

HOUSE BILL NO. 79
INTRODUCED BY JACKSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT ~~A PERSON OR~~ AN INDIVIDUAL OR A NONPROFIT ORGANIZATION IS NOT LIABLE FOR CIVIL DAMAGES RESULTING FROM THE ~~PERSON'S~~ INDIVIDUAL'S OR ORGANIZATION'S PLACEMENT OF A SIGN OR MARKER WARNING OF A HAZARD IN WATER ~~THAT IS UNDER THE JURISDICTION OF THE STATE AND THAT IS~~ LEGALLY ACCESSIBLE TO THE PUBLIC; ~~PROVIDING CRITERIA FOR THE PLACEMENT OF THE SIGNS OR MARKERS; AND REQUIRING THE~~ DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO INFORM THE PUBLIC OF THE PLACEMENT, USE, AND SIGNIFICANCE OF WATER HAZARD SIGNS AND MARKERS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Placement of warning sign in water legally accessible to public -- liability limitation -- ROLE OF DEPARTMENT. (1) ~~A person or~~ UNLESS ACTING WITH GROSS NEGLIGENCE, AN INDIVIDUAL OR A nonprofit organization is not liable for civil damages resulting from the ~~person's~~ INDIVIDUAL'S or organization's placement of a sign or marker warning of a hazard in water legally accessible to the public: AS LONG AS:

(A) THE SIGN OR MARKER IS A WHITE PLASTIC MILK BOTTLE ATTACHED BY A CORD TO THE HAZARD OR IS A SIGN OR MARKER APPROVED BY THE DEPARTMENT;

(B) THE SIGN OR MARKER CONTAINS OR BEARS THE NAME AND TELEPHONE NUMBER OF THE INDIVIDUAL OR NONPROFIT ORGANIZATION THAT PLACED IT;

(C) THE INDIVIDUAL OR NONPROFIT ORGANIZATION MAINTAINS OR REMOVES THE SIGN OR MARKER WHEN DICTATED BY CHANGING WATER CONDITIONS OR SEASONAL CHANGES; AND

(D) THE INDIVIDUAL OR NONPROFIT ORGANIZATION PLACES THE SIGN OR MARKER ONLY FOR THE PURPOSE OF IDENTIFYING HAZARDS.

(2) ~~Section 87-1-303 does not prohibit, and may not be construed to prohibit or to allow the adoption of rules prohibiting, a person or organization from placing a sign warning of a hazard in water legally accessible to the public.~~

(A) THE PROVISIONS OF THIS SECTION ARE NOT INTENDED TO PROHIBIT THE PLACEMENT OF NONHAZARD SIGNS OR MARKERS FOR WATER SKIING, DIVING, SAFE CHANNELS, OR SWIMMING AREAS OR FOR POSTING SPEED LIMITS.

(B) THE DEPARTMENT SHALL INFORM MEMBERS OF THE PUBLIC INVOLVED IN THE RECREATIONAL USE OF THE WATERS OF THIS STATE OF THE PLACEMENT, USE, AND SIGNIFICANCE OF SIGNS OR MARKERS WARNING OF HAZARDS IN THE WATER THAT ARE PLACED BY INDIVIDUALS OR NONPROFIT ORGANIZATIONS PURSUANT TO THE PROVISIONS OF THIS SECTION.

(3) THE PROVISIONS OF THIS SECTION APPLY ONLY TO THE WATERS OF THIS STATE THAT HAVE NOT BEEN DETERMINED TO BE NAVIGABLE FOR PURPOSES OF FEDERAL JURISDICTION OVER NAVIGATION AIDS.

NEW SECTION. SECTION 2. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 87, CHAPTER 1, PART 2, AND THE PROVISIONS OF TITLE 87, CHAPTER 1, PART 2, APPLY TO [SECTION 1].

NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

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