

## SENATE BILL NO. 436

INTRODUCED BY SHEA, ANDERSON, BALES, BLACK, CURTISS, ESP, FORRESTER, GALLUS,  
GEBHARDT, KEANE, LAIBLE, LASZLOFFY, MATTHEWS, MCCARTHY, MCGEE, MCNUTT,  
MENDENHALL, O'NEIL, A. OLSON, PATTISON, PERRY, SPRAGUE, STAPLETON, TASH, F. THOMAS,  
MOOD

A BILL FOR AN ACT ENTITLED: "AN ACT MODIFYING THE PROHIBITION AGAINST NEW SURFACE  
MINING FOR SILVER OR GOLD USING CYANIDE-BASED ORE PROCESSING TO ALLOW THAT TYPE OF  
MINING WITH NEW ENVIRONMENTAL PROTECTIONS; REQUIRING THIRD-PARTY CERTIFICATIONS AT  
CERTAIN STAGES OF THE MINING PROCESS; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED  
TO THE QUALIFIED ELECTORATE OF MONTANA; AMENDING SECTION 82-4-390, MCA; AND PROVIDING  
AN EFFECTIVE DATE."

WHEREAS, Montanans' average annual income is among the very lowest in the nation and the state's  
economy is struggling; and

WHEREAS, the people of Montana need and want to do more to improve Montana's economy and to  
create jobs for Montanans; and

WHEREAS, Montanans want to balance a strong economy with a clean and safe environment; and

WHEREAS, it is possible and desirable to have a healthy mining industry and at the same time to have  
a clean and safe environment; and

WHEREAS, Initiative Measure No. 137 (I-137) was passed by the electorate in 1998 banning most silver  
and gold mining in Montana, resulting in a precipitous decline in mineral exploration and mining activity in  
Montana and a consequent loss of jobs for Montana families and a loss of state revenue to support critical  
services such as education; and

WHEREAS, prior to the enactment of I-137, mineral exploration provided many high-paying jobs in  
Montana and resulted in as much as \$150 million in economic activity in Montana each year; and

WHEREAS, laws that regulate mining activity in Montana provide the state with comprehensive authority  
to address all potential environmental impacts of mining; and

WHEREAS, because I-137 was approved by a vote of the people of Montana, new laws amending I-137  
should also be voted on by the people of the State of Montana.

1           THEREFORE, the Legislature finds:

2           (1) it is appropriate and desirable to amend I-137 by enacting provisions to:

- 3           (a) ensure that Montana has comprehensive authority to require the mitigation of significant  
4 environmental impacts of mining in conjunction with existing stringent local, state, and federal regulations;  
5           (b) allow Montana to gain the benefit of jobs, taxes, and other revenue associated with mining; and  
6           (c) allow for the exploration for and development of gold and silver mining for the benefit of Montana  
7 and its citizens;

8           (2) it is appropriate to submit to the electorate statutory changes that would enable the accomplishment  
9 of these goals in place of the outright ban that was created by I-137.

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

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13           **Section 1.** Section 82-4-390, MCA, is amended to read:

14           **"82-4-390. Cyanide heap and vat leach open-pit gold and silver mining ~~prohibited~~ -- limitations.**

15           (1) Open-pit mining for gold or silver using heap leaching or vat leaching with cyanide ore-processing reagents  
16 is prohibited except as described in ~~subsection~~ subsections (2) and (3).

17           (2) A mine described in this section operating on November 3, 1998, may continue operating under its  
18 existing operating permit or any amended permit that is necessary for the continued operation of the mine.

19           (3) (A) Open-pit mining for gold or silver using cyanide heap or vat leaching is allowed if the mine  
20 operating permit is issued with conditions to mitigate the significant environmental impacts revealed by a detailed  
21 environmental impact statement prepared pursuant to 75-1-201 with respect to the permit.

22           (B) A MANDATORY INDEPENDENT THIRD-PARTY CERTIFICATION IS REQUIRED TO ENSURE THAT THE MINE IS  
23 CONSTRUCTED, OPERATED, AND CLOSED IN CONFORMANCE WITH THE DESIGN, SAFETY, AND ENVIRONMENTAL STANDARDS  
24 REQUIRED BY THE STATE AND FEDERAL LAWS AND REGULATIONS AND THE OPERATING PERMIT. THE CERTIFICATION MUST  
25 OCCUR:

26           (I) AT CRITICAL CONSTRUCTION PHASES;

27           (II) ANNUALLY DURING MINING OPERATIONS; AND

28           (III) DURING CLOSURE AND RECLAMATION PHASES.

29           (C) CERTIFICATIONS MUST BE CONDUCTED IN ACCORDANCE WITH RULES ADOPTED BY THE BOARD, CERTIFYING  
30 THAT THE OPERATION IS IN CONFORMANCE WITH DESIGN, SAFETY, AND ENVIRONMENTAL STANDARDS."

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2           NEW SECTION.   **Section 2. Effective date.** If approved by the electorate, this act is effective  
3   December 1, 2004.

5        NEW SECTION. **Section 3. Submission to electorate.** This amendment shall be submitted to the  
6        qualified electors of Montana at the general election to be held in November 2004 by printing on the ballot the  
7        full title of this act and the following:

8       []       FOR allowing surface mining for silver and gold using cyanide ore processing methods with new  
9       environmental safeguards and protections.

10        ☐ AGAINST allowing surface mining for silver and gold using cyanide ore processing methods  
11        with new environmental safeguards and protections.

12 - END -