

1 SENATE BILL NO. 219

2 INTRODUCED BY W. CURDY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WILDFIRE SUPPRESSION LAWS; PROVIDING
5 DEFINITIONS REGARDING UNMANNED AERIAL VEHICLES AND WILDFIRE SUPPRESSION ACTIVITIES;
6 REVISING THE OFFENSE OF OBSTRUCTION OF WILDFIRE SUPPRESSION ACTIVITIES; AUTHORIZING
7 USE OF FORCE BY A PEACE OFFICER; AMENDING SECTIONS 76-13-102, 76-13-112, 76-13-203, AND 76-
8 13-214, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9

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

11

12 **Section 1.** Section 76-13-102, MCA, is amended to read:

13 **"76-13-102. Definitions.** Unless the context requires otherwise, in part 2 and this part, the following
14 definitions apply:

15 (1) "Conservation" means the protection and wise use of forest, range, water, and soil resources in
16 keeping with the common welfare of the people of this state.

17 (2) "Department" means the department of natural resources and conservation provided for in Title
18 2, chapter 15, part 33.

19 (3) "Forest land" means land that has enough timber, standing or down, slash, or brush to
20 constitute in the judgment of the department a fire menace to life or property. Grassland and agricultural areas
21 are included when those areas are intermingled with or contiguous to and no further than one-half mile from
22 areas of forest land.

23 (4) (a) "Forest practices" means the harvesting of trees, road construction or reconstruction
24 associated with harvesting and accessing trees, site preparation for regeneration of a timber stand,
25 reforestation, and the management of logging slash.

26 (b) The term does not include activities for the purpose of:

27 (i) the operation of a nursery or Christmas tree farm;

28 (ii) the harvest of Christmas trees;

1 (iii) the harvest of firewood; or

2 (iv) the cutting of trees for personal use by an owner or operator.

3 (5) "Operator" means a person responsible for conducting forest practices. An operator may be the
4 owner, the owner's agent, or a person who, through contractual agreement with the landowner, is obligated to
5 or entitled to conduct forest practices or to carry out a timber sale.

6 (6) "Owner" means the person, firm, association, or corporation having the actual, beneficial
7 ownership of forest land or timber other than an easement, right-of-way, or mineral reservation.

8 (7) "Person" means an individual, corporation, partnership, or association of any kind.

9 (8) "Recognized agency" means an agency organized for the purpose of providing fire protection
10 and recognized by the department as giving adequate fire protection to lands in accordance with rules adopted
11 by the department.

12 (9) "Timber sale" means a series of forest practices designed to access, harvest, and regenerate
13 trees on a defined land area.

14 (10) "Unmanned aerial vehicle" means an aircraft that is operated without direct human intervention
15 from, on, or within the aircraft.

16 (11) "Unmanned aerial vehicle system" means the entire system used to operate an unmanned
17 aerial vehicle, including:

18 (i) the unmanned aerial vehicle;

19 (ii) communications equipment;

20 (iii) navigation equipment;

21 (iv) controllers;

22 (v) support equipment; and

23 (vi) autopilot functionality.

24 ~~(10)~~(12) "Wildfire" means an unplanned, unwanted fire burning uncontrolled on wildland and
25 consuming vegetative fuels.

26 ~~(11)~~(13) "Wildfire season" means the period of each year beginning May 1 and ending September 30,
27 inclusive.

28 (14) "Wildfire suppression activities" means any action, response, or effort by a recognized agency

1 to contain, extinguish, or suppress a wildfire.

2 ~~(12)~~(15) "Wildland" means an area in which development is essentially nonexistent, except for roads,
3 railroads, powerlines, and similar facilities, and in which structures, if any, are widely scattered.

4 ~~(13)~~(16) "Wildland fire" means a fire burning uncontrolled on forest lands.

5 ~~(14)~~(17) "Wildland fire protection" means the work of prevention, detection, and suppression of
6 wildland fires and includes training required to perform those functions.

7 ~~(15)~~(18) "Wildland fire protection district" means a definite land area, the boundaries of which are fixed
8 and in which wildland fire protection is provided through the medium of an agency recognized by the
9 department.

10 ~~(16)~~(19) "Wildland-urban interface" means the line, area, or zone where structures and other human
11 development meet or intermingle with undeveloped wildland or vegetative fuels."
12

13 **Section 2.** Section 76-13-112, MCA, is amended to read:

14 **"76-13-112. Penalty for violation.** (1) Unless otherwise provided by this part or part 2, a person who
15 violates this part or part 2 or any rule adopted pursuant to this part or part 2 is guilty of a misdemeanor and
16 shall be punished by a fine of not more than \$500 or imprisonment in a county jail for not more than 6 months
17 or both.

18 (2) Actions to prosecute criminal violations of this part or part 2 or any rule adopted pursuant to this
19 part or part 2 must be conducted by the city attorney, county attorney, or attorney general."
20

21 **Section 3.** Section 76-13-203, MCA, is amended to read:

22 **"76-13-203. Extension of wildfire season.** In the event of excessive or great fire danger, the ~~period~~
23 wildfire season defined in ~~76-13-102(11)~~ 76-13-102 may be expanded when in the judgment of the department
24 dangerous fire conditions exist. When expanded, the department shall give public notice."
25

26 **Section 4.** Section 76-13-214, MCA, is amended to read:

27 **"76-13-214. Obstruction of ~~aerial-wildfire suppression effort~~ activities -- penalty -- exceptions.**

28 (1) A person may not obstruct, impede, prevent, or otherwise interfere with a lawful ~~aerial-wildfire suppression~~

1 ~~response by a state or local government effort~~ activities by any means, including by the use of an unmanned
2 aerial vehicle system.

3 (2) A person who violates subsection (1) is ~~liable for a civil penalty to the state or local government~~
4 ~~for an amount equivalent to the reasonable costs of obstructing, impeding, preventing, or interfering with an~~
5 ~~aerial wildfire suppression response effort. The penalty may not exceed the actual flight costs of the aerial~~
6 ~~wildfire suppression response effort that was obstructed, impeded, prevented, or interfered with~~ guilty of a
7 misdemeanor and shall be punished by a fine of not more than \$1,500. A person convicted of violating
8 subsection (1) may be ordered to pay as restitution:

9 (a) damages to any person or property caused by the violation; and

10 (b) wildfire suppression costs caused by the violation.

11 (3) A PEACE OFFICER, AS DEFINED IN 45-2-101, MAY USE REASONABLE FORCE TO DISABLE, DAMAGE, OR
12 DESTROY AN UNMANNED AERIAL VEHICLE SYSTEM THAT IS OBSTRUCTING, IMPEDING, PREVENTING, OR OTHERWISE
13 INTERFERING WITH LAWFUL WILDFIRE SUPPRESSION ACTIVITIES.

14 ~~(3)(4)~~ (a) Subsection (1) does not apply to the operation of an unmanned aerial vehicle system
15 conducted by a unit or agency of the United States government or of a state, tribal, or local government,
16 including any individual conducting an operation pursuant to a contract or other agreement entered into with the
17 unit or agency, for the purpose of protecting the public safety and welfare, including firefighting, law
18 enforcement, or emergency response.

19 (b) Subsection (2) does not limit other remedies available for damages to any person or property
20 or the recovery of wildfire suppression costs caused by a person who violates subsection (1).

21 ~~(4) As used in this section, the following definitions apply:~~

22 ~~(a) "Unmanned aerial vehicle" means an aircraft that is:~~

23 ~~(i) capable of sustaining flight; and~~

24 ~~(ii) operated with no possible direct human intervention from on or within the aircraft.~~

25 ~~(b) "Unmanned aerial vehicle system" means the entire system used to operate an unmanned aerial~~
26 ~~vehicle, including:~~

27 ~~(i) the unmanned aerial vehicle;~~

28 ~~(ii) communications equipment;~~

1 ~~(iii) navigation equipment;~~

2 ~~(iv) controllers;~~

3 ~~(v) support equipment; and~~

4 ~~(vi) autopilot functionality.~~

5 ~~(c) "Wildfire" means an unplanned, unwanted fire burning uncontrolled and consuming vegetative~~
6 ~~fuels.~~

7 ~~(d) "Wildfire suppression" means an effort to contain, extinguish, or suppress a wildfire."~~

8

9 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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