

1 SENATE BILL NO. 29

2 INTRODUCED BY B. GILLESPIE

3 BY REQUEST OF THE WATER POLICY INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WEATHER MODIFICATION AND CONTROL LAWS;
6 REQUIRING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO CONDUCT
7 ENVIRONMENTAL REVIEW PURSUANT TO THE MONTANA ENVIRONMENTAL POLICY ACT; REMOVING
8 THE PERMITTING REQUIREMENT AND SWITCHING THE FORMER PRECONDITIONS TO RECEIVING A
9 PERMIT INTO PRECONDITIONS TO BE GRANTED A LICENSE; INCREASING THE LICENSE RENEWAL
10 TERM; MANDATING A MINIMUM AMOUNT OF LIABILITY INSURANCE COVERAGE; PROVIDING
11 RULEMAKING AUTHORITY; AMENDING SECTIONS 85-3-101, 85-3-103, 85-3-201, 85-3-202, 85-3-203, 85-
12 3-204, 85-3-208, 85-3-209, 85-3-210, 85-3-211, 85-3-213, 85-3-214, 85-3-301, AND 85-3-302, MCA;
13 REPEALING SECTIONS 85-3-102, 85-3-206, 85-3-207, AND 85-3-212, MCA; AND PROVIDING AN
14 EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
18 **Section 1.** Section 85-3-101, MCA, is amended to read:

19 **"85-3-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
20 apply:

21 (1) "Department" means the department of natural resources and conservation provided for in Title 2,
22 chapter 15, part 33.

23 (2) "Operation" means the performance of weather modification and control activities entered into for
24 the purpose of producing or attempting to produce a certain modifying effect within one geographical area ~~over~~
25 ~~one continuing time interval, not exceeding 1 year.~~

26 (3) "Research and development" means theoretical analysis, exploration, and experimentation and
27 the extension of investigative findings and theories of a scientific and technical nature into practical application
28 for experimental and demonstration purposes, including the experimental production and testing of models,

1 devices, equipment, materials, and processes.

2 (4) "Weather modification and control" means changing or controlling or attempting to change or
3 control, by artificial methods, the natural development of atmospheric cloud forms or precipitation forms that
4 occur in the troposphere. The term includes but is not limited to cloud seeding."

5

6 **Section 2.** Section 85-3-103, MCA, is amended to read:

7 **"85-3-103. Department powers.** In addition to any other acts authorized by law, the department may:

8 (1) acquire materials, equipment, and facilities as are necessary to perform its duties under this
9 chapter;

10 (2) receive any funds which may be offered or become available from federal grants or
11 appropriations, private gifts, donations, bequests, or any other source and unless their use is restricted, expend
12 the funds for the administration of this chapter;

13 (3) make such studies and investigations and obtain such information as the department may deem
14 necessary in exercising its authority in the administration or enforcement of this chapter;

15 (4) cooperate with public or private agencies in the performance of the department's functions or
16 duties and in furtherance of the purposes of this chapter;

17 (5) represent the state in any and all matters pertaining to plans, procedures, or negotiations for
18 interstate compacts relating to weather modification and control;

19 (6) enter into cooperative agreements with the United States government or any of its agencies, with
20 the various counties and cities of this state, or with any private entities or public agencies for conducting
21 weather modification ~~or cloud seeding operations~~ and control;

22 (7) act for and represent the state and the counties, cities, and private entities or public agencies in
23 contracting with private concerns for the performance of weather ~~modifications or cloud seeding~~ modification
24 and control operations; and

25 (8) conduct and make arrangements, including contracts and agreements, for the conduct of research
26 and development activities relating to:

27 (a) the identification and evaluation of meteorological, environmental, ecological, agricultural,
28 economic, hydrological, and sociological impacts of weather modification and control in Montana;

1 (b) the theory and development of methods of weather modification and control, including processes,
2 materials, and devices relating thereto;

3 (c) the utilization of weather modification and control for agricultural, industrial, commercial,
4 recreational, and other purposes;

5 (d) the protection of life and property during research and operational activities."
6

7 **Section 3.** Section 85-3-201, MCA, is amended to read:

8 **"85-3-201. License and permit required for weather modification and control.** A person or entity
9 may not engage in activities for weather modification and control except under and in accordance with a license
10 ~~and a permit~~ issued by the department authorizing the activities."
11

12 **Section 4.** Section 85-3-202, MCA, is amended to read:

13 **"85-3-202. Department to review applications.** (1) The department shall review all applications for
14 weather modification and control activities licenses. ~~The department shall prepare a report and an~~
15 ~~environmental impact statement pursuant to Title 75, chapter 1, part 2. The report must contain information~~
16 ~~relative to all of the criteria applicable to issuance of a permit in 85-3-206. Prior to preparing the report, the~~
17 ~~department shall conduct at least one public meeting in the area affected by the proposed weather modification~~
18 ~~activity. The department's actual costs of conducting the public meeting, preparing the report, and preparing the~~
19 ~~environmental impact statement must be paid by the applicant.~~ The department shall conduct an environmental
20 analysis in accordance with Title 75, chapter 1, part 2, for a weather modification and control license pursuant
21 to this chapter.

22 (2) The department may provide by rule for exempting from the license ~~and permit~~ requirements of
23 this chapter:

24 (a) research, development, and experiments by state and federal agencies, institutions of higher
25 learning, and bona fide nonprofit research organizations and their agents;

26 (b) laboratory research and experiments;

27 (c) activities of an emergency character for protection against fire, frost, sleet, hail, or fog; and

28 (d) activities normally engaged in for purposes other than those of inducing, increasing, decreasing,

1 or preventing precipitation or hail."
2

3 **Section 5.** Section 85-3-203, MCA, is amended to read:

4 **"85-3-203. Licenses -- application requirements and qualifications of licensees --rulemaking.**

5 (1) The department shall adopt rules setting forth the requirements and fee for a license to engage in activities
6 for weather modification and control. The requirements established by rule must include but are not limited to
7 the applicant providing evidence that the following criteria have been met:

8 (a) the applicant has published sufficient notice of intention in accordance with 85-3-208;

9 (b) the applicant has furnished proof of financial responsibility in accordance with 85-3-211;

10 (c) the individual responsible for operation is a weather modification operator or manager certified by
11 the weather modification association and has demonstrated competence in the field of meteorology to the
12 satisfaction of the department; and

13 (d) the weather modification and control activities to be conducted have been determined by the
14 department to be for the general welfare and the public good. That determination must be based on a finding of
15 whether the operation:

16 (i) is reasonably conceived to improve water quantity or quality, reduce loss from weather hazards,
17 provide economic benefits for the people of Montana, or advance scientific knowledge;

18 (ii) is designed to include adequate safeguards to minimize or avoid possible damage to the public
19 health, safety, and welfare and to the environment; and

20 (iii) will adversely affect another operation for which a license has been issued.

21 (2) The department shall adopt license modification and suspension guidelines and requirements by
22 rule, must be issued, in accordance with procedures and subject to conditions the department may by rule
23 establish to effectuate the provisions of this chapter, to applicants who demonstrate competence in the field of
24 meteorology to the satisfaction of the department.

25 (3) If the applicant is an organization, these requirements must be met by the individual who will be in
26 charge of the operation for the applicant."

27

28 **Section 6.** Section 85-3-204, MCA, is amended to read:

1 **"85-3-204. Licenses -- term and renewal.** The license shall ~~must~~ initially be issued for a period ~~to~~
 2 ~~expire at the end of the calendar year in which it is issued and, if of 1 year. If at the end of a license period the~~
 3 ~~licensee possesses the qualifications necessary for the issuance of a new license, shall upon application be~~
 4 ~~renewed at the expiration of the period~~ meets the requirements developed by department rule in 85-3-203, the
 5 department shall, upon application by the licensee, renew the license. After the initial license period, the
 6 department may renew a license for up to 5 years at a time with an annual review."

7
 8 **Section 7.** Section 85-3-208, MCA, is amended to read:

9 **"85-3-208. Notice of intention to conduct weather modification and control activities ~~to apply~~**
 10 **~~for permit.~~** Before undertaking any weather modification and control activities, the applicant for a ~~permit~~ license
 11 shall file with the department a notice of intention."

12
 13 **Section 8.** Section 85-3-209, MCA, is amended to read:

14 **"85-3-209. Notice of intention -- contents.** The notice of intention shall set forth at least the
 15 following:

- 16 (1) the name and address of the applicant;
- 17 (2) the nature, purpose, and objective of the intended operation and the person or organization on
 18 whose behalf it is to be conducted;
- 19 (3) the area in which and the approximate time of year during which the operation will be conducted;
- 20 (4) the area which is intended to be affected by the operation; and
- 21 (5) the materials and methods to be used in conducting the operation."

22
 23 **Section 9.** Section 85-3-210, MCA, is amended to read:

24 **"85-3-210. Publication of notice of intention.** (1) ~~The department shall have the notice of intention,~~
 25 ~~or that portion thereof including the items specified in 85-3-209, published~~ An applicant for a license must
 26 publish notice of intention to conduct weather modification and control activities at least once a week for 2
 27 consecutive weeks in a newspaper having a general circulation and published within any county in which the
 28 operation is to be conducted and in which the affected area is located, or if the operation is to be conducted in

1 more than one county or if the affected area is located in more than one county or is located in a county other
 2 than the one in which the operation is to be conducted, then in newspapers having a general circulation and
 3 published within each of the counties.

4 (2) ~~The applicant shall reimburse the department for the costs of publication of the notice of intention~~
 5 The notice of intention must include the details provided in 85-3-209."
 6

7 **Section 10.** Section 85-3-211, MCA, is amended to read:

8 **"85-3-211. Proof of financial responsibility by applicant -- liability insurance.** ~~Proof of financial~~
 9 ~~responsibility may be furnished by an applicant by showing, to the satisfaction of the department, the applicant's~~
 10 ~~ability to respond in damages for liability that might reasonably be attached to or result from the applicant's~~
 11 ~~weather modification and control activities~~ The department may not issue a license unless the applicant
 12 furnishes proof of liability insurance coverage in the amount of \$100,000 insuring the applicant against legal
 13 liability for damages resulting from negligence in carrying out weather modification and control activities."
 14

15 **Section 11.** Section 85-3-213, MCA, is amended to read:

16 **"85-3-213. State special revenue fund.** All license ~~and permit~~ fees and fines collected under this
 17 chapter, other than those collected in a justice's court, ~~shall~~ must be deposited in the state special revenue fund
 18 for appropriation by the legislature and for use by the department in the administration of this chapter ~~or as~~
 19 ~~appropriated by the legislature."~~
 20

21 **Section 12.** Section 85-3-214, MCA, is amended to read:

22 **"85-3-214. Termination of licenses and permits.** After notice to the licensee and a reasonable
 23 opportunity for a hearing, the department may modify, suspend, revoke, or refuse to renew any license ~~or~~
 24 ~~permit~~ issued if it appears that the licensee no longer possesses the qualifications necessary, if it appears that
 25 the licensee has violated any of the provisions of this chapter, or, in the case of a modification, if it appears that
 26 it is necessary for the protection of the health or the property of any person."
 27

28 **Section 13.** Section 85-3-301, MCA, is amended to read:

1 **"85-3-301. Records of operations maintained by licensees.** A licensee shall keep and maintain a
 2 record of all operations conducted by the licensee under the license ~~and each permit, showing for a term of 10~~
 3 years. The records must show:

- 4 (1) the method employed;
 5 (2) type of equipment used;
 6 (3) kinds and amounts of material used;
 7 (4) times and places of operation of the equipment;
 8 (5) names and addresses of all individuals participating or assisting in the operation; and
 9 (6) any other general information that the department may require."

10

11 **Section 14.** Section 85-3-302, MCA, is amended to read:

12 **"85-3-302. Reports of operations -- rulemaking.** The department shall ~~require written reports, in a~~
 13 ~~manner as it provides, of each operation for which a permit is issued. The department shall also require reports~~
 14 ~~from any organization that is exempt from license and permit requirements as provided in 85-3-202~~ adopt rules
 15 requiring written reports for each weather modification or control activity that is conducted by a licensee."

16

17 NEW SECTION. Section 15. Repealer. The following sections of the Montana Code Annotated are
 18 repealed:

- 19 85-3-102. Standards for research in weather modification control.
 20 85-3-206. Permits -- requirements and hearing.
 21 85-3-207. Separate permit for each operation.
 22 85-3-212. Permit fee.

23

24 NEW SECTION. Section 16. Effective date. [This act] is effective October 1, 2021.

25

- END -