

SENATE BILL NO. 472

INTRODUCED BY D. LOGE

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

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

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

"75-7-123. Penalties -- restoration. (1) 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) guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500; or
- (b) subject to a civil penalty not to exceed ~~\$500~~ \$5,000 for each day that person continues to be in violation.

(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 civil penalty.

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

- (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) 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.

(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."

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