

HOUSE BILL NO. 677
INTRODUCED BY LINDEEN

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE JURISDICTION OF JUSTICES' COURTS WITH REGARD TO VIOLATIONS OF THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975; CLARIFYING CRIMINAL FINES AND ~~ADMINISTRATIVE~~ CIVIL PENALTIES; AMENDING SECTIONS 3-10-301, 3-10-601, AND 75-7-123, MCA; REPEALING SECTION 75-7-124, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 3-10-301, MCA, is amended to read:

"3-10-301. Civil jurisdiction. (1) Except as provided in 3-11-103 and in subsection (2) of this section, the justices' courts have jurisdiction:

(a) in actions arising on contract for the recovery of money only if the sum claimed does not exceed \$7,000, exclusive of court costs;

(b) in actions for damages not exceeding \$7,000, exclusive of court costs, for taking, detaining, or injuring personal property or for injury to real property when no issue is raised by the verified answer of the defendant involving the title to or possession of the real property;

(c) in actions for damages not exceeding \$7,000, exclusive of court costs, for injury to the person, except that, in actions for false imprisonment, libel, slander, criminal conversation, seduction, malicious prosecution, determination of paternity, and abduction, the justice of the peace does not have jurisdiction;

(d) in actions to recover the possession of personal property if the value of the property does not exceed \$7,000;

(e) in actions for a fine, penalty, or forfeiture not exceeding \$7,000; imposed by a statute or an ordinance of an incorporated city or town when no issue is raised by the answer involving the legality of any tax, impost, assessment, toll, or municipal fine;

(f) in actions for a fine, penalty, or forfeiture not exceeding \$7,000 imposed by a statute or assessed by an order of a district for violation of Title 75, chapter 7, part 1;

~~(f)~~(g) in actions upon bonds or undertakings conditioned for the payment of money when the sum claimed does not exceed \$7,000, though the penalty may exceed that sum;

~~(g)~~(h) to take and enter judgment for the recovery of money on the confession of a defendant when the amount confessed does not exceed \$7,000, exclusive of court costs;

~~(h)~~(i) to issue temporary restraining orders, as provided in 40-4-121, and orders of protection, as provided in Title 40, chapter 15;

(j) to issue orders to restore streams under Title 75, chapter 7, part 1, or to require payment of the actual cost for restoration of a stream regardless of the maximum cost for IF the restoration DOES NOT EXCEED \$7,000.

(2) Justices' courts do not have jurisdiction in civil actions that might result in a judgment against the state for the payment of money."

Section 2. Section 3-10-601, MCA, is amended to read:

"3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees. (1) ~~Each~~ Except as provided in 75-7-123, a justice's court shall collect the fees prescribed by law for justices' courts and shall pay them into the county treasury of the county in which the justice of the peace holds office, on or before the 10th day of each month, to be credited to the general fund of the county.

(2) Except as provided in 75-7-123 and subsection (4) of this section, all fines, penalties, and forfeitures that are required to be imposed, collected, or paid in a justice's court must, for each calendar month, be paid by the justice's court on or before the 5th day of the following month to the treasurer of the county in which the justice's court is situated, except that they may be distributed as provided in 44-12-206 if imposed, collected, or paid for a violation of Title 45, chapter 9 or 10.

(3) Except as provided in 46-18-236(7) and 75-7-123, the county treasurer shall, as provided in 15-1-504, distribute money received under subsection (2) as follows:

(a) 50% to the department of revenue for deposit in the state general fund; and

(b) 50% to the county general fund.

(4) (a) The justice's court may contract with a private person or entity for the collection of any final judgment that requires a payment to the justice's court.

(b) In the event that a private person or entity is retained to collect a judgment, the justice's court may assign the judgment to the private person or entity and the private person or entity may, as an assignee, institute a suit or other lawful collection procedure and other postjudgment remedies in its own name.

(c) The justice's court may pay the private person or entity a reasonable fee for collecting the judgment."

Section 3. Section 75-7-123, MCA, is amended to read:

"75-7-123. Penalties -- restoration. (1) A person who initiates a project without written consent of the supervisors, performs activities outside the scope of written consent of the supervisors, violates emergency procedures provided for in 75-7-113, or violates 75-7-106 is:

(a) guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$500; ~~or by a civil penalty~~

(b) ~~subject to an administrative penalty assessed by the district~~ A CIVIL PENALTY not to exceed \$500 for each day that person continues to ~~physically alter or modify the stream, and in~~ be in violation.

(2) ~~Each day of a continuing violation constitutes a separate violation. The maximum administrative~~ CIVIL ~~penalty is the jurisdictional amount for purposes of 3-10-301. A CONSERVATION DISTRICT MAY WORK WITH A PERSON WHO IS SUBJECT TO A CIVIL PENALTY TO RESOLVE THE AMOUNT OF THE PENALTY PRIOR TO INITIATING AN ENFORCEMENT ACTION IN JUSTICE'S COURT TO COLLECT A CIVIL PENALTY.~~

(3) ~~In addition, that to a fine or an administrative~~ A CIVIL penalty under subsection (1), the person:

(a) shall restore, at the discretion of the court, the damaged stream, as recommended by the supervisors, to as near its prior condition as possible; ~~or~~

(b) ~~is civilly liable for the amount necessary to restore the stream. The amount of the liability may be collected in an action instituted pursuant to 3-10-301 IF THE AMOUNT OF LIABILITY DOES NOT EXCEED \$7,000. IF THE AMOUNT OF LIABILITY FOR RESTORATION EXCEEDS \$7,000, THEN THE ACTION MUST BE BROUGHT IN DISTRICT COURT.~~

(4) ~~Money recovered by a conservation district or a county attorney, whether as a fine or an administrative~~ A CIVIL penalty, ~~must be deposited in the depository of district funds provided for in 76-15-523, UNLESS UPON ORDER OF A JUSTICE'S COURT THE MONEY IS DIRECTED TO BE DEPOSITED PURSUANT TO 3-10-601."~~

NEW SECTION. **Section 4. Repealer.** Section 75-7-124, MCA, is repealed.

NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 6. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to all notices of projects pending before a conservation district on [the effective date of this act].

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