

SENATE BILL NO. 472

INTRODUCED BY D. LOGE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CIVIL PENALTIES UNDER THE NATURAL
STREAMBED AND LAND PRESERVATION ACT OF 1975; REMOVING THE CAP ON THE MAXIMUM
MAXIMUM CIVIL PENALTY THAT MAY BE IMPOSED; PROVIDING AN EXCEPTION FOR A PERSON
ENGAGING IN ALLOWABLE FOREST PRACTICES IN STREAM MANAGEMENT ZONES; AMENDING
SECTIONS 3-10-601; AND AMENDING SECTION 75-7-123, MCA; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE."

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

SECTION 1. SECTION 3-10-601, MCA, IS AMENDED TO READ:

"3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees. (1) Except as
provided in 61-8-726 and ~~75-7-123~~, a justice's court shall collect the fees prescribed by law for justices' courts
and shall pay them into the county treasury of the county in which the justice of the peace holds office, on or
before the 10th day of each month, to be credited to the general fund of the county.

(2) Except as provided in 61-8-726, ~~75-7-123~~, and subsection (4) of this section, all fines,
penalties, and forfeitures that are required to be imposed, collected, or paid in a justice's court must, for each
calendar month, be paid by the justice's court on or before the 5th day of the following month to the treasurer of
the county in which the justice's court is situated, except that they may be distributed as provided in 44-12-213
if imposed, collected, or paid for a violation of Title 45, chapter 9 or 10.

(3) Except as provided in 46-18-236(7), and 61-8-726, and ~~75-7-123~~, the county treasurer shall, as
provided in 15-1-504, distribute money received under subsection (2) as follows:

(a) 50% to the department of revenue for deposit in the state general fund; and

(b) 50% to the county general fund.

(4) (a) The justice's court may contract with a private person or entity for the collection of any final
judgment that requires a payment to the justice's court.

(b) In the event that a private person or entity is retained to collect a judgment, the justice's court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute a suit or other lawful collection procedure and other postjudgment remedies in its own name.

(c) The justice's court may pay the private person or entity a reasonable fee for collecting the judgment. The fee incurred by the justice's court must be added to the judgment amount."

Section 2. Section 75-7-123, MCA, is amended to read:

"75-7-123. Penalties -- restoration. (1) ~~(A) A~~ EXCEPT AS PROVIDED IN SUBSECTION (1)(B) (1)(C), A person who initiates a project without written consent of the supervisors, performs activities outside the scope of written consent of the supervisors, violates emergency procedures provided for in 75-7-113, or violates 75-7-106 is:

~~(a)(i)~~ guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500; or
~~(b)(ii)~~ subject to a civil penalty not to exceed ~~\$500~~ \$5,000 for each day that person continues to be in violation.

~~(B)~~ THE TOTAL AMOUNT OF PENALTY LEVIED PURSUANT TO SUBSECTION (1)(A)(II):

(I) MAY NOT EXCEED \$100,000 FOR A FIRST VIOLATION;

(II) MAY NOT EXCEED \$250,000 FOR A SECOND VIOLATION; AND

(III) IS NOT SUBJECT TO A MAXIMUM AMOUNT FOR A THIRD OR SUBSEQUENT VIOLATION.

~~(B) (C)~~ A FINE OR A CIVIL PENALTY MAY NOT BE IMPOSED UNDER THIS SUBSECTION (1) AGAINST A PERSON ENGAGING IN FOREST PRACTICES THAT ARE ALLOWED UNDER TITLE 77, CHAPTER 5, PART 3.

(2) Each day of a continuing violation constitutes a separate violation. ~~The maximum civil penalty is the jurisdictional amount for purposes of 3-10-301.~~ A conservation district may work with a person who is subject to a civil penalty to resolve the amount of the penalty prior to initiating an enforcement action in justice's court to collect a ~~THE~~ civil penalty.

(3) ~~(A)~~ In addition to a fine or a civil penalty under subsection (1), the person:

~~(a)(i)(A)~~ shall restore, at the discretion of the court, the damaged stream, as recommended by the supervisors, to as near its prior condition as possible; or

~~(b)(ii)(B)~~ is civilly liable for the amount necessary to restore the stream. The amount of the liability may

be collected in an action instituted pursuant to 3-10-301 if the amount of liability does not exceed \$15,000. If the amount of liability for restoration exceeds \$15,000, then the action must be brought in district court.

~~(B) A FINE OR A CIVIL PENALTY MAY NOT BE IMPOSED AGAINST A PERSON ENGAGING IN FOREST SILVICULTURE OR TIMBER HARVEST ACTIVITIES THAT ARE ALLOWED UNDER TITLE 77, CHAPTER 5, PART 3.~~

(4) Money recovered by a conservation district or a county attorney, whether as a fine or a civil penalty, must be deposited in the depository of district funds provided for in 76-15-523, ~~unless upon order of a justice's court the money is directed to be deposited pursuant to 3-10-601.~~

NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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