or residential lots that are served by public water and sewer services; and

(b) without prior consent of the governing body of an incorporated municipality when the bypasses or projects:

(~~a~~)(i) are not part of the national system of interstate highways built under the National Defense Highway Act; and

(~~b~~)(ii) divert motor vehicles from an existing highway route through a municipality incorporated prior to

1 January 1, 1965.

2 (2) The department shall notify the governing body of the municipality by certified mail that it proposes  
3 to bypass the municipality. A contract may not be let or work commenced until the governing body notifies the  
4 department of its consent or until the elapse of ~~60~~ 90 days after the notice has been sent by the department to  
5 the municipality, whichever first occurs. The failure of the municipality to act and notify the department of its action  
6 within the ~~60-day~~ 90-day period is implied consent to the bypass.

7 (3) Actual consent or refusal to bypass ~~shall~~ must be in the form of a resolution duly adopted by a  
8 majority of the members of the governing body of the municipality.

9 (4) The governing body may not withdraw consent once the department has been notified of the consent.

10 (5) Early in the planning process, the department shall notify by certified mail each owner of property that  
11 is less than 1,500 feet from the location of a potential highway bypass that it proposes to build the bypass.

12 (6) For the purpose of this section, "bypass" means a highway that avoids a built-up area, town, or village  
13 to let through traffic flow without interference from local traffic, to reduce congestion in the built-up area, and to  
14 improve road safety."

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16 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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18 NEW SECTION. Section 3. Applicability. [This act] applies to contracts for the construction of highway  
19 bypasses entered into on or after [the effective date of this act].

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