Jim Smith: Montana County Attorneys Assoc

Jan. 9, 2007

SENATE JUDICIARY
Exhibit No. 6
Date 9 JAN 07
Bill No. 67

Civil Responsibilities of County Attorneys & Prosecution Mandates		
Area of Law	**Statute**	**Responsibility**
Administration of State Lands-Collection Monies	77-1-111	AG request CA to represent state in foreclosure proceedings, collections, actions for trespass and other state land matters.
Administration State Lands Violations	77-1-114	CA to prosecute. If CA doesn't, CA is guilty of misdemeanor and forfeits office
Adult Protective Services Team	52-3-805	CA team member
Adult Care-Ombudsman Services Access Violation	52-3-605	CA to bring injunction. Civil penalty of up to $1,000 per day.
Adult Protection- Elder Abuse and Failure to Report Elder Abuse	52-3-825	Misdemeanor; Misdemeanor up to $1000 and/or 1 year; 2nd is felony $10,000 and/or 10 years.
Adult Protection	52-3-813	CA files confidential
Air Quality Violation	75-2-413	Upon request of dept., CA petition district court to impose, assess, and order civil penalty up to $10,000 per day.
Atmospheric Water Weather Modification Violations	85-3-105	Misdemeanor - each day is new offense.
Autopsy	46-4-103	CA may require autopsy
Bank Advertising Before Issuance of Charter	32-1-401	Misdemeanor for officer, individual or member of firm.
Bank - Usury	32-5-406	Misdemeanor
Child Support Enforcement Financial Statement Violation	40-5-213	Misdemeanor
Child Abuse and Neglect - Petition for TIA, TLC & Protective Services	41-3-402	CA to file petition
Child Abuse and Neglect Proceedings	41-3-401	CA files all petitions
Cigarette Wholesaler Sale w/o Tax Prepayment	16-11-143	Misdemeanor - injunction in District Court in Lewis and Clark County for 1 month to 1 year
Cigarette Tax	16-22-142	CA to assist DOJ in enforcement
Cigarette Tax Violation	16-11-148	Misdemeanor - $100 to $500 and/or 30 days to 6 months. License may be revoked for one year.
Claim for Services against County -	7-6-2424	CA to defend in district court

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Denial		
Conservation Districts	76-15-319	CA to provide legal assistance
Consumer Product Safety Acts Violation	50-30-303	CA to institute appropriate proceedings in proper courts and prosecute in manner required by law.
Coroner's Inquest	7-4-2911	Coroner report all deaths requiring inquiry to CA
Creation of New Counties	7-2-2205	CA reviews petition for conformance w/ law
Dairy Product Violation	81-22-104	Misdemeanor
Dairy - Milk Price Control	81-23-406	Dept. of Livestock may call upon CA to represent it in district court for civil remedy, injunction, mandamus, etc.
Election - Fraudulent Signatures on Ballot Issue	13-27-106	Cross references to 45-7-203 and 45-7-208
Emancipation	41-3-408	Ca may move to modify or revoke emancipation order if youth committed material violation of law, conditions of order or not in youth's best interests.
Eminent Domain Proceedings for County Roads	7-14-2608	Ca to condemn property of nonaccepting landowners.
Employee and Community Hazardous Chemical Information Act Violations	50-78-402	Employee make complaint to CA. CA investigates and prosecutes for misdemeanor - each day separate violation.
Employees - Wage Protection Violations for Mineral and Oil Industry	39-3-506	CA file complaint in district court against employer for violation
Employees - Wage Protection Violations for Mineral & Oil Industry	39-3-505	CA shall keep commissioner of labor and industry advised of employee complaint
Employees - Wage Protection Violations for Mineral & Oil Industry	39-3-503	CA to file complaint in district court - civil penalty
Employees - Wage Protection Violations for Mineral & Oil Industry	39-3-503	Employee makes complaint directly to CA
Employees - Wage Protection Violations	39-3-215	CA to bring both civil and criminal violations w/o specific direction from commissioner of labor
Employees - Blacklisting and		

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Protection Discharged Employees	39-2-804	Misdemeanor
Energy Supply Emergency Power Violation	90-4-319	Misdemeanor - each day separate offense
Ethics Code Violations	2-2-144	Action in district court for civil file - $50 - $1000; Criminal charges mandatory if criminal violation.
Herd District - Unlawful Introduction of Livestock	81-4-309	Misdemeanor - $250- $500 and/or not less than 60 days; damages and costs for trespass; each separate animal is separate offense.
Hide Certificate Falsifying	81-9-421	Misdemeanor
Hide Dealer Licensing Violation	81-9-422	Misdemeanor
Hospital District for County	7-34-2115	CA provide legal advice and services
Imitation Indian Article Sale	30-14-604	Misdemeanor
Initiative or Referendum	7-5-134	CA to review for form and compliance. Prepare ballot statement
Investigator Employment	30-14-122	CA in 1st and 2nd class counties may designate an employee to act as full-time investigator.
Irrigation Districts - Records	85-7-1913	CA shall prosecute ouster proceedings against irrigation board commissioners for failure to maintain records.
Irrigation Districts - Taxes and Assessments	85-7-2143	CA to prosecute action to enforce liability as civil action
Lawsuit Direction	7-5-2104	County Commission directs and controls prosecution and defense of all suits to which county is a party.
Legal Adviser of County	7-4-2711	CA legal adviser to County Commission CA defend all suits against county CA to give opinion to county officers in re. duties of their offices. CA counsel for fire districts, conservation districts, weed districts and county hospital board
Legislative Audit Violations - Prosecution for Public Offenses	5-13-310	Cross references theft and offenses against public administration

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Area of Law	**Statute**	**Responsibility**
License - Huckster Display Violation	7-21-2507	Misdemeanor $10 - $15
Licensing - Speech Language Pathologists and Audiologists Violations	37-15-322	Standard misdemeanor
Licensing - Speech Language Pathologists and Audiologists Violations	7-15-202	Board cause CA prosecute and enjoin
Licensing - Plumber Violation	37-69-324	Misdemeanor
Licensing - Huckster Violation	7-21-2508	Misdemeanor as in 46-18-2120
Licensing - Radiologic Technologists Violation	37-14-323	CA prosecute person or employer; fine $500 per day.
Licensing - Optometry Violation	37-10-312	CA prosecute violation in district court
Licensing of Transient Retail Merchants Violations	7-21-2411	Misdemeanor
Licensing - Boiler and Steam Engine Violation	50-74-107	Misdemeanor
Licensing - Hospital Violations	50-5-112	CA bring action civil penalty not to exceed $1000/day
Licensing - Dentistry and Dental Hygiene Violation	37-4-328	CA prosecute and/or bring injunction
Licensing - Ambulance Service Violation	50-6-315	CA prosecute
Licensing - Boiler - Tampering Safety Valve	50-74-213	Misdemeanor
Licensing - Boiler and Steam Engine Inspection Violation	50-74-213	Misdemeanor not less than $100 to $500 and/or 2 to 60 months.
Licensing - Pharmacy Violation	37-7-323	Misdemeanor and license revoked
Licensing - Osteopathy Violation	37-5-312	CA prosecute; $250 to $1000 and/or 90 days to 1 year
Licensing - Hoisting Engine Violations	50-76-109	Misdemeanor
Occupational Safety Violations	50-71-110	Misdemeanor
Oil & Gas Leases - False Stmts	77-3-410	Felony

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Area of Law	**Statute**	**Responsibility**
Oil and Gas Board Conservation	82-11-150	Board may request CA to perform legal services and conduct legal proceedings
Outdoor Advertising Violation	75-15-134	Misdemeanor
Pawnbrokers Act Violation	31-1-407	Misdemeanor
Petroleum Products Regulation Price Discrimination	82-15-205	CA investigates and prosecutes action or provides report why no prosecution
Poultry Violation	81-20-103	Misdemeanor
Practitioner Registration for Controlled Substance Violation	50-32-313	Misdemeanor $1000 and/or 1 year
Prenatal Care - Unauthorized Divulgence of Information	50-19-108	Misdemeanor $100
Public Scale Weigher - Misconduct	7-21-3108	Misdemeanor
Public Local Boards of Health	50-2-115	CA legal adviser in matters relating to functions, powers and duties of board
Public Safety- Food Establishments Violations	50-50-107	CA to prosecute persons, firms or corporations
Public Safety- Food Establishments Violations	50-50-108	Misdemeanor. 1st offense $50-$100; 2nd $75-$200; 3rd $200 and up to 90 days
Public Safety - Campgrounds and Trailer Court Violations	50-52-104	CA to prosecute persons, firms or corporations
Public Meetings of Electors - Preventing	13-35-213	Misdemeanor
Public Safety - Hotels, Motels, and Rooming House Violations	50-51-105	CA to prosecute persons, firms or corporations
Recreation - Reporting Requirement Violation/Athletics	23-3-611	Misdemeanor
Recreation - Unlawful Endangerment of Life or Damage to Tramway	23-2-704	Misdemeanor
Recreation - Off-Highway Vehicles	23-2-806	FWP report violations to CA
Recreation - Snowmobiling	23-2-641	FWP report violations to CA
Recreation - Boating	23-2-506	FWP report violations to CA
Registered Process Servers	25-1-1106	CA may revoke certificate of registration if not complying law and conduct an

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Area of Law	**Statute**	**Responsibility**
		investigation
School Districts	20-1-204	CA legal adviser and prosecute and defend all suits for school districts or community colleges districts
School Bonds	20-9-436	CA to advise and assist trustee of school district in bond proceedings
Schools - Abuse of Teacher	20-4-303	Misdemeanor $25-$500
Schools - Doing Business w/o Textbook Dealer License Violation	20-7-606	Misdemeanor $500 - $2000
Schools - Textbook Dealer	20-7-608	Misdemeanor
Septic Collection or Disposal Operation Violation	75-10-1220	Upon request of the Dept. CA petition district court for injunction
Solid Waste Management Districts	7-13-218	CA is legal adviser and prosecutes and defends all suits district is a party
Solid Waste Management Violations	75-10-112	CA enforces rules
State Matters	7-4-2716	Represent state in all matters in which it is a party or beneficially interested. When ordered by AG, prosecute criminal, civil, or special proceedings Defendant suits against state.
Stock Inspector -Confidentiality of Appointment Violations	7-21-3213	Misdemeanor
Water Quality Districts	7-13-4519	Board may contract with CA or another attorney for legal services
Yellowstone River Compact	85-20-112	CA performs legal services and bring proceedings as dept. shall require.