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HOUSE BILL NO. 79
INTRODUCED BY JACKSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT ~~A PERSON OR~~ AN INDIVIDUAL OR A NONPROFIT ORGANIZATION IS NOT LIABLE FOR CIVIL DAMAGES RESULTING FROM THE ~~PERSON'S~~ INDIVIDUAL'S OR ORGANIZATION'S PLACEMENT OF A SIGN OR MARKER WARNING OF A HAZARD IN WATER THAT IS UNDER THE JURISDICTION OF THE STATE AND THAT IS LEGALLY ACCESSIBLE TO THE PUBLIC; PROVIDING CRITERIA FOR THE PLACEMENT OF THE SIGNS OR MARKERS; AND REQUIRING THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO INFORM THE PUBLIC OF THE PLACEMENT, USE, AND SIGNIFICANCE OF WATER HAZARD SIGNS AND MARKERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Placement of warning sign in water legally accessible to public -- liability limitation -- ROLE OF DEPARTMENT. (1) ~~A person or~~ UNLESS ACTING WITH GROSS NEGLIGENCE, AN INDIVIDUAL OR A nonprofit organization is not liable for civil damages resulting from the ~~person's~~ INDIVIDUAL'S or organization's placement of a sign or marker warning of a hazard in water legally accessible to the public: AS LONG AS:

(A) THE SIGN OR MARKER IS A WHITE PLASTIC MILK BOTTLE ATTACHED BY A CORD TO THE HAZARD OR IS A SIGN OR MARKER APPROVED BY THE DEPARTMENT;

(B) THE SIGN OR MARKER CONTAINS OR BEARS THE NAME AND TELEPHONE NUMBER OF THE INDIVIDUAL OR NONPROFIT ORGANIZATION THAT PLACED IT;

(C) THE INDIVIDUAL OR NONPROFIT ORGANIZATION MAINTAINS OR REMOVES THE SIGN OR MARKER WHEN DICTATED BY CHANGING WATER CONDITIONS OR SEASONAL CHANGES; AND

(D) THE INDIVIDUAL OR NONPROFIT ORGANIZATION PLACES THE SIGN OR MARKER ONLY FOR THE PURPOSE OF IDENTIFYING HAZARDS.

(2) ~~Section 87-1-303 does not prohibit, and may not be construed to prohibit or to allow the adoption of rules prohibiting, a person or organization from placing a sign warning of a hazard in water legally accessible~~



1 ~~to the public.~~

2 (A) THE PROVISIONS OF THIS SECTION ARE NOT INTENDED TO PROHIBIT THE PLACEMENT OF NONHAZARD SIGNS
3 OR MARKERS FOR WATER SKIING, DIVING, SAFE CHANNELS, OR SWIMMING AREAS OR FOR POSTING SPEED LIMITS.

4 (B) THE DEPARTMENT SHALL INFORM MEMBERS OF THE PUBLIC INVOLVED IN THE RECREATIONAL USE OF THE
5 WATERS OF THIS STATE OF THE PLACEMENT, USE, AND SIGNIFICANCE OF SIGNS OR MARKERS WARNING OF HAZARDS IN
6 THE WATER THAT ARE PLACED BY INDIVIDUALS OR NONPROFIT ORGANIZATIONS PURSUANT TO THE PROVISIONS OF THIS
7 SECTION.

8 (3) THE PROVISIONS OF THIS SECTION APPLY ONLY TO THE WATERS OF THIS STATE THAT HAVE NOT BEEN
9 DETERMINED TO BE NAVIGABLE FOR PURPOSES OF FEDERAL JURISDICTION OVER NAVIGATION AIDS.

10
11 NEW SECTION. SECTION 2. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE CODIFIED AS AN
12 INTEGRAL PART OF TITLE 87, CHAPTER 1, PART 2, AND THE PROVISIONS OF TITLE 87, CHAPTER 1, PART 2, APPLY TO
13 [SECTION 1].

14
15 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

16 - END -