

HOUSE BILL NO. 717

INTRODUCED BY B. PHALEN, S. GUNDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO LAWSUITS FOR ENVIRONMENTAL ACTIONS; ESTABLISHING LIMITATIONS ON ACTIONS CHALLENGING A LICENSE OR PERMIT ISSUED FOR MINING, OIL, OR GAS ACTIVITIES; REPEALING SECTION 82-4-349, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Limitation of actions -- venue.** (1) Legal actions seeking review of a

department decision granting or denying a license or permit issued under Title 82 must be filed within 90 days after the decision is made. Summons must be issued, and process served on all defendants within 60 days after the action is filed.

(2) An action to challenge the issuance of a license or permit pursuant to this title must be brought in the county in which the exploration or permitted activity is proposed to occur. If an activity is proposed to occur in more than one county, the action may be brought in any of the counties in which the exploration or activity is proposed to occur.

(3) (a) A judicial challenge to a license or permit issued pursuant to this title by a party other than the license or permitholder or applicant must include the party to whom the license or permit was issued unless otherwise agreed to by the license or permitholder or applicant.

(b) A party may not bring more than one action on an exploration license or operating permit issued under Title 82.

(c) If a judicial challenge interrupts the operations of the license or permitholder, operations may begin if a court finds in favor of the department or the license or permitholder and continue unless a final appeal finds in favor of the challenger.

(d) All judicial challenges of licenses or permits for projects with a project cost, as determined by the court, of more than \$1 million must have precedence over any civil cause of a different nature pending in

1 that court. If the court determines that the challenge was without merit or was for an improper purpose, such as  
2 to harass, to cause unnecessary delay, or to impose needless or increased cost in litigation, the court may  
3 award attorney fees and costs incurred in defending the action.

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5 NEW SECTION. Section 2. Repealer. The following section of the Montana Code Annotated is  
6 repealed:

7 82-4-349. Limitations of actions -- venue.

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9 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an  
10 integral part of Title 82, chapter 1, and the provisions of Title 82, chapter 1, apply to [section 1].

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12 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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14 NEW SECTION. Section 5. Applicability. [This act] applies to licenses and permits issued pursuant  
15 to Title 82 on or after [the effective date of this act].

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