

HOUSE BILL 928

Introduced by Toole, et al.

2/18	Introduced
2/18	Referred to Judiciary
2/18	First Reading
2/22	Hearing
2/22	Tabled in Committee

1 House BILL NO. 928
 2 INTRODUCED BY Carl Messer
 3 Edward Hawas
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON TO
 5 BRING SUIT IN THE NAME OF THE STATE TO ENFORCE TITLE 75 OR
 6 AN ADMINISTRATIVE RULE, ORDER, OR STANDARD ADOPTED PURSUANT
 7 TO TITLE 75."

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

10 NEW SECTION. Section 1. Definitions. As used in
11 [section 2], unless the context requires otherwise, the
12 following definitions apply:

- 13 (1) "Citizen's suit" means an action authorized under
14 [section 2].
- 15 (2) "Department" means the department of health and
16 environmental sciences as provided in 2-15-2101.
- 17 (3) "Person" means an individual, partnership,
18 corporation, sole proprietorship, firm, enterprise,
19 franchise, association, or other entity.

20 NEW SECTION. Section 2. Citizen's suit --
 21 authorization and limitations. (1) (a) Except as provided in
 22 subsection (1)(b), a person may bring, in the name of the
 23 state, an action against an alleged violator of this title
 24 or an administrative rule, order, or standard adopted
 25 pursuant to this title if:

- 1 (i) the person has notified the department and the
 2 alleged violator in writing that there is reason to believe
 3 that a violation is occurring and the department has failed
 4 to commence an action regarding the alleged violation within
 5 30 days after notice; and
- 6 (ii) the department fails to commence an action within
 7 10 days after a second written notice advising it that a
 8 citizen's suit will be brought if it does not bring an
 9 action.
- 10 (b) A person may not bring a citizen's suit under this
 11 section if the department is diligently prosecuting a civil
 12 or criminal action to require compliance with this title or
 13 an administrative rule, order, or standard adopted pursuant
 14 to this title; but in an action a person may intervene as a
 15 matter of right.
- 16 (c) In a citizen's suit under this section, the
 17 department may intervene as a matter of right.
- 18 (2) Each notification tolls the statute of limitations
 19 applicable until the expiration of the waiting period.
- 20 (3) If the person that brings the citizen's suit
 21 prevails, the person must be reimbursed by the department
 22 for costs and attorney fees incurred. If the citizen's suit
 23 is dismissed and the court finds that the action was brought
 24 without reasonable cause, the court may order the person
 25 commencing the suit to pay all costs of trial and reasonable

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1 attorney fees incurred by the defendant.

2 (4) A civil action may not be brought under this
3 section more than 7 years after the occurrence of the facts
4 that brought rise to the action.

5 (5) All civil penalties imposed as a result of a
6 citizen's suit must be deposited in the appropriate account
7 as provided by the violated statute or the administrative
8 rule, order, or standard adopted pursuant to this title.

9 NEW SECTION. **Section 3. Codification instruction.**
10 [Sections 1 and 2] are intended to be codified as an
11 integral part of Title 75, chapter 1, part 1, and the
12 provisions of Title 75, chapter 1, part 1, apply to
13 [sections 1 and 2].

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