

SENATE BILL NO. 207

INTRODUCED BY F. MOORE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE CONFIDENTIALITY OF CERTAIN ARTIFACTS OR REMAINS ON LANDS OBTAINED FOR COMMON CARRIER PIPELINES THROUGH EMINENT DOMAIN PROCEEDINGS; PROVIDING DEFINITIONS; AMENDING SECTIONS 69-13-104 AND SECTION 75-20-302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

~~Section 1. Section 69-13-104, MCA, is amended to read:~~

~~"69-13-104. Use of power of eminent domain--conditions. (1) Every person, firm, corporation, limited partnership, joint-stock association, or association of any kind mentioned in this chapter that has filed with the commission its acceptance of the provisions of this chapter has the power of eminent domain. In the exercise of the power of eminent domain, the entity may enter upon and condemn the land, rights-of-way, easements, and property of any person or corporation necessary for the construction, maintenance, or authorization of the entity's common carrier pipeline. The power of eminent domain must be exercised as provided in Title 70, chapter 30.~~

~~(2) If eminent domain is exercised pursuant to this section, the location of any heritage properties or paleontological remains on or beneath land, rights-of-way, or easements obtained for the common carrier pipeline is confidential and may not be disclosed by the entity exercising eminent domain.~~

~~(3) For purposes of this section, the following definitions apply:~~

~~(a) "Heritage property" has the meaning provided in 22-3-421.~~

~~(b) "Paleontological remains" has the meaning provided in 22-3-421."~~

NEW SECTION. SECTION 1. CONFIDENTIALITY OF CULTURAL SITES. (1) THE LOCATION OF ANY HERITAGE PROPERTIES OR PALEONTOLOGICAL REMAINS ON OR BENEATH LAND, RIGHTS-OF-WAY, OR EASEMENTS OBTAINED FOR A COMMON CARRIER PIPELINE IS CONFIDENTIAL AND MAY NOT BE DISCLOSED BY THE ENTITY OWNING, OPERATING, OR MANAGING ANY COMMON CARRIER PIPELINE.

(2) THE PROVISIONS OF SUBSECTION (1) DO NOT PROHIBIT A PERSON OR ENTITY FROM DISCLOSING THE

1 LOCATION OF HERITAGE PROPERTIES OR PALEONTOLOGICAL REMAINS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY
 2 FOR PURPOSES OF REVIEWING AN APPLICATION FOR A CERTIFICATE UNDER THE MONTANA MAJOR FACILITY SITING ACT,
 3 TITLE 75, CHAPTER 20. THE DEPARTMENT MAY NOT DISCLOSE INFORMATION REGARDING THE LOCATION OF HERITAGE
 4 PROPERTIES OR PALEONTOLOGICAL REMAINS TO THE PUBLIC.

5 ~~(2)~~(3) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:

6 (A) "HERITAGE PROPERTY" HAS THE MEANING PROVIDED IN 22-3-421.

7 (B) "PALEONTOLOGICAL REMAINS" HAS THE MEANING PROVIDED IN 22-3-421.

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9 **Section 2.** Section 75-20-302, MCA, is amended to read:

10 **"75-20-302. Conditions imposed.** (1) If the department determines that the location of all or a part of
 11 the proposed facility should be modified, it may condition its certificate upon the modification, provided that the
 12 persons residing in the area affected by the modification have been given reasonable notice of the modification.

13 (2) The department may require the applicant to post performance bonds to guarantee successful
 14 reclamation and revegetation of the project area.

15 (3) For a common carrier pipeline as described in 69-13-101, the department shall condition a certificate
 16 to provide that for any land, rights-of-way, or easements acquired by eminent domain proceedings under Title
 17 70, chapter 30, and pursuant to 75-20-113, the location of any heritage properties or paleontological remains on
 18 or beneath land, rights-of-way, or easements for the common carrier pipeline is confidential and may not be
 19 disclosed.

20 (4) For purposes of this section, the following definitions apply:

21 (a) "Heritage property" has the meaning provided in 22-3-421.

22 (b) "Paleontological remains" has the meaning provided in 22-3-421."

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24 NEW SECTION. SECTION 3. CODIFICATION INSTRUCTION. [SECTION 1] IS INTENDED TO BE CODIFIED AS AN
 25 INTEGRAL PART OF TITLE 69, CHAPTER 13, PART 1, AND THE PROVISIONS OF TITLE 69, CHAPTER 13, PART 1, APPLY TO
 26 [SECTION 1].

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

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30 NEW SECTION. Section 5. Applicability. [This act] applies to:

1 ~~_____ (1) eminent domain proceedings initiated on or after [the effective date of this act]; and~~
2 ~~_____ (2) certificates issued under the Montana Major Facility Siting Act on or after [the effective date of this~~
3 ~~act].~~

4 ~~- END -~~