

SENATE BILL NO. 299

INTRODUCED BY B. HAMLETT, T. BROWN

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE OWNERSHIP OF THE CHANNEL AND FORMER CHANNEL OF A NAVIGABLE RIVER OR STREAM; PROVIDING THAT A FORMER CHANNEL IS OWNED BY THE ADJACENT LANDOWNER AND THE LAND UNDER THE NEW CHANNEL IS OWNED BY THE STATE; DEFINING THE TERM "NAVIGABLE"; AMENDING SECTION 77-1-102, MCA; REPEALING SECTION 70-18-202, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Sudden change in bed of navigable river or stream.** (1) If a navigable river or stream rapidly abandons its channel and forms a new river or stream channel, the land that constituted the old channel belongs to the owner of the shores through which the old channel flowed or, if the shores are owned by different owners, to the owners of the shore on the two sides, divided by an imaginary line drawn through the middle of the old river or stream channel. The land that constituted the old channel is subject to property taxation payable by the new owners.

(2) Ownership remains unchanged for land that constituted an island before the ~~change~~ AVULSION OCCURRED in THE channel and that is not ~~an island~~ WHOLLY SURROUNDED BY WATER after the river has abandoned the old channel.

(3) As a channel of a navigable river or stream, the land under the water of the new channel belongs to the state pursuant to 70-1-202.

(4) FOR THE PURPOSES OF THIS SECTION, "NAVIGABLE" MEANS A RIVER OR STREAM ADJUDICATED AS NAVIGABLE FOR TITLE PURPOSES BY A COURT OF COMPETENT JURISDICTION.

Section 2. Section 77-1-102, MCA, is amended to read:

"77-1-102. Ownership of certain islands and abandoned riverbeds. (1) ~~At~~ Except as provided in [section 1] and subsection (2) of this section AND SUBJECT TO TITLE 70, CHAPTER 18, PART 2, the following lands belong to the state of Montana to be held in trust for the benefit of the public schools of the state:

(a) all lands lying and being in and forming a part of the abandoned bed of any navigable stream or lake

1 in this state and lying between the meandered lines of ~~such~~ the stream or lake as ~~the same are~~ shown by the
 2 United States survey ~~thereof and~~ of the lands; and

3 (b) all islands existing in the navigable streams or lakes in this state which that have not been surveyed
 4 by the government of the United States and all lands ~~which that~~ at any time in the past ~~comprised such~~ were an
 5 island or any part ~~thereof; of the island.~~

6 (2) This section does not apply to except such lands as that are occupied by and belong to ~~the~~ adjacent
 7 landowners ~~as that were formed by~~ accretions, ~~belong to the state of Montana to be held in trust for the benefit~~
 8 ~~of the public schools of the state.~~

9 (3) FOR THE PURPOSES OF THIS SECTION:

10 (A) "ABANDONED BED" MEANS A RIVER BED OR STREAM BED WITH NO WATER OVER IT; AND

11 (B) "NAVIGABLE" MEANS A RIVER OR STREAM ADJUDICATED AS NAVIGABLE FOR TITLE PURPOSES BY A COURT OF
 12 COMPETENT JURISDICTION."

13
 14 NEW SECTION. SECTION 3. REPEALER. THE FOLLOWING SECTION OF THE MONTANA CODE ANNOTATED IS
 15 REPEALED:

16 70-18-202. SUDDEN REMOVAL OF BANK -- RIGHT OF OWNER TO RECLAIM.

17
 18 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
 19 integral part of Title 70, chapter 18, part 2, and the provisions of Title 70, chapter 18, part 2, apply to [section 1].

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 21 NEW SECTION. Section 5. Applicability. [This act] applies to a sudden change in the bed of a
 22 navigable river or stream that occurs on or after October 1, 2011.

23 - END -