

SENATE BILL NO. 304

INTRODUCED BY D. FERN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAKESHORE PROTECTION ACT; PROVIDING FOR STOP-WORK ORDERS, SURETY BONDS, AND LIENS FOR UNAUTHORIZED LAKESHORE WORK; REVISING PENALTIES; REVISING A DEFINITION; AND AMENDING SECTIONS 75-7-202, 75-7-205, 75-7-212, 75-7-214, AND 75-7-216, MCA."

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

Section 1. Section 75-7-202, MCA, is amended to read:

"75-7-202. Definitions. As used in this part, the following definitions apply:

(1) "Lake" means a body of standing water and the area within its lakeshore occurring naturally rather than by virtue of constructed impoundments (although a natural lake whose level is raised and whose area is increased by the construction of impoundments includes the additional level and area), having a water surface area of at least 160 acres for at least 6 months in a year of average precipitation as such averages are determined by the United States geological survey, not used exclusively for agricultural purposes, and navigable by canoes and small boats.

(2) "Lakeshore" is the perimeter of a lake when the lake is at mean annual high-water elevation, including the land within 20 horizontal feet from that high-water elevation.

(3) "Local governing body" or "governing body" is:

(a) that unit of local government authorized to administer the Montana Subdivision and Platting Act on the land adjoining a lake or part of a lake subject to this part; or

(b) a city or town with a lake of no more than 5,000 surface acres in or proximate to the city or town and that is the source of drinking water for that city or town.

(4) "Mean annual high-water elevation" is the mean average of the highest elevation of a lake in each of at least 5 consecutive years, excluding any high levels caused by erratic or unusual weather or hydrological conditions. A highest elevation caused by operation of a dam or other impoundment counts toward

1 the establishment of the mean annual high-water elevation."

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3 **Section 2.** Section 75-7-205, MCA, is amended to read:

4 **"75-7-205. Unauthorized work -- stop-work order.** (1) A person who performs work in a lake or on a
5 lakeshore without a permit for that work shall, if required by the local governing body or the district court,
6 restore the lake to its condition before the person disturbed it.

7 (2) A governing body may issue a stop-work order for construction activities above the lakeshore
8 that have resulted or may result in a direct or indirect impact to the lakeshore. The governing body may enforce
9 the stop-work order until the person addresses the impact to the satisfaction of the governing body."

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11 **Section 3.** Section 75-7-212, MCA, is amended to read:

12 **"75-7-212. Issuance of permit -- surety bond.** (1) Unless the applicant agrees to an extension of
13 time, the governing body shall grant or deny permission for the work within 90 days of receiving an application
14 for a permit.

15 (2) If the governing body finds that the proposed work conforms to the criteria for issuing a permit,
16 it shall issue a permit or conditional permit.

17 (3) If the governing body finds that the work does not conform to the criteria, it shall deny the
18 application.

19 (4) Before issuing a permit, a governing body may require the applicant to file a surety bond with
20 the governing body for an amount sufficient to enable the governing body to reclaim land disturbed by the
21 project that does not conform to the permit specifications or is in violation of the approved permit."

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23 **Section 4.** Section 75-7-214, MCA, is amended to read:

24 **"75-7-214. Cooperation between governing bodies.** If a lake, as defined by this part, is located
25 under the jurisdiction of more than one governing body, the governing bodies are empowered and encouraged
26 ~~to shall~~ enter into agreements to:

27 (a) effectuate the purposes of this part; and

28 (b) establish compatible criteria for denial or issuance of permits; and

1 (c) enforce the provisions of this part."

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3 **Section 5.** Section 75-7-216, MCA, is amended to read:

4 **"75-7-216. Penalty -- lien.** (1) A person, including a landowner and the landowner's contractors and
5 agents, who violates an order issued under this part or who ~~knowingly~~ violates a regulation made under this
6 part commits a misdemeanor and on conviction may be sentenced to 30 days in the county jail or fined \$500
7 \$3,000, or both. A subsequent violation may result in a sentence of 30 days in the county jail or a fine of
8 \$10,000, or both. A person, including a landowner and the landowner's contractors and agents, who commits
9 two violations of this part within a year must pause all work for 180 days after the most recent violation.

10 (2) Fines collected under this section, except those collected in a justice's court, shall be paid to
11 the general fund of the ~~county governing body where~~ in whose jurisdiction the offense was committed for the
12 purpose of administering this part.

13 (3) A governing body may file and claim a lien against a person's real property for all costs related
14 to a violation of this part. These costs may include attorney fees, court costs, engineering and consultant fees,
15 appropriate restoration costs, and unpaid penalties imposed on the person."

16 - END -