

SENATE BILL NO. 281

INTRODUCED BY BUTCHER, MCGEE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~INCREASING THE FINE FOR~~ CLARIFYING THAT CRIMINAL MISCHIEF INCLUDES DAMAGING, DESTROYING, REMOVING, OR MOVING SURVEY MONUMENTS WITHOUT CONSENT; AND AMENDING SECTION 45-6-101, MCA."

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

Section 1. Section 45-6-101, MCA, is amended to read:

"45-6-101. Criminal mischief. (1) A person commits the offense of criminal mischief if the person knowingly or purposely:

- (a) injures, damages, or destroys any property of another or public property without consent;
- (b) without consent tampers with property of another or public property so as to endanger or interfere with persons or property or its use;
- (c) damages or destroys property with the purpose to defraud an insurer; or
- (d) fails to close a gate previously unopened that the person has opened, leading in or out of any enclosed premises. This does not apply to gates located in cities or towns.

(E) DAMAGES, DESTROYS, REMOVES, OR MOVES A SURVEY MONUMENT, AS DEFINED IN 70-22-103, WITHOUT CONSENT. THIS SUBSECTION (1)(E) DOES NOT APPLY TO A LICENSED PROFESSIONAL SURVEYOR RETAINED TO PERFORM SURVEYING WORK.

(2) A person convicted of criminal mischief must be ordered to make restitution in an amount and manner to be set by the court. The court shall determine the manner and amount of restitution after full consideration of the convicted person's ability to pay the restitution. Upon good cause shown by the convicted person, the court may modify any previous order specifying the amount and manner of restitution. Full payment of the amount of restitution ordered must be made prior to the release of state jurisdiction over the person convicted.

(3) ~~(a) A~~ Except as provided in subsections (3)(b) and (3)(c), a A person convicted of the offense of criminal mischief shall be fined not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

~~(b)~~ If the offender commits the offense of criminal mischief and causes pecuniary loss in excess of \$1,000, injures or kills a commonly domesticated hoofed animal, or causes a substantial interruption or

impairment of public communication, transportation, supply of water, gas, or power, or other public services, the offender shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term not to exceed 10 years, or both.

~~——— (c) An offender who commits the offense of criminal mischief by damaging, destroying, removing, or moving survey monuments without consent shall be fined an amount not to exceed \$1,000 for each monument damaged, destroyed, removed, or moved or be imprisoned in the state prison for a term not to exceed 10 years, or both.~~

(4) Amounts involved in criminal mischiefs committed pursuant to a common scheme or the same transaction, whether against the public or the same person or several persons, may be aggregated in determining pecuniary loss."

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