

HOUSE BILL NO. 402

INTRODUCED BY M. ROSENDALE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A SAND AND GRAVEL OPERATION MAY NOT BE PROHIBITED UNDER CERTAIN CIRCUMSTANCES IN AN AREA ZONED AS RESIDENTIAL; AND AMENDING SECTION 76-2-209, MCA."

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

**Section 1.** Section 76-2-209, MCA, is amended to read:

**"76-2-209. Effect on natural resources.** (1) Except as provided in 82-4-431, 82-4-432, and subsection (2) of this section, a resolution or rule adopted pursuant to the provisions of this part, except 76-2-206, may not prevent the complete use, development, or recovery of any mineral, forest, or agricultural resources by the owner of any mineral, forest, or agricultural resource.

(2) (a) ~~The~~ Except as provided in subsection (2)(b), the complete use, development, or recovery of a mineral by an operation that mines sand and gravel or an operation that mixes concrete or batches asphalt may be reasonably conditioned or prohibited on a site that is located within a geographic area zoned as residential, as defined by the board of county commissioners.

(b) A resolution or rule adopted pursuant to this part may not prohibit an opencut sand or gravel operation on a site that is located within a geographic area zoned as residential after an application for the operation has been filed as provided in 82-4-432.

(3) Zoning regulations adopted under this chapter may reasonably condition, but not prohibit, the complete use, development, or recovery of a mineral by an operation that mines sand and gravel and may condition an operation that mixes concrete or batches asphalt in all zones other than residential."

- END -