

## 1 HOUSE BILL NO. 402

2 INTRODUCED BY G. HERTZ

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT LAWS RELATED  
5 TO INVASIVE SPECIES; AUTHORIZING INVERTEBRATE PEST PROGRAMS; PROVIDING DEFINITIONS;  
6 AUTHORIZING COOPERATIVE AGREEMENTS; AUTHORIZING AN INVERTEBRATE PEST MANAGEMENT  
7 TAX; REVISING ORDINANCES THAT CAN BE ADOPTED BY A COUNTY LOCATED WITHIN THE COLUMBIA  
8 RIVER BASIN; AUTHORIZING QUARANTINE MEASURES; PROVIDING PENALTIES; AND AMENDING  
9 SECTIONS 7-22-2501, 7-22-2502, 7-22-2503, 7-22-2511, 7-22-2512, 7-22-2513, AND 7-22-2601, MCA."

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

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13 NEW SECTION. **Section 1. Penalties -- enforcement.** (1) Except as provided in subsection (2), the  
14 penalties for a violation of an invasive species ordinance adopted pursuant to 7-22-2601 are as follows:

15 (a) The offense of negligently violating an ordinance is a misdemeanor punishable by a fine not to  
16 exceed \$500 for the first offense and \$750 for subsequent offenses.

17 (b) The offense of purposely or knowingly violating an ordinance is a misdemeanor punishable by a fine  
18 not to exceed \$975. In addition, the person shall forfeit the following as issued by this state or a local government:

19 (i) any current fishing license and the privilege to fish in this state for a period of time set by the court;  
20 and

21 (ii) any current sticker or decal required under Title 80, chapter 7, part 10, to operate a vessel on the  
22 waters of this state.

23 (2) A warning without penalty may be issued to a person violating the provisions of an ordinance adopted  
24 under 7-22-2601 if it is determined that a warning best serves the public interest.

25 (3) (a) In the course of investigating violations of an ordinance adopted under 7-22-2601, law  
26 enforcement or agents authorized by the ordinance may examine vessels and equipment for the presence of an  
27 invasive species and compliance with regulations imposed under 7-22-2601. Examination of any interior portion  
28 of a vessel or equipment that may contain water, including bilges, livewells, and bait containers, for compliance  
29 may occur only if inspection of interior portions is included as part of quarantine measures established in the  
30 ordinance.

1 (b) Any evidence gathered during the inspection and found to be contaminated or posing a risk for  
 2 introduction of invasive species, as defined in 80-7-1003, must be decontaminated prior to release. The cost of  
 3 decontamination may be assigned to the owner of the evidence or contraband.

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5 **Section 2.** Section 7-22-2501, MCA, is amended to read:

6 **"7-22-2501. Definitions.** As used in this part, the following definitions apply:

7 (1) "Department" means the department of agriculture.

8 (2) "Governing body" means the governing body specified by the form of government adopted by a  
 9 county.

10 (3) "Invertebrate pests" has the same meaning as "invasive species" provided in 80-7-1003.

11 ~~(3)~~(4) "Management of vertebrate or invertebrate pests" means the correct identification of a vertebrate  
 12 or invertebrate pest; recognition of its biological and environmental needs; assessment of the pest's damage,  
 13 injury, or nuisance to agriculture, industry, or the public prior to selecting and implementing any integrated or  
 14 individual control methods to reduce, prevent, or suppress such damage, nuisance, or injury; and evaluating the  
 15 effects of these control methods.

16 ~~(4)~~(5) "Vertebrate pests" means jackrabbits, prairie dogs, ground squirrels, pocket gophers, rats, mice,  
 17 skunks, raccoons, bats, and the following depredatory and nuisance birds: blackbirds, cowbirds, starlings, house  
 18 sparrows, and feral pigeons, when such animals and birds are injurious to agriculture, other industries, or the  
 19 public."

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21 **Section 3.** Section 7-22-2502, MCA, is amended to read:

22 **"7-22-2502. Establishment of program -- cooperation.** (1) A governing body may establish a program  
 23 to manage and suppress vertebrate and invertebrate pests.

24 (2) A governing body that establishes a program under subsection (1) ~~must~~ shall cooperate with the  
 25 department in the management and suppression of vertebrate pests and shall cooperate with the department and  
 26 the departments of fish, wildlife, and parks, natural resources and conservation, and transportation in the  
 27 management and suppression of invertebrate pests, including cooperation in regard to ~~the department's~~  
 28 organized and systematic plans covering methods and procedures to be followed in the management and  
 29 suppression of vertebrate and invertebrate pests.

30 (3) A governing body, in cooperation with the relevant department or departments, may enter into

1 cooperative agreements with state and federal governmental agencies, tribes, counties, rodent control districts,  
 2 associations, corporations, or individuals when cooperation is necessary to promote the management and  
 3 suppression of vertebrate and invertebrate pests.

4 (4) Violations of an authorized program may be considered a public nuisance and cause for prosecution  
 5 under 45-8-111."

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 7 **Section 4.** Section 7-22-2503, MCA, is amended to read:

8 **"7-22-2503. Agreements with department departments.** A governing body, when cooperating with  
 9 the department or the departments of fish, wildlife, and parks, natural resources and conservation, or  
 10 transportation, may enter into written agreements with the relevant department or departments covering the  
 11 methods and procedures to be followed in the management and suppression of vertebrate and invertebrate pests,  
 12 the extent of supervision to be exercised by the governing body, and the use and expenditures of state and  
 13 county money."

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 15 **Section 5.** Section 7-22-2511, MCA, is amended to read:

16 **"7-22-2511. County vertebrate and invertebrate pest management fund.** A governing body that  
 17 establishes a program to manage and suppress vertebrate and invertebrate pests must establish a county  
 18 vertebrate and invertebrate pest management fund, from which the governing body may appropriate money for  
 19 the operation of the program."

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 21 **Section 6.** Section 7-22-2512, MCA, is amended to read:

22 **"7-22-2512. Financing of vertebrate and invertebrate pest management program -- tax.** (1) A  
 23 governing body may:

24 (a) appropriate from the county general fund an amount to fund vertebrate and invertebrate pest  
 25 management and transfer it to the county vertebrate and invertebrate pest management fund; and

26 (b) subject to 15-10-420, levy a vertebrate and invertebrate pest management tax on the taxable  
 27 valuation of all agricultural, horticultural, grazing, and timber lands and their improvements, lakefront, riverfront,  
 28 and lake-influenced lands, marinas, resorts, wharfage facilities, commercial docks and piers, and slip rental and  
 29 watercraft storage rental facilities. Land within a rodent control district may not be taxed in any given year under  
 30 both 7-11-1024 and this section for the control of rodents. Land within a rodent control district may be taxed under

1 this section only in a dollar amount that is proportional to the part of the vertebrate and invertebrate pest  
 2 program's projected fiscal year budget that is allocated to the management and suppression of vertebrate and  
 3 invertebrate pests other than rodents.

4 (2) The tax provided for in subsection (1) must be collected as other county taxes and credited to the  
 5 county vertebrate and invertebrate pest management fund."  
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7 **Section 7.** Section 7-22-2513, MCA, is amended to read:

8 **"7-22-2513. Expenditures for supplies and services authorized.** A governing body may make  
 9 necessary expenditures from the county vertebrate and invertebrate pest management fund for equipment,  
 10 materials, supplies, personal services, and other expenses. A governing body may also purchase vertebrate and  
 11 invertebrate pest management supplies and equipment for use by cooperating governmental agencies, counties,  
 12 rodent control districts, associations, corporations, or individuals in the management of vertebrate and  
 13 invertebrate pests if the governing body charges ~~such~~ those users the approximate cost of the supplies and  
 14 equipment. Receipts from the resale of ~~such~~ the supplies and equipment to the cooperating users must be  
 15 credited to the county vertebrate and invertebrate pest management fund."  
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17 **Section 8.** Section 7-22-2601, MCA, is amended to read:

18 **"7-22-2601. Invasive species ordinances.** (1) Subject to subsection (2), counties located within the  
 19 Columbia River basin may adopt ordinances and resolutions regarding the prevention or control of invasive  
 20 species, as defined in 80-7-1003, within the county, including the use of quarantine measures.  
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22 (2) If an Indian reservation is located within the boundaries of the county, the board of county  
 23 commissioners shall consult with the governing body of the tribe or tribes of the Indian reservation prior to  
 24 adopting an ordinance pursuant to this section."  
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26 **NEW SECTION. Section 9. Notification to tribal governments.** The secretary of state shall send a  
 27 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
 28 Chippewa tribe.

29 **NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an  
 30 integral part of Title 7, chapter 22, part 26, and the provisions of Title 7, chapter 22, part 26, apply to [section 1].  
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