

SENATE BILL NO. 360

INTRODUCED BY J. FIELDER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING ACCESS TO PROPERTY DURING
5 EMERGENCIES; PROHIBITING LOCAL AGENTS FROM DENYING PROPERTY OWNERS ACCESS TO
6 PROPERTY DURING EMERGENCIES; PROVIDING PROPERTY OWNERS WITH ACCESS TO PROPERTIES
7 LOCATED IN HIGH HAZARD FIRE AREAS DURING EMERGENCIES; ALLOWING PROPERTY OWNERS
8 ACCESS TO PROPERTIES UPON A DECLARATION OF AN EMERGENCY OR DISASTER; AND AMENDING
9 SECTIONS 7-33-2212 AND 10-3-406, MCA."

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

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13 **NEW SECTION. Section 1. Property access -- emergency management activities.** An officer or
14 agent of a local government, including a law enforcement agent, firefighter, or any agent of a local government
15 that provides emergency services, may not prohibit a person from accessing the person's residence or real
16 property for any purpose, including for purposes of controlling the scene of an emergency to protect health and
17 safety.

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19 **Section 2.** Section 7-33-2212, MCA, is amended to read:
20 **"7-33-2212. Activity restrictions in high fire hazard areas.** (1) A board of county commissioners may
21 designate areas on private land or on land that is not under the jurisdiction of a municipality or a state or federal
22 agency as high fire hazard areas.

23 (2) Except as provided in 87-3-106(2), in designated high fire hazard areas, the board may require all
24 persons, firms, or corporations present or engaged in any activity in those areas to cease operations or activities
25 or to adjust working hours to less critical periods of the day.

26 (3) ~~The~~ Except as provided in 10-3-406(4)(b), the presiding officer of the board may control ingress and
27 egress into a high fire hazard area if an emergency or disaster is declared under the provisions of Title 10,
28 chapter 3, part 4.

29 (4) (a) An entity that is conducting official business, an entity having actual residence as a permanent or
30 principal place of abode in the designated area, or an entity engaged in employment that does not present a fire

1 hazard must be allowed ingress and egress unless there is a significant risk to human health or safety.

2 (b) For the purposes of this section, "official business" includes but is not limited to the functions of
3 governmental agencies and the activities of utilities, cooperatives, and telecommunications providers to operate,
4 construct, repair, and maintain utility facilities that are essential to the public."

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6 **Section 3.** Section 10-3-406, MCA, is amended to read:

7 **"10-3-406. Authority of principal executive officer.** (1) Upon the declaration of an emergency or
8 disaster under 10-3-402 or 10-3-403 and the issuance of an order as required by 10-3-404, the principal executive
9 officer may:

10 (a) direct and compel the evacuation of all or part of the population from an incident or emergency or
11 disaster area within that political subdivision when necessary for the preservation of life or other disaster
12 mitigation, response, or recovery; and

13 (b) control the ingress and egress to and from an incident or emergency or disaster area and the
14 movement of persons within the area unless a person requests access to the person's residence or real property.

15 (2) Subject to 7-33-2212(4)(a), the authority to control ingress and egress, as provided in subsection
16 (1)(b), includes the authority to close wildland areas to access during periods of extreme fire danger."

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18 NEW SECTION. **Section 4. Codification instruction.** [Section 1] is intended to be codified as an
19 integral part of Title 7, chapter 31, and the provisions of Title 7, chapter 31, apply to [section 1].

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