

HOUSE BILL NO. 222

INTRODUCED BY R. HOLLANDSWORTH

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A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING LOCAL GOVERNMENTS WITH SELF-GOVERNING POWERS FROM REQUIRING FEES AND PERMITS FOR MOVEMENT OF OVERSIZE LOADS ON CERTAIN HIGHWAYS; AND AMENDING SECTIONS 7-1-111, 7-14-4102, 7-14-4103, 7-14-4104, 61-10-121, AND 61-12-101, MCA."

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

Section 1. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

- (1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;
- (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39 (~~labor, collective bargaining for public employees, unemployment compensation, or workers' compensation~~), except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;
- (3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;
- (4) any power that prohibits the grant or denial of a certificate of public convenience and necessity;
- (5) any power that establishes a rate or price otherwise determined by a state agency;
- (6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;
- (7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;
- (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months' imprisonment, or both, except as specifically authorized by statute;

- 1 (9) any power that applies to or affects the right to keep or bear arms, except that a local government
2 has the power to regulate the carrying of concealed weapons;
- 3 (10) any power that applies to or affects a public employee's pension or retirement rights as established
4 by state law, except that a local government may establish additional pension or retirement systems;
- 5 (11) any power that applies to or affects the standards of professional or occupational competence
6 established pursuant to Title 37 (~~professions and occupations~~) as prerequisites to the carrying on of a profession
7 or occupation;
- 8 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
9 75, chapter 7, part 1 (~~streambeds~~), or Title 87 (~~fish and wildlife~~);
- 10 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended
11 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,
12 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords
13 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local
14 government's jurisdiction.
- 15 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;
- 16 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
17 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may
18 enter into a cooperative agreement with the department of agriculture concerning the use and application of
19 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
20 government from adopting or implementing zoning regulations or fire codes governing the physical location or
21 siting of fertilizer manufacturing, storage, and sales facilities;
- 22 (16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
23 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
24 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
25 communications commission of the United States;
- 26 (17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna
27 at heights and dimensions sufficient to accommodate amateur radio service communications by a person who
28 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or
29 higher class, issued by the federal communications commission of the United States;
- 30 (18) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load,

1 object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway
 2 that is under the jurisdiction of an entity other than the local government unit."

3
 4 **NEW SECTION. Section 2. No authority to require fee and permit for oversize vehicles.** The
 5 authority to regulate trafficways and motor vehicles provided in this part does not include the authority to require
 6 a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size
 7 exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is maintained by and under
 8 the jurisdiction of an entity other than the city or town.

9
 10 **Section 3.** Section 7-14-4102, MCA, is amended to read:

11 **"7-14-4102. Regulation of trafficways and public grounds.** The city or town council may:
 12 (1) except as provided in [section 2], regulate and prevent the use or obstruction of streets, sidewalks,
 13 and public grounds by signs, poles, wires, posting handbills or advertisements, or any obstruction;
 14 (2) regulate and prohibit traffic and sales upon the streets, sidewalks, and public grounds;
 15 (3) regulate or prohibit the fast driving of horses, animals, or vehicles within the city or town;
 16 (4) provide for and regulate street crossings, curbs, and gutters;
 17 (5) prevent horseracing or immoderate driving or riding in the streets of the city or town and regulate and
 18 provide for the hitching of all animals on the streets;
 19 (6) regulate or prohibit coasting, skating, sliding, skateboarding, rollerblading, or tobogganing on the
 20 streets or alleys or other amusements dangerous or annoying to the inhabitants or having a tendency to frighten
 21 animals."

22
 23 **Section 4.** Section 7-14-4103, MCA, is amended to read:

24 **"7-14-4103. Regulation of motor vehicles.** (1) ~~The~~ Except as provided in [section 2], the council of ~~any~~
 25 ~~an~~ incorporated city or town ~~shall have power~~ may, by ordinance, ~~to~~ regulate motor vehicles and their speed
 26 within the limits of ~~such~~ the city or town and ~~to~~ prescribe and enforce fines and penalties for violation of ~~such~~ the
 27 regulations.

28 (2) As used in this section, the term "motor vehicles" ~~shall include all vehicles propelled by any power~~
 29 ~~other than muscular power, except traction engines, road rollers, fire wagons and engines, fire department~~
 30 ~~vehicles, and police patrol wagons~~ has the meaning provided in 61-1-101, except the term does not include

1 authorized emergency vehicles as defined in 61-8-102."

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3 **Section 5.** Section 7-14-4104, MCA, is amended to read:

4 **"7-14-4104. Prevention of obstructions on trafficways and public grounds.** ~~The~~ Except as provided
5 in [section 2], the city or town council has power to may prevent the encumbering of streets, sidewalks, alleys,
6 or public grounds with ~~carriages, wagons, lumber, firewood, or other~~ obstacles or materials."
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8 **Section 6.** Section 61-10-121, MCA, is amended to read:

9 **"61-10-121. Permits for excess size and weight -- exempt from environmental review -- agents.**

10 (1) (a) Upon application and with good cause shown, the department of transportation, or its agent under
11 subsection (3), and local authorities in their respective jurisdictions may issue telephonically or in writing a special
12 permit authorizing the applicant to operate or move a vehicle, combination of vehicles, load, object, or other thing
13 of a size or weight exceeding the maximum specified in 61-10-101 through 61-10-104 and 61-10-106 through
14 61-10-110 upon a highway under the jurisdiction of and for the maintenance of which the body granting the permit
15 is responsible. However, only the department may issue permits for movement of a vehicle or combination of
16 vehicles carrying built-up or reducible loads in excess of 9 feet in width or exceeding the length, height, or weight
17 specified in 61-10-101 through 61-10-104 and 61-10-106 through 61-10-110. This permit must be issued in the
18 public interest. A carrier receiving this permit must have public liability and property damage insurance for the
19 protection of the traveling public as a whole. A permit may not be issued for a period greater than the period for
20 which the GVW license is valid, including grace periods, as provided in this title. Owners of vehicles licensed in
21 other jurisdictions may, at the discretion of the department, purchase permits to expire with their registration. A
22 license required by the state governs the issuance of a special permit.

23 (b) The department may issue to dealers in implements of husbandry and self-propelled machinery
24 oversize permits. The permits may be transferred from unit to unit by the dealer, for the fee set forth in 61-10-124.
25 These oversize permits may not restrict dealers in implements of husbandry and self-propelled machinery from
26 traveling on a Saturday or Sunday and expire on December 31 of each year, with no grace period. For the
27 purposes of this section, a dealer in implements of husbandry or self-propelled machinery must be a resident of
28 the state. A post-office box number is not a permanent address under this section.

29 (2) The applicant for a special permit shall specifically describe the powered vehicle or towing vehicle
30 and generally describe the type of vehicle, combination of vehicles, load, object, or other thing to be operated or

1 moved and the particular state highways over which the vehicle, combination of vehicles, load, object, or other
2 thing is to be moved and whether the permit is required for a single trip or for continuous operation.

3 (3) Issuance of a permit pursuant to this section is exempt from the provisions of Title 75, chapter 1, parts
4 1 and 2, when existing roads through existing rights-of-way are used.

5 (4) The department may enter into a contract with a private party to act as an agent of the department
6 for the purpose of issuing, in writing, a special permit allowed under this section.

7 (5) This section does not authorize a local authority to require a fee and a permit for the movement of
8 a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in
9 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local authority."

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11 **Section 7.** Section 61-12-101, MCA, is amended to read:

12 **"61-12-101. Powers of local authorities to regulate traffic.** (1) The provisions of chapters 8 and 9 do
13 not prevent local authorities with respect to sidewalks, streets, and highways under their jurisdiction and within
14 the reasonable exercise of the police power from:

15 ~~(1)~~(a) regulating the standing or parking of vehicles;

16 ~~(2)~~(b) regulating the traffic by means of police officers or traffic control devices;

17 ~~(3)~~(c) regulating or prohibiting processions or assemblages on the highways;

18 ~~(4)~~(d) designating particular highways as one-way highways and requiring that all vehicles on those
19 highways be moved in one specific direction;

20 ~~(5)~~(e) regulating the speed of vehicles in public parks;

21 ~~(6)~~(f) designating any highway as a through highway, as defined in 61-8-341, and requiring that all
22 vehicles stop before entering or crossing a through highway and designating any intersection, as defined in
23 61-8-102, as a stop intersection and requiring all vehicles to stop at one or more entrances to stop intersections;

24 ~~(7)~~(g) restricting the use of highways as authorized in 61-10-128(2);

25 ~~(8)~~(h) regulating the operation of bicycles, as defined in 61-8-102, and requiring the registration and
26 licensing of bicycles, including requiring a registration fee;

27 ~~(9)~~(i) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;

28 ~~(10)~~(j) altering the speed limits as authorized in Title 7, chapter 14, and Title 61, chapter 8;

29 ~~(11)~~(k) regulating the operating of a vehicle by a person who is a habitual user of or under the influence
30 of any narcotic drug or who is under the influence of any other drug to a degree that renders the person incapable

1 of safely operating a vehicle within the incorporated limits of any city or town;
2 ~~(+2)(l)~~ regulating or prohibiting a person who is under the influence of intoxicating liquor from operating
3 or being in actual physical control of a vehicle within the incorporated limits of a city or town;
4 ~~(+3)(m)~~ regulating or prohibiting the operation of a vehicle by a person in willful or wanton disregard for
5 the safety of persons or property within the incorporated limits of a city or town;
6 ~~(+4)(n)~~ enacting as ordinances any provisions of chapter 8 or 9 and any other law regulating traffic,
7 pedestrians, vehicles, and operators of vehicles that are not in conflict with state law or federal regulations and
8 enforcing the ordinances;
9 ~~(+5)(o)~~ regulating the operation of motorized nonstandard vehicles on sidewalks, streets, and highways;
10 and
11 ~~(+6)(p)~~ regulating the operation of golf carts on streets and highways.

12 (2) The powers of a local authority to regulate traffic do not include the power to require a fee and a
13 permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the
14 maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other
15 than the local authority."

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17 **NEW SECTION. Section 8. Codification instruction.** [Section 2] is intended to be codified as an
18 integral part of Title 7, chapter 14, part 41, and the provisions of Title 7, chapter 14, part 41, apply to [section 2].

19 - END -