

1 SENATE BILL NO. 472

2 INTRODUCED BY D. LOGE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CIVIL PENALTIES UNDER THE NATURAL
5 STREAMBED AND LAND PRESERVATION ACT OF 1975; AND AMENDING SECTION 75-7-123, MCA."

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

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9 **Section 1.** Section 75-7-123, MCA, is amended to read:

10 **"75-7-123. Penalties -- restoration.** (1) A person who initiates a project without written consent of the
11 supervisors, performs activities outside the scope of written consent of the supervisors, violates emergency
12 procedures provided for in 75-7-113, or violates 75-7-106 is:

13 (a) guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500; or

14 (b) subject to a civil penalty not to exceed ~~\$500~~ \$5,000 for each day that person continues to be in
15 violation.

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

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

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

23 (b) (ii) is civilly liable for the amount necessary to restore the stream. The amount of the liability may
24 be collected in an action instituted pursuant to 3-10-301 if the amount of liability does not exceed \$15,000. If the
25 amount of liability for restoration exceeds \$15,000, then the action must be brought in district court.

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

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