

1 HOUSE BILL NO. 940
2 INTRODUCED BY A. NICASTRO

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING OVERNIGHT CAMPING AND STORAGE OF
5 PERSONAL PROPERTY ON A STATE HIGHWAY RIGHT-OF-WAY; PROVIDING PENALTIES; PROVIDING
6 AN APPROPRIATION; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AND
7 PROVIDING EFFECTIVE DATES."

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

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11 NEW SECTION. Section 1. Definitions. As used in [sections 1 through 4], the following definitions
12 apply:

13 (1) "Camping" means the use of outdoor property for the purpose of habitation, including sleeping,
14 sitting, or lying.

15 (2) "Campsite" means an area being used for camping that may contain but is not limited to tents,
16 huts, temporary shelters, tarps, cots, sleeping bags, mattresses, hammocks, cooking equipment, or any other
17 personal property.

18 (3) "Overnight camping" means camping or maintaining any form of campsite between dusk and
19 dawn.

20 (4) "State highway right-of-way" means the entire width of land acquired, dedicated, or reserved for
21 public road purposes, including but not limited to a roadway, shoulder, median, ditch, embankment, retaining
22 wall, culvert, sluice, bridge, tunnel, or an adjacent public space maintained by the department.

23 (5) "Storage" means the act of leaving personal property unattended for any period of time.
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25 NEW SECTION. Section 2. Overnight camping and storage of personal property on state
26 **highway right-of-way prohibited.** (1) Overnight camping and the storage of personal property are prohibited
27 on a state highway right-of-way.

28 (2) The prohibition provided in subsection (1) does not apply to:

1 (a) emergency situations in which camping is necessary for safety and temporary shelter, as
2 determined by law enforcement or the department;

3 (b) an authorized work crew, contractor, or other personnel performing duties on behalf of the
4 department or other government agencies; and

5 (c) a designated rest area, parking area, or pullout specifically authorized for temporary parking
6 and rest in compliance with department rule, not to exceed 24 hours.

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8 **NEW SECTION. Section 3. Enforcement and penalties.** (1) The department and law enforcement,
9 including the Montana highway patrol and local law enforcement agencies, are empowered to provide notices
10 and otherwise enforce [sections 1 through 4] and rules adopted pursuant to [section 4].

11 (2) (a) A person who violates the provisions of [section 2] may be given written notice to vacate the
12 state highway right-of-way and to remove the campsite and all personal property within 72 hours.

13 (b) Failure to comply with a written notice shall result in a civil fine not to exceed \$50. All remaining
14 personal property reasonably associated with the person notified may be disposed of by law enforcement or the
15 department.

16 (3) Personal property not subject to notice under subsection (2) and left unattended in the state
17 highway right-of-way may be disposed of by law enforcement or the department in the following manner:

18 (a) Law enforcement or the department shall post notice at the state highway right-of-way location
19 that the personal property located within the area described in the notice must be permanently removed by the
20 date stated in the notice, which may not be less than 120 hours from the time the notice is posted.

21 (b) After the conclusion of 120 hours from the time the notice is posted, personal property
22 remaining on a state highway right-of-way within the area described in the notice may be disposed of by law
23 enforcement or the department.

24 (4) The provisions of [sections 3 and 4] do not limit or prevent any other available civil or criminal
25 cause of action or remedy.

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27 **NEW SECTION. Section 4. Rulemaking authority.** The department may adopt rules necessary to
28 implement [sections 1 through 4] regarding:

