



AN ACT GENERALLY REVISING LAWS TO DISTINGUISH FOSSILS FROM MINERALS; STATING A PURPOSE; DEFINING FOSSILS AND FOSSILIZATION; EXEMPTING FOSSILS FROM TITLE 82, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

WHEREAS, fossils are part of Montana's history and landscape; and

WHEREAS, for fossils found on federal land, the federal government treats fossils as part of the surface estate and not minerals; and

WHEREAS, the Montana Legislature, as a matter of the policy of the state, presumes that for instruments governed by Montana law, the term "minerals" in an instrument does not include fossils.

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

Section 1. Purpose. (1) The purpose of [sections 1 through 3] is to enact into law a presumptive understanding that fossils are not minerals and that fossils belong to the surface estate, unless conveyed by a clear and express grant.

(2) It is the intent of the legislature that [sections 1 through 3] apply prospectively and retroactively to instruments governed by Montana law to the maximum extent possible under the constitutions of the United States and the state of Montana.

Section 2. Fossils distinguished. (1) When used in any instrument, unless the clear and express terms of the instrument provide otherwise, the term "minerals" does not include fossils.

(2) For purposes of this section:

(a) "Fossilized" means preserved by natural processes, including but not limited to:

(i) burial in accumulated sediment;

(ii) preservation in ice or amber; or

(iii) replacement by minerals or alteration by chemical processes such as permineralization where

minerals are deposited in the pore spaces of the hard parts of an organism's remains, which may or may not alter the original organic content.

(b) "Fossils" means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust.

(3) Fossils are considered part of the surface estate, subject to severance by the fee title owner of the land pursuant to a clear and express grant.

(4) Fossils are not subject to the provisions of Title 82.

Section 3. Fossils exempted. Fossils, as defined in [section 2], are not minerals and are exempt from the provisions of this title.

Section 4. Codification instruction. (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 1, chapter 4, and the provisions of Title 1, chapter 4, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 82, and the provisions of Title 82 apply to [section 3].

Section 5. Saving clause. [This act] does not affect penalties that were incurred or proceedings in courts that were begun before [the effective date of this act].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

Section 8. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to instruments severing mineral estates from surface estates that do not convey fossils by a clear and express grant.

- END -

I hereby certify that the within bill,
HB 0229, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 229

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