

SENATE BILL NO. 326

INTRODUCED BY J. HINKLE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO RECREATIONAL USE OF STATE LANDS; REQUIRING PUBLIC NOTICE PRIOR TO LAND CLOSURES AND RESTRICTIONS ON GENERAL RECREATIONAL USE; SETTING CAMPING LIMITS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTION 77-1-804, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. Section 1. Recreational use of state lands. (1) Prior to a closure of legally accessible state lands or a change of use that diminishes activities allowed on legally accessible state lands, except as provided in subsection (2), the department shall:

(a) post notice of a proposed closure or change of use at common access sites to the state land proposed for closure or a change of use 1 year prior to the scheduled date of the proposed closure or change of use;

(b) issue a press release or a public service announcement detailing the proposed closure or change of use; and

(c) hold a public hearing in the nearest community of the proposed closure or change of use within 60 days of the notice period required in subsection (1)(a).

(2) The provisions of subsection (1) do not apply when the department is acting under rules adopted by the board for an emergency closure or change of use.

(3) Action by the board may be taken upon its own initiative or upon petition by an individual, organization, corporation, or governmental agency.

(4) (a) A closure may not exceed 18 months unless:

(i) the closure is necessary for public safety or emergency conditions and is approved by the sheriff or the county commission in the county where the closure occurs; or

(ii) the closure complies with subsection (5).

(b) Leased lands to be closed must be posted by the lessee at common access points, with signs

1 provided or authorized by the department.

2 (5) Closure rules adopted pursuant to 77-1-804 may categorically close state lands whose use or status
3 is incompatible with recreational use. Categorical or blanket closures may be imposed on state lands due to:

4 (a) cabin site and home site leases and licenses;

5 (b) the seasonal presence of growing crops; and

6 (c) active military, commercial, or mineral leases.

7 (6) Recreational overnight use of state land in a 30-day period is limited to 16 days:

8 (a) in a designated campground; and

9 (b) on unleased, unlicensed lands outside a campground, unless otherwise allowed by the department.

10 (7) Pets on state land must be on a leash or otherwise controlled to prevent harassment of livestock or
11 wildlife.

12 (8) Horses may be kept overnight on state lands provided that:

13 (a) the horses do not remain in a stream riparian zone for more than 1 hour; and

14 (b) only certified noxious weed-free hay is present on state lands.

15 (9) A horse kept overnight on state land where there is a lease or license must be kept in compliance with
16 the provisions of subsection (8) and must be restrained.

17

18 **Section 2.** Section 77-1-804, MCA, is amended to read:

19 **"77-1-804. Rules for recreational use of state lands -- penalty.** (1) The board shall adopt rules
20 authorizing and governing the recreational use of state lands allowed under 77-1-203 and [section 1]. The board
21 shall use local offices of the department to administer this program whenever practical.

22 (2) Rules adopted under this section must address the circumstances under which the board may close
23 legally accessible state lands to recreational use. ~~Action by the board may be taken upon its own initiative or upon~~
24 ~~petition by an individual, organization, corporation, or governmental agency. Closures may be of an emergency,~~
25 ~~seasonal, temporary, or permanent nature. State lands may be closed by the board only after public notice and~~
26 ~~opportunity for public hearing in the area of the proposed closure, except when the department is acting under~~
27 ~~rules adopted by the board for an emergency closure. Closed lands must be posted by the lessee at customary~~
28 ~~access points, with signs provided or authorized by the department.~~

29 ~~(3) Closure rules adopted pursuant to subsection (2) may categorically close state lands whose use or~~
30 ~~status is incompatible with recreational use. Categorical or blanket closures may be imposed on state lands due~~

1 to:

2 ~~_____ (a) cabin site and home site leases and licenses;~~

3 ~~_____ (b) the seasonal presence of growing crops; and~~

4 ~~_____ (c) active military, commercial, or mineral leases.~~

5 ~~(4)~~(3) The board shall adopt rules that provide an opportunity for any individual, organization, or
6 governmental agency to petition the board for purposes of excluding a specified portion of state land from a
7 categorical closure that has been imposed under ~~subsection (3)~~ [section 1].

8 ~~(5) Under rules adopted by the board, state lands may be closed on a case-by-case basis for certain~~
9 ~~reasons, including but not limited to:~~

10 ~~_____ (a) damage attributable to recreational use that diminishes the income-generating potential of the state~~
11 ~~lands;~~

12 ~~_____ (b) damage to surface improvements of the lessee;~~

13 ~~_____ (c) the presence of threatened, endangered, or sensitive species or plant communities;~~

14 ~~_____ (d) the presence of unique or special natural or cultural features;~~

15 ~~_____ (e) wildlife protection;~~

16 ~~_____ (f) noxious weed control; or~~

17 ~~_____ (g) the presence of buildings, structures, and facilities.~~

18 ~~(6)~~(4) (a) Rules adopted under this section may impose restrictions upon general recreational activities,
19 including the discharge of weapons, camping, open fires, vehicle use, and any use that will interfere with the
20 presence of livestock.

21 (b) The board may also by rule restrict access on state lands in accordance with a block management
22 program administered by the department of fish, wildlife, and parks.

23 (c) Motorized vehicle use by recreationists on state lands is restricted to federal, state, and dedicated
24 county roads, ~~and to those roads~~ not designated by the department ~~to be open to motorized vehicle use as~~
25 ~~closed, and developed trails.~~

26 (d) Restrictions on general recreational activities must comply with the following:

27 (i) At least 30 days prior to a restriction, except in the case of emergency, the department, or the lessee
28 if applicable, shall:

29 (A) post notice of the proposed restriction at frequent access points to the land where the restriction is
30 proposed; and

1 (B) issue a press release or a public service announcement detailing the proposed restriction;
 2 (ii) A restriction in an area may not exceed 1 year; and
 3 (iii) If a misuse of the land, including littering, may lead to a restriction, common access points must be
 4 posted with notice of the possible restriction for 180 days with information detailing the misuse of land and stating
 5 the penalties for the violation. If the misuse persists at the end of 180 days, a proposed restriction notice may be
 6 posted in accordance with subsection (4)(d)(i).

7 ~~(7)(5)~~ The board shall adopt rules providing for the issuance of a recreational special use license.
 8 Commercial or concentrated recreational use, as defined in 77-1-101, is prohibited on state lands unless it occurs
 9 under the provisions of a recreational special use license. The board may also adopt rules requiring a recreational
 10 special use license for recreational use that is not commercial, concentrated, or within the definition of general
 11 recreational use.

12 ~~(8)(6)~~ For a violation of rules adopted by the board pursuant to this section, the department may assess
 13 a civil penalty of up to \$1,000 for each day of violation. The board shall adopt rules providing for notice and
 14 opportunity for hearing in accordance with Title 2, chapter 4, part 6. Civil penalties collected under this subsection
 15 must be deposited as provided in 87-1-601(8).

16 (7) Unauthorized dumping of refuse on state land or destruction of property, which includes land and
 17 improvements, are misdemeanor crimes punishable by a fine of not more than \$1,500."
 18

19 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
 20 integral part of Title 77, chapter 1, part 8, and the provisions of Title 77, chapter 1, part 8, apply to [section 1].

22 NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.
 23

24 NEW SECTION. Section 5. Retroactive applicability. [Section 2(4)(d)] applies retroactively, within the
 25 meaning of 1-2-109, to restrictions on general recreational activities in place for state lands on [the effective date
 26 of this act].
 27

- END -