

HOUSE BILL NO. 174

INTRODUCED BY GRADY, ELLIOTT, HARPER, GILBERT,
WILLIAMS, JERGESON, R. DEBRUYCKER, SVRCEK,
DEVLIN, T. BECK
BY REQUEST OF THE DEPARTMENT OF FISH,
WILDLIFE, AND PARKS

IN THE HOUSE

JANUARY 15, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

 FIRST READING.

JANUARY 23, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

JANUARY 24, 1991 PRINTING REPORT.

JANUARY 26, 1991 SECOND READING, DO PASS.

JANUARY 28, 1991 ENGROSSING REPORT.

JANUARY 30, 1991 THIRD READING, PASSED.
AYES, 91; NOES, 9.

 TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 31, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON FISH & GAME.

 FIRST READING.

MARCH 22, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

MARCH 23, 1991 SECOND READING, CONCURRED IN.

MARCH 25, 1991 THIRD READING, CONCURRED IN.
AYES, 47; NOES, 1.

 RETURNED TO HOUSE.

IN THE HOUSE

MARCH 25, 1991 RECEIVED FROM SENATE.

 SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 174

INTRODUCED BY Judy Hunt Hays Gilbert
BY REQUEST OF THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
W. D. ... J. Ferguson Stephen T. Bush

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN SEASONAL RULES ADOPTED BIENNIALLY BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FROM THE PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 2-4-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-4-102, MCA, is amended to read:

"2-4-102. Definitions. For purposes of this chapter, the following definitions apply:

(1) "Administrative code committee" or "committee" means the committee provided for in Title 5, chapter 14.

(2) (a) "Agency" means any an agency, as defined in 2-3-102, of the state government, except that the provisions of this chapter do not apply to the following:

(i) the state board of pardons, except that the board shall be is subject to the requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules shall must be published in the administrative-rules Administrative Rules of Montana and the Montana administrative--register Administrative

Register;

(ii) the supervision and administration of any a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youths or prisoners;

(iii) the board of regents and the Montana university system;

(iv) the financing, construction, and maintenance of public works.

(b) "Agency" does not include a school district, unit of local government, or any other political subdivision of the state.

(3) "ARM" means the administrative-rules Administrative Rules of Montana.

(4) "Contested case" means any a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(6) "Licensing" includes any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of



1 a license.

2 (7) "Party" means ~~any~~ a person named or admitted as a
3 party or properly seeking and entitled as of right to be
4 admitted as a party, but nothing herein ~~shall~~ may be
5 construed to prevent an agency from admitting any person as
6 a party for limited purposes.

7 (8) "Person" means ~~any~~ an individual, partnership,
8 corporation, association, governmental subdivision, agency,
9 or public organization of any character.

10 (9) "Register" means the Montana ~~administrative~~
11 ~~register~~ Administrative Register.

12 (10) "Rule" means each agency regulation, standard, or
13 statement of general applicability that implements,
14 interprets, or prescribes law or policy or describes the
15 organization, procedures, or practice requirements of an
16 agency. The term includes the amendment or repeal of a prior
17 rule but does not include:

18 (a) statements concerning only the internal management
19 of an agency and not affecting private rights or procedures
20 available to the public;

21 (b) formal opinions of the attorney general and
22 declaratory rulings issued pursuant to 2-4-501;

23 (c) rules relating to the use of public works,
24 facilities, streets, and highways when the substance of ~~such~~
25 the rules is indicated to the public by means of signs or

1 signals;

2 (d) seasonal rules adopted annually or biennially
3 relating to hunting, fishing, and trapping when there is a
4 statutory requirement for the publication of ~~such the~~ rules
5 and rules adopted annually or biennially relating to the
6 seasonal recreational use of lands and waters owned or
7 controlled by the state when the substance of ~~such the~~ rules
8 is indicated to the public by means of signs or signals;

9 (e) rules implementing the state personnel
10 classification plan, the state wage and salary plan, or the
11 statewide budgeting and accounting system;

12 (f) uniform rules adopted pursuant to interstate
13 compact, except that ~~such the~~ rules shall must be filed in
14 accordance with 2-4-306 and ~~shall must~~ be published in the
15 ~~administrative-rules~~ Administrative Rules of Montana.

16 (11) "Substantive rules" are either:

17 (a) legislative rules, which if adopted in accordance
18 with this chapter and under expressly delegated authority to
19 promulgate rules to implement a statute have the force of
20 law and when not so adopted are invalid; or

21 (b) adjective or interpretive rules, which may be
22 adopted in accordance with this chapter and under express or
23 implied authority to codify an interpretation of a statute.
24 Such The interpretation lacks the force of law."

25 NEW SECTION. Section 2. Effective date. [This act] is

LC 0974/01

1 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0174, as introduced.


DESCRIPTION OF PROPOSED LEGISLATION: This bill would exempt certain seasonal rules adopted by the Department of Fish, Wildlife and Parks from the provisions of the Montana Administrative Procedures Act.

ASSUMPTIONS:

1. The Fish and Game Commission will decide to utilize the biennial regulations for hunting and fishing regulations.
2. Publication of hunting regulations (big game) will continue to be done annually.
3. Fishing regulations will continue to be printed biennially.
4. Field staff time will decrease in documentation but will increase in the public involvement process. The total amount of time devoted to the regulation process will remain approximately the same.
5. The number of copies printed will remain the same.
6. Set up time will be reduced the second year of printing.

FISCAL IMPACT:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Costs	36,564	36,564	0	36,564	34,457	(2,107)
<u>Funding:</u>						
General License (02)	36,564	36,564	0	36,564	34,457	(2,107)



 ROD SUNDESTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning 1-18-91



 EDWARD J. GRADY, PRIMARY SPONSOR DATE
 1/19/91

Fiscal Note for HB0174, as introduced

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APPROVED BY COMM.
ON FISH AND GAME

HOUSE BILL NO. *174*

INTRODUCED BY *Gredy Alett Harper Gilbert*

W. Albin
R. DeBruin BY REQUEST OF THE DEPARTMENT OF FISH, *Jerguson*
Smith WILDLIFE, AND PARKS *Decker T. Reed*

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN SEASONAL RULES ADOPTED BIENNIALY BY THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FROM THE PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 2-4-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-4-102, MCA, is amended to read:

"2-4-102. Definitions. For purposes of this chapter, the following definitions apply:

(1) "Administrative code committee" or "committee" means the committee provided for in Title 5, chapter 14.

(2) (a) "Agency" means any an agency, as defined in 2-3-102, of the state government, except that the provisions of this chapter do not apply to the following:

- (i) the state board of pardons, except that the board shall-be is subject to the requirements of 2-4-103, 2-4-201, 2-4-202, and 2-4-306 and its rules shall must be published in the administrative-rules Administrative Rules of Montana and the Montana administrative--register Administrative

Register:

(ii) the supervision and administration of any a penal institution with regard to the institutional supervision, custody, control, care, or treatment of youths or prisoners;

(iii) the board of regents and the Montana university system;

(iv) the financing, construction, and maintenance of public works.

(b) "Agency" does not include a school district, unit of local government, or any other political subdivision of the state.

(3) "ARM" means the administrative-rules Administrative Rules of Montana.

(4) "Contested case" means any a proceeding before an agency in which a determination of legal rights, duties, or privileges of a party is required by law to be made after an opportunity for hearing. The term includes but is not restricted to ratemaking, price fixing, and licensing.

(5) "License" includes the whole or part of any agency permit, certificate, approval, registration, charter, or other form of permission required by law but does not include a license required solely for revenue purposes.

(6) "Licensing" includes any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, transfer, or amendment of

SECOND READING

HB 174



1 a license.

2 (7) "Party" means any a person named or admitted as a
3 party or properly seeking and entitled as of right to be
4 admitted as a party, but nothing herein ~~shall~~ may be
5 construed to prevent an agency from admitting any person as
6 a party for limited purposes.

7 (8) "Person" means any an individual, partnership,
8 corporation, association, governmental subdivision, agency,
9 or public organization of any character.

10 (9) "Register" means the Montana administrative
11 register Administrative Register.

12 (10) "Rule" means each agency regulation, standard, or
13 statement of general applicability that implements,
14 interprets, or prescribes law or policy or describes the
15 organization, procedures, or practice requirements of an
16 agency. The term includes the amendment or repeal of a prior
17 rule but does not include:

18 (a) statements concerning only the internal management
19 of an agency and not affecting private rights or procedures
20 available to the public;

21 (b) formal opinions of the attorney general and
22 declaratory rulings issued pursuant to 2-4-501;

23 (c) rules relating to the use of public works,
24 facilities, streets, and highways when the substance of such
25 the rules is indicated to the public by means of signs or

1 signals;

2 (d) seasonal rules adopted annually or biennially
3 relating to hunting, fishing, and trapping when there is a
4 statutory requirement for the publication of such the rules
5 and rules adopted annually or biennially relating to the
6 seasonal recreational use of lands and waters owned or
7 controlled by the state when the substance of such the rules
8 is indicated to the public by means of signs or signals;

9 (e) rules implementing the state personnel
10 classification plan, the state wage and salary plan, or the
11 statewide budgeting and accounting system;

12 (f) uniform rules adopted pursuant to interstate
13 compact, except that such the rules shall must be filed in
14 accordance with 2-4-306 and shall must be published in the
15 administrative-rules Administrative Rules of Montana.

16 (11) "Substantive rules" are either:

17 (a) legislative rules, which if adopted in accordance
18 with this chapter and under expressly delegated authority to
19 promulgate rules to implement a statute have the force of
20 law and when not so adopted are invalid; or

21 (b) adjective or interpretive rules, which may be
22 adopted in accordance with this chapter and under express or
23 implied authority to codify an interpretation of a statute.
24 Such The interpretation lacks the force of law."

25 NEW SECTION. Section 2. Effective date. [This act] is

LC 0974/01

1 effective on passage and approval.

-End-

HOUSE BILL NO. 174

1 INTRODUCED BY *Judy Platt*
2 *W. Allen* BY REQUEST OF THE DEPARTMENT OF FISH, *Jerguson*
3 *H. DeBruyne* WILDLIFE, AND PARKS *Decker T. Cook*
4
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN
7 SEASONAL RULES ADOPTED BIENNIALY BY THE DEPARTMENT OF FISH,
8 WILDLIFE, AND PARKS FROM THE PROVISIONS OF THE MONTANA
9 ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 2-4-102, MCA;
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
11

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13 Section 1. Section 2-4-102, MCA, is amended to read:

14 "2-4-102. Definitions. For purposes of this chapter,
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17 means the committee provided for in Title 5, chapter 14.

18 (2) (a) "Agency" means any an agency, as defined in
19 2-3-102, of the state government, except that the provisions
20 of this chapter do not apply to the following:

21 (i) the state board of pardons, except that the board
22 shall ~~be~~ is subject to the requirements of 2-4-103, 2-4-201,
23 2-4-202, and 2-4-306 and its rules shall ~~shall~~ must be published
24 in the ~~administrative-rules~~ Administrative Rules of Montana
25 and ~~the~~ Montana administrative--register Administrative

1 Register;

2 (ii) the supervision and administration of any a penal
3 institution with regard to the institutional supervision,
4 custody, control, care, or treatment of youths or prisoners;

5 (iii) the board of regents and the Montana university
6 system;

7 (iv) the financing, construction, and maintenance of
8 public works.

9 (b) "Agency" does not include a school district, unit
10 of local government, or any other political subdivision of
11 the state.

12 (3) "ARM" means the ~~administrative-rules~~ Administrative
13 Rules of Montana.

14 (4) "Contested case" means any a proceeding before an
15 agency in which a determination of legal rights, duties, or
16 privileges of a party is required by law to be made after an
17 opportunity for hearing. The term includes but is not
18 restricted to ratemaking, price fixing, and licensing.

19 (5) "License" includes the whole or part of any agency
20 permit, certificate, approval, registration, charter, or
21 other form of permission required by law but does not
22 include a license required solely for revenue purposes.

23 (6) "Licensing" includes any agency process respecting
24 the grant, denial, renewal, revocation, suspension,
25 annulment, withdrawal, limitation, transfer, or amendment of

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24 Such The interpretation lacks the force of law."

25 NEW SECTION. **Section 2.** Effective date. [This act] is

LC 0974/01

1 effective on passage and approval.

-End-

HOUSE BILL NO. 174

INTRODUCED BY GRADY, ELLIOTT, HARPER, GILBERT,
WILLIAMS, JERGESON, R. DEBRUYCKER, SVRCEK,
DEVLIN, T. BECK

BY REQUEST OF THE DEPARTMENT OF FISH,
WILDLIFE, AND PARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN
SEASONAL RULES ADOPTED BIENNIALY BY THE DEPARTMENT OF FISH,
WILDLIFE, AND PARKS FROM THE PROVISIONS OF THE MONTANA
ADMINISTRATIVE PROCEDURE ACT; AMENDING SECTION 2-4-102, MCA;
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23 (b) adjective or interpretive rules, which may be
 24 adopted in accordance with this chapter and under express or
 25 implied authority to codify an interpretation of a statute.

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- 1 Such The interpretation lacks the force of law."
- 2 NEW SECTION. **Section 2.** Effective date. [This act] is
- 3 effective on passage and approval.

-End-