

HOUSE BILL NO. 566

INTRODUCED BY A. REDFIELD

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ABILL FOR AN ACT ENTITLED: "AN ACT REVISING NOTICE REQUIREMENTS FOR PRIVATE LAND WHERE IT IS NOT FEASIBLE TO POST NOTICE; CREATING A CRIMINAL PENALTY FOR ENTERING CERTAIN PRIVATE LAND WITHOUT PERMISSION; AND AMENDING SECTION 45-6-201, MCA."

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

Section 1. Section 45-6-201, MCA, is amended to read:

"45-6-201. Definition of enter or remain unlawfully. (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when the person is not licensed, invited, or otherwise privileged to do so. ~~Privilege~~ Except as provided in subsection (5), privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other authorized person to post notice denying entry onto private land. The privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person.

(2) To provide for effective posting of private land through which the public has no right-of-way, the notice provided for in subsection (1) must satisfy the following requirements:

(a) notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

(3) To provide for effective posting of private land through which or along which the public has an unfenced right-of-way by means of a public road, a landowner shall:

(a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters the private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD NEXT ___ MILES"; or

(b) place notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the roadway

1 at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced private land,
2 except that orange markings may not be placed on posts where the public roadway enters the private land.

3 (4) If property has been posted in substantial compliance with subsection (2) or (3), it is considered
4 closed to public access unless explicit permission to enter is given by the landowner or the landowner's
5 authorized agent.

6 (5) In cases where it is not practicable to provide effective posting of private land as required by
7 subsections (1) through (3), including private land that is unfenced and situated in a checkerboard ownership
8 pattern with public lands, privilege to enter or remain upon land is extended only by the explicit permission of the
9 landowner. Entry to private property as described in this subsection (5) from adjacent public lands without
10 permission of the landowner or the landowner's agent is an absolute liability offense. A violator of this subsection
11 is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500 or imprisoned in the county
12 jail for not more than 6 months, or both.

13 ~~(5)(6)~~ The department of fish, wildlife, and parks shall attempt to educate and inform all persons holding
14 hunting, fishing, or trapping licenses or permits by including on any publication concerning the licenses or permits,
15 in condensed form, the provisions of this section concerning entry on private land. The department shall use
16 public media, as well as its own publications, in attempting to educate and inform other recreational users of the
17 provisions of this section. In the interests of providing the public with clear information regarding the public nature
18 of certain unfenced rural rights-of-way, the department may develop and distribute posting signs that satisfy the
19 requirements of subsection (3).

20 ~~(6)(7)~~ For purposes of this section, "land" means land as defined in 70-15-102.

21 ~~(7)(8)~~ Civil liability may not be imposed upon the owner or occupier of premises by reason of any
22 privilege created by this section."

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