

HOUSE BILL NO. 387  
INTRODUCED BY P. MORGAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN INCORPORATED CITY OR TOWN MAY NOT REQUIRE THE OWNER OF A TEMPORARY STRUCTURE OR THE OWNER OF THE REAL PROPERTY ON WHICH THE TEMPORARY STRUCTURE IS LOCATED TO POST IN ADVANCE OF THE TEMPORARY STRUCTURE'S REMOVAL ANY CASH, MONEY ORDER, CASHIER'S CHECK, OR BOND TO COVER ANY COSTS THAT THE INCORPORATED CITY OR TOWN MAY INCUR IF THE OWNER OF THE TEMPORARY STRUCTURE OR THE OWNER OF THE REAL PROPERTY ON WHICH THE TEMPORARY STRUCTURE IS LOCATED FAILS TO REMOVE THE TEMPORARY STRUCTURE IN A TIMELY FASHION; AND AMENDING SECTION 7-1-111, MCA."

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

**NEW SECTION. Section 1. Removal of temporary structures providing carryout food or beverage services.** (1) For the purposes of this section, "temporary structure" means a building that is not permanently attached to the real property on which it is located and that is used as a business providing carryout food or beverage services.

(2) An incorporated city or town may adopt an ordinance requiring the owner of a temporary structure or the owner of the real property on which it is located to timely remove the temporary structure upon the expiration of the time period for which the temporary structure has been approved to be on the real property.

(3) If a temporary structure is not removed in a timely fashion as provided in subsection (2), the incorporated city or town is entitled to recover any cost incurred by the incorporated city or town in removing the temporary structure from the party responsible for removing the temporary structure.

(4) An incorporated city or town may not require the owner of a temporary structure or the owner of the real property on which the temporary structure is located to post in advance of the temporary structure's removal any cash, money order, cashier's check, or bond to cover any costs that the incorporated city or town may incur if the owner of the temporary structure or the owner of the real property on which the temporary structure is located fails to remove the temporary structure in a timely fashion as required by this section.

**Section 2.** 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 environmental compatibility and public need;

(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;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 (professions and occupations) as prerequisites to the carrying on of a profession or occupation;

(12) any power that applies to or affects Title 75, chapter 7, part 1 (streambeds), or Title 87 (fish and wildlife); and

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords

to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction; and

(14) any power with respect to a temporary structure that violates the provisions of [section 1]."

NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 15, part 41, and the provisions of Title 7, chapter 15, part 41, apply to [section 1].

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