

1 SENATE BILL NO. 191

2 INTRODUCED BY S. FITZPATRICK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PRELIMINARY INJUNCTION AND TEMPORARY  
5 RESTRAINING ORDER LAWS; INCORPORATING THE FEDERAL STANDARD FOR A PRELIMINARY  
6 INJUNCTION INTO MONTANA LAW AS THE GENERAL STANDARD FOR A PRELIMINARY INJUNCTION  
7 OR TEMPORARY RESTRAINING ORDER; REQUIRING THE APPLICANT FOR A PRELIMINARY  
8 INJUNCTION OR TEMPORARY RESTRAINING ORDER TO SHOW WHY AN INJUNCTION OR  
9 TEMPORARY RESTRAINING ORDER SHOULD BE GRANTED; PROVIDING A DECLARATION OF  
10 LEGISLATIVE INTENT; ~~AND~~ AMENDING SECTIONS 27-19-201, 27-19-301, 27-19-315, AND 75-1-201, MCA;  
11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

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15 Section 1. Section 27-19-201, MCA, is amended to read:

16 "27-19-201. When preliminary injunction may be granted -- legislative intent. An injunction order  
17 may be granted in the following cases:

18 (1) ~~when it appears that the applicant is entitled to the relief demanded and the relief or any part of~~  
19 ~~the relief consists in restraining the commission or continuance of the act complained of, either for a limited~~  
20 ~~period or perpetually;~~

21 (2) ~~when it appears that the commission or continuance of some act during the litigation would~~  
22 ~~produce a great or irreparable injury to the applicant;~~

23 (3) ~~when it appears during the litigation that the adverse party is doing or threatens or is about to do~~  
24 ~~or is procuring or suffering to be done some act in violation of the applicant's rights, respecting the subject of~~  
25 ~~the action, and tending to render the judgment ineffectual;~~

26 (1) A preliminary injunction order or temporary restraining order may be granted when the  
27 applicant establishes that:

28 (a) the applicant is likely to succeed on the merits;

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**NEW SECTION. Section 5. 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.

**NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

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AMENDED