

HOUSE BILL NO. 62

INTRODUCED BY V. COURT

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING LIABILITY FOR UNAUTHORIZED USE OF STATE SCHOOL TRUST LANDS; INCREASING THE PENALTY FOR UNAUTHORIZED USE OF STATE SCHOOL TRUST LANDS; AMENDING SECTION 77-1-125, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 77-1-125, MCA, is amended to read:

"77-1-125. Liability for unauthorized installation or construction of facility or structure on state trust land -- penalty. (1) ~~A~~ Unless authorized by the department pursuant to a lease or license, a person, other than the lessee of the affected state trust land, may not, after September 30, 1997:

(a) install or construct a road, pipeline, ditch, utility line, fence, building, or other facility or structure on state trust land without obtaining an easement, lease, license, or other written permission of the department; or

(b) disturb state trust land in anticipation of the installation or construction of the facility or structure.

(2) A person who violates subsection (1) is liable to the department for a civil penalty in an amount determined by the board. The penalty may be ~~an amount up to~~ the greater of:

(a) three times the full market value of the area of the land disturbed or affected. If the area of the land disturbed or affected is less than 1 acre, the penalty must be calculated as three times the value of 1 acre.

(b) the full market value of the specific unauthorized use; or

(c) \$1,000 or \$500, whichever is greater.

(3) In addition to the penalty provided for in subsection ~~(1)~~ (2), a person who installs or constructs a facility or structure on state trust land without permission is liable for any permanent damage to the state trust land ~~and may be required to remove the facility or structure and to reclaim the disturbed land to the satisfaction of the department or to pay the department's cost of removal and reclamation.~~ The department may require the person to:

(a) remove the facility or structure and reclaim the disturbed land pursuant to department approval; or



1 **(b) pay department costs for removal of the facility or structure and reclamation of the disturbed land.**

2 (4) If the department allows the facility or structure to remain on state trust land, the department shall
3 also require payment of full market value of any easement, lease, or license required for the facility or structure.
4 The full market value of an easement, lease, or license issued pursuant to this subsection for a building, facility,
5 structure, or other nonlinear utility that disturbs or affects less than 1 acre must be calculated as 1 acre. The board
6 retains the discretion to configure the easement, lease, or license in the best interest of the trust beneficiaries or
7 to address an uneconomic remainder.

8 ~~(5) The penalties provided in this section do not apply to the lessee of the affected state trust land. The~~
9 ~~remedies and penalties provided in a state trust easement, lease, or license and the statutes and regulations~~
10 ~~under which the easement, lease, or license was entered are the exclusive remedies and penalties that may be~~
11 ~~applied to a lessee.~~

12 ~~(6) The penalties provided in this section do not apply to persons who have inadvertently installed or~~
13 ~~constructed pipelines or utility lines within 20 feet of the easement boundaries granted by the state.~~

14 (7)(5) The penalties provided in this section do not apply to facilities or structures installed on lands
15 acquired by the state through exchange or purchase that were authorized with the permission of the previous
16 landowner or through authority granted by an appropriate government agency."

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

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