

SENATE BILL NO. 345

INTRODUCED BY C. VINCENT

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO LIABILITY FOR FOREST OR RANGE FIRES; ESTABLISHING A LIMITATION ON REAL AND PERSONAL PROPERTY DAMAGES FOR FOREST OR RANGE FIRES CAUSED BY NEGLIGENT OR UNINTENTIONAL ACTS OR OMISSIONS; AMENDING SECTION 50-63-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Liability for forest or range fires.** (1) In a civil action against any person or legal entity that is not a state government entity or a political subdivision of state government, for a forest or range fire caused by a negligent or unintentional act or omission that is not willful or wanton, the real and personal property damage is limited to:

- (a) the reasonable costs for controlling or extinguishing the forest or range fire;
- (b) economic damages; and
- (c) either:
 - (i) the diminution of fair market value of the real and personal property resulting from the fire; or
 - (ii) the actual and tangible restoration costs associated with restoring the damaged real and personal property to its undamaged state to the extent that those actual and tangible restoration costs are reasonable and practical.

(2) As used in this section:

- (a) "economic damages" means objectively verifiable monetary loss, including but not limited to out-of-pocket expenses, loss of earnings, loss of use of property, and loss of business or employment opportunities;
- (b) "fair market value" means the amount a willing buyer would pay a willing seller in an arm's-length transaction when both parties are fully informed about all of the advantages and disadvantages of the property and neither is acting under any compulsion to buy or sell, as determined by a certified appraiser who is qualified to appraise the property.

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Section 2. Section 50-63-103, MCA, is amended to read:

"50-63-103. Liability of offender for damages and costs. A Except as provided in [section 1], a person who sets or leaves a fire that spreads and damages or destroys property of any kind not belonging to the person is liable for all damages caused by the fire, and an owner of property damaged or destroyed by the fire may maintain a civil suit for the purpose of recovering damages. A person who sets or leaves a fire that threatens to spread and damage or destroy property is liable for all costs and expenses incurred, including but not limited to expenses incurred in investigation of the fire and administration of fire suppression, by the state of Montana, by any forestry association, or by any person extinguishing or preventing the spread of the fire."

NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 50, chapter 63, part 1, and the provisions of Title 50, chapter 63, part 1, apply to [section 1].

NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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

NEW SECTION. **Section 6. Applicability.** [This act] applies to all actions and proceedings initiated after [the effective date of this act].

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