

CHAPTER NO. 488

HOUSE BILL NO. 521

INTRODUCED BY NATHE, LUND

IN THE HOUSE

February 2, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
February 15, 1979	Committee recommend bill do pass as amended. Report adopted.
February 17, 1979	Printed and placed on members' desks.
February 20, 1979	Second reading, do pass as amended.
February 21, 1979	Correctly engrossed.
February 22, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
March 10, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 13, 1979	Second reading, concurred in.
March 16, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 17, 1979	Returned from second house. Concurred in as amended.
March 19, 1979	On motion consideration passed for the day.

March 20, 1979

On motion consideration  
passed until the 71st  
Legislative Day.

March 29, 1979

Second reading, amendments  
adopted.

March 30, 1979

Third reading, amendments  
adopted. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 521

INTRODUCED BY DENNIS NATHE *[Signature]*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO HERD DISTRICTS TO INCREASE THE PENALTIES FOR VIOLATIONS; CLARIFYING THE REQUIREMENT OF A REASONABLY REGULAR AND SYMMETRICAL BOUNDARY; AMENDING SECTIONS 81-4-301, 81-4-306, 81-4-308, AND 81-4-309, MCA."

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

Section 1. Section 81-4-301, MCA, is amended to read:

"81-4-301. Herd districts -- creation, size, and location. (1) Herd districts may be created in any county in the state of Montana upon petition of owners or possessors of 55% of the land in such district and providing 25% or more of the land in such district is in actual cultivation or being used for residential purposes. Such districts must contain 12 square miles or more, lying not less than 1 mile in width, outside of the incorporated cities, except that herd districts may be created containing not less than 6 or more than 54 square miles, lying not less than 2 miles in width, when such territory joins and is contiguous with the boundaries of a city having a population of 10,000 or more and such territory so to be created in a herd district has a suburban population of not less than 200 people.

(2) In formation of such a district the entire holding of any owner or lessee must be included unless such owner or lessee consents that less than his entire contiguous holdings be included in the petition.

(3) Such petition shall designate the months of the year when the herd district is effective, and upon presentation and filing of such petition, properly signed, giving the outside boundaries and description of the proposed district and the post-office address of the signers thereto, with the clerk and recorder in the county in which the said district is being created, the county commissioners of such county, upon receipt thereof, shall set a date for hearing protests and verifying the signatures thereto and shall give not less than 20 days' notice of the same by three publications in a newspaper of general circulation in the county of the proposed district. At the hearing held pursuant to such notices, the county commissioners shall examine the petition and shall cause a map to be made in order to determine the shape and regularity of the boundaries of the proposed district. The commissioners may then establish the district, but such district shall be established only in such manner that the district will be reasonably regular and symmetrical in shape or practicable in relation to the geographical features of such district. ~~It is not required that the boundaries of any district~~

1 follow section lines to meet the requirement of reasonably  
 2 regular and symmetrical boundaries.

3 (4) Should it appear to such county commissioners  
 4 after such hearing that the signatures attached to such  
 5 petition were genuine, they shall immediately declare such  
 6 herd district created and established; after which the  
 7 county commissioners must give notice by four weekly  
 8 publications in some newspaper nearest the district of the  
 9 creation of such districts, also stating the period such  
 10 districts will be in effect. Such districts shall not be in  
 11 effect until 30 days have expired after the order.

12 (5) Upon petition of any owner or possessor of lands  
 13 lying contiguous and adjoining any herd district theretofore  
 14 created and upon like hearing and notice as hereinabove  
 15 provided for, such lands shall be included in said herd  
 16 district and become a part thereof. Should the signature of  
 17 lessee appear on the petition creating or abolishing any  
 18 herd district, the owner or owners of said land may appear  
 19 either in person or agent and enter their protest and the  
 20 board of county commissioners shall remove the name of the  
 21 lessee from said petition, and no person shall be permitted  
 22 to withdraw his name after the hour set for hearing same."

23 Section 2. Section 81-4-306, MCA, is amended to read:

24 "81-4-306. Penalty for permitting animals to run at  
 25 large in herd districts. (1) Any person who is the owner or

1 entitled to the possession of any horses, mules, cattle,  
 2 sheep, or goats, who shall willfully permit same to run at  
 3 large within any herd district, shall be guilty of a  
 4 misdemeanor and upon conviction thereof shall be punished by  
 5 a fine of not less than ~~\$10~~ \$50 or more than ~~\$25~~ \$500 for  
 6 each offense. Each day that each five head or less of such  
 7 horses, mules, cattle, sheep, or goats are willfully  
 8 permitted to run at large shall constitute a separate  
 9 offense.

10 (2) Any person who is the owner or entitled to the  
 11 possession of any bull over 1 year of age who shall  
 12 willfully permit same to run at large within any herd  
 13 district shall be guilty of a misdemeanor and upon  
 14 conviction thereof shall be punished by a fine of not less  
 15 than ~~\$10~~ \$50 or more than ~~\$50~~ \$500 for each offense. Each  
 16 day that such bull be permitted to run at large shall  
 17 constitute a separate offense."

18 Section 3. Section 81-4-308, MCA, is amended to read:

19 "81-4-308. Retrieval of impounded animals a  
 20 misdemeanor -- penalty. Any person who takes or rescues any  
 21 animal impounded as provided in 81-4-307 from the possession  
 22 of the person in whose custody the same may be, without his  
 23 consent, shall be guilty of a misdemeanor and upon  
 24 conviction therefor be subject to a fine of not more less  
 25 than \$100 or more than \$1,000 or shall be confined in the

1 county jail not more than 60 days or both such fine and  
2 imprisonment."

3 Section 4. Section 81-4-309, MCA, is amended to read:

4 "81-4-309. Unlawful introduction of livestock into  
5 herd district a misdemeanor -- penalty. Any person not the  
6 owner or person in charge of any livestock who shall drive,  
7 put, place, or introduce any livestock into any herd  
8 district established under the provisions of 81-4-301  
9 through 81-4-309 or who shall so place, move, or interfere  
10 with such livestock that they will trespass on such herd  
11 district shall be guilty of a misdemeanor and upon  
12 conviction thereof be subject to a fine of not less than \$50  
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14 jail not less than 60 days or both such fine and  
15 imprisonment and shall be liable for all damages and costs  
16 occurring from such trespass. For the purposes of this  
17 section each separate animal so moved, placed, or interfered  
18 with shall constitute a separate offense."

19 Section 5. Validation. No herd district established  
20 prior to [the effective date of this act] may be held  
21 invalid because the boundaries do not follow section lines.

22 Section 6. Effective date. This act is effective on  
23 passage and approval.

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HB 521

Approved by Committee  
on Agriculture Livestock  
& Irrigation

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13 location. (1) Herd districts may be created in any county in  
14 the state of Montana upon petition of owners or possessors  
15 of 55% of the land in such district and providing 25% or  
16 more of the land in such district is in actual cultivation  
17 or being used for residential purposes. Such districts must  
18 contain 12 square miles or more, lying not less than 1 mile  
19 in width, outside of the incorporated cities, except that  
20 herd districts may be created containing not less than 6 or  
21 more than 54 square miles, lying not less than 2 miles in  
22 width, when such territory joins and is contiguous with the  
23 boundaries of a city having a population of 10,000 or more  
24 and such territory so to be created in a herd district has a  
25 suburban population of not less than 200 people.

1 (2) Information of such a district the entire holding  
2 of any owner or lessee must be included unless such owner or  
3 lessee consents that less than his entire contiguous  
4 holdings be included in the petition.

5 (3) Such petition shall designate the months of the  
6 year when the herd district is effective, and upon  
7 presentation and filing of such petition, properly signed,  
8 giving the outside boundaries and description of the  
9 proposed district and the post-office address of the signers  
10 thereto, with the clerk and recorder in the county in which  
11 the said district is being created, the county commissioners  
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20 prior to [the effective date of this act] may be held  
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-End-

HB 521



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20 prior to [the effective date of this act] may be held  
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22 Section 6. Effective date. This act is effective on  
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24 and such territory so to be created in a herd district has a  
25 suburban population of not less than 200 people.

1 (2) Information of such a district the entire holding  
2 of any owner or lessee must be included unless such owner or  
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6 year when the herd district is effective, and upon  
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3 lessee consents that less than his entire contiguous  
4 holdings be included in the petition.

5 (3) Such petition shall designate the months of the  
6 year when the herd district is effective, and upon  
7 presentation and filing of such petition, properly signed,  
8 giving the outside boundaries and description of the  
9 proposed district and the post-office address of the signers  
10 thereto, with the clerk and recorder in the county in which  
11 the said district is being created, the county commissioners  
12 of such county, upon receipt thereof, shall set a date for  
13 hearing protests and verifying the signatures thereto and  
14 shall give not less than 20 days' notice of the same by  
15 three publications in a newspaper of general circulation in  
16 the county of the proposed district. At the hearing held  
17 pursuant to such notices, the county commissioners shall  
18 examine the petition and shall cause a map to be made in  
19 order to determine the shape and regularity of the  
20 boundaries of the proposed district. The commissioners may  
21 then establish the district, but such district shall be  
22 established only in such manner that the district will be  
23 reasonably regular and symmetrical in shape or practicable  
24 in relation to the geographical features of such district.  
25 ~~It is not required that the boundaries of any district~~

1 follow section lines to meet the requirement of reasonably  
 2 regular and symmetrical boundaries.

3 (4) Should it appear to such county commissioners  
 4 after such hearing that the signatures attached to such  
 5 petition were genuine, they shall immediately declare such  
 6 herd district created and established; after which the  
 7 county commissioners must give notice by four weekly  
 8 publications in some newspaper nearest the district of the  
 9 creation of such districts, also stating the period such  
 10 districts will be in effect. Such districts shall not be in  
 11 effect until 30 days have expired after the order.

12 (5) Upon petition of any owner or possessor of lands  
 13 lying contiguous and adjoining any herd district theretofore  
 14 created and upon like hearing and notice as hereinabove  
 15 provided for, such lands shall be included in said herd  
 16 district and become a part thereof. Should the signature of  
 17 lessee appear on the petition creating or abolishing any  
 18 herd district, the owner or owners of said land may appear  
 19 either in person or agent and enter their protest and the  
 20 board of county commissioners shall remove the name of the  
 21 lessee from said petition, and no person shall be permitted  
 22 to withdraw his name after the hour set for hearing same."

23 Section 2. Section 81-4-306, MCA, is amended to read:

24 "81-4-306. Penalty for permitting animals to run at  
 25 large in herd districts. (1) Any person who is the owner or

1 entitled to the possession of any horses, mules, cattle,  
 2 sheep, ASSES, HOGS, or goats, who shall willfully permit  
 3 same to run at large within any herd district, shall be  
 4 guilty of a misdemeanor and upon conviction thereof shall be  
 5 punished by a fine of not less than ~~\$10~~ \$50 or more than ~~\$25~~  
 6 ~~\$500~~ ~~\$250~~ ~~\$500~~ \$250 for each offense. Each day that each  
 7 five head or less of such horses, mules, cattle, sheep,  
 8 ASSES, HOGS, or goats are willfully permitted to run at  
 9 large shall constitute a separate offense.

10 (2) Any person who is the owner or entitled to the  
 11 possession of any bull, STALLION, OR JACKASS over 1 year of  
 12 age who shall willfully permit same to run at large within  
 13 any herd district shall be guilty of a misdemeanor and upon  
 14 conviction thereof shall be punished by a fine of not less  
 15 than ~~\$10~~ \$50 or more than ~~\$50~~ ~~\$500~~ ~~\$250~~ ~~\$500~~ \$250 for each  
 16 offense. Each day that such bull be permitted to run at  
 17 large shall constitute a separate offense."

18 Section 3. Section 81-4-308, MCA, is amended to read:

19 "81-4-308. Retrieval of impounded animals a  
 20 misdemeanor -- penalty. Any person who takes or rescues any  
 21 animal impounded as provided in 81-4-307 from the possession  
 22 of the person in whose custody the same may be, without his  
 23 consent, shall be guilty of a misdemeanor and upon  
 24 conviction therefor be subject to a fine of not more less  
 25 than \$100 or more than ~~\$1,000~~ ~~\$500~~ ~~\$1,000~~ \$500 or shall be



1 confined in the county jail not more than 60 days or both  
2 such fine and imprisonment."

3 Section 4. Section 81-4-309, MCA, is amended to read:

4 "81-4-309. Unlawful introduction of livestock into  
5 herd district a misdemeanor -- penalty. Any person not the  
6 owner or person in charge of any livestock who shall drive,  
7 put, place, or introduce any livestock into any herd  
8 district established under the provisions of 81-4-301  
9 through 81-4-309 or who shall so place, move, or interfere  
10 with such livestock that they will trespass on such herd  
11 district shall be guilty of a misdemeanor and upon  
12 conviction thereof be subject to a fine of not less than \$50  
13 ~~\$500 \$250 \$500 \$250 or more than \$1000 \$500 \$1000 \$500~~ or  
14 shall be confined in the county jail not less than 60 days  
15 or both such fine and imprisonment and shall be liable for  
16 all damages and costs occurring from such trespass. For the  
17 purposes of this section each separate animal so moved,  
18 placed, or interfered with shall constitute a separate  
19 offense."

20 Section 5. Validation. No herd district established  
21 prior to [the effective date of this act] may be held  
22 invalid because the boundaries do not follow section lines.

23 Section 6. Effective date. This act is effective on  
24 passage and approval.

-End-

## 1 HOUSE BILL NO. 521

2 INTRODUCED BY NATHE, LUND

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS  
5 RELATING TO HERD DISTRICTS TO INCREASE THE PENALTIES FOR  
6 VIOLATIONS; CLARIFYING THE REQUIREMENT OF A REASONABLY  
7 REGULAR AND SYMMETRICAL BOUNDARY; AMENDING SECTIONS  
8 81-4-301, 81-4-306, 81-4-308, AND 81-4-309, MCA; AND  
9 PROVIDING AN EFFECTIVE DATE."

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

12 Section 1. Section 81-4-301, MCA, is amended to read:

13 "81-4-301. Herd districts -- creation, size, and  
14 location. (1) Herd districts may be created in any county in  
15 the state of Montana upon petition of owners or possessors  
16 of 55% of the land in such district and providing 25% or  
17 more of the land in such district is in actual cultivation  
18 or being used for residential purposes. Such districts must  
19 contain 12 square miles or more, lying not less than 1 mile  
20 in width, outside of the incorporated cities, except that  
21 herd districts may be created containing not less than 6 or  
22 more than 54 square miles, lying not less than 2 miles in  
23 width, when such territory joins and is contiguous with the  
24 boundaries of a city having a population of 10,000 or more  
25 and such territory so to be created in a herd district has a

1 suburban population of not less than 200 people.

2 (2) In formation of such a district the entire holding  
3 of any owner or lessee must be included unless such owner or  
4 lessee consents that less than his entire contiguous  
5 holdings be included in the petition.

6 (3) Such petition shall designate the months of the  
7 year when the herd district is effective, and upon  
8 presentation and filing of such petition, properly signed,  
9 giving the outside boundaries and description of the  
10 proposed district and the post-office address of the signers  
11 thereto, with the clerk and recorder in the county in which  
12 the said district is being created, the county commissioners  
13 of such county, upon receipt thereof, shall set a date for  
14 hearing protests and verifying the signatures thereto and  
15 shall give not less than 20 days' notice of the same by  
16 three publications in a newspaper of general circulation in  
17 the county of the proposed district. At the hearing held  
18 pursuant to such notices, the county commissioners shall  
19 examine the petition and shall cause a map to be made in  
20 order to determine the shape and regularity of the  
21 boundaries of the proposed district. The commissioners may  
22 then establish the district, but such district shall be  
23 established only in such manner that the district will be  
24 reasonably regular and symmetrical in shape or practicable  
25 in relation to the geographical features of such district.

1 ~~It is not required that the boundaries of any district~~  
 2 ~~follow section lines to meet the requirement of reasonably~~  
 3 ~~regular and symmetrical boundaries.~~

4 (4) Should it appear to such county commissioners  
 5 after such hearing that the signatures attached to such  
 6 petition were genuine, they shall immediately declare such  
 7 herd district created and established; after which the  
 8 county commissioners must give notice by four weekly  
 9 publications in some newspaper nearest the district of the  
 10 creation of such districts, also stating the period such  
 11 districts will be in effect. Such districts shall not be in  
 12 effect until 30 days have expired after the order.

13 (5) Upon petition of any owner or possessor of lands  
 14 lying contiguous and adjoining any herd district theretofore  
 15 created and upon like hearing and notice as hereinabove  
 16 provided for, such lands shall be included in said herd  
 17 district and become a part thereof. Should the signature of  
 18 lessee appear on the petition creating or abolishing any  
 19 herd district, the owner or owners of said land may appear  
 20 either in person or agent and enter their protest and the  
 21 board of county commissioners shall remove the name of the  
 22 lessee from said petition, and no person shall be permitted  
 23 to withdraw his name after the hour set for hearing same."

24 Section 2. Section 81-4-306, MCA, is amended to read:

25 "81-4-306. Penalty for permitting animals to run at

1 large in herd districts. (1) Any person who is the owner or  
 2 entitled to the possession of any horses, mules, cattle,  
 3 sheep, ~~ASSES,~~ ~~HOGS,~~ or goats, who shall willfully permit  
 4 same to run at large within any herd district, shall be  
 5 guilty of a misdemeanor and upon conviction thereof shall be  
 6 punished by a fine of not less than ~~\$10~~ ~~\$50~~ or more than \$25  
 7 ~~\$500~~ ~~\$250~~ ~~\$500~~ ~~\$250~~ for each offense. Each day that each  
 8 five head or less of such horses, mules, cattle, sheep,  
 9 ~~ASSES,~~ ~~HOGS,~~ or goats are willfully permitted to run at  
 10 large shall constitute a separate offense.

11 (2) Any person who is the owner or entitled to the  
 12 possession of any bull, ~~STALLION,~~ ~~OR~~ ~~JACKASS~~ over 1 year of  
 13 age who shall willfully permit same to run at large within  
 14 any herd district shall be guilty of a misdemeanor and upon  
 15 conviction thereof shall be punished by a fine of not less  
 16 than ~~\$10~~ ~~\$50~~ or more than ~~\$50~~ ~~\$500~~ ~~\$250~~ ~~\$500~~ ~~\$250~~ for each  
 17 offense. Each day that such bull be permitted to run at  
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 21 misdemeanor -- penalty. Any person who takes or rescues any  
 22 animal impounded as provided in 81-4-307 from the possession  
 23 of the person in whose custody the same may be, without his  
 24 consent, shall be guilty of a misdemeanor and upon  
 25 conviction therefor be subject to a fine of not more less

1 than \$100 ~~or more than \$1,000 \$500 \$1,000 \$500~~ or shall be  
2 confined in the county jail not more than 60 days or both  
3 such fine and imprisonment."

4 Section 4. Section 81-4-309, MCA, is amended to read:

5 "81-4-309. Unlawful introduction of livestock into  
6 herd district a misdemeanor -- penalty. Any person not the  
7 owner or person in charge of any livestock who shall drive,  
8 put, place, or introduce any livestock into any herd  
9 district established under the provisions of 81-4-301  
10 through 81-4-309 or who shall so place, move, or interfere  
11 with such livestock that they will trespass on such herd  
12 district shall be guilty of a misdemeanor and upon  
13 conviction thereof be subject to a fine of not less than \$50  
14 ~~\$500 \$250 \$500 \$250~~ or more than ~~\$1,000 \$500 \$1,000 \$500~~ or  
15 shall be confined in the county jail not less than 60 days  
16 or both such fine and imprisonment and shall be liable for  
17 all damages and costs occurring from such trespass. For the  
18 purposes of this section each separate animal so moved,  
19 placed, or interfered with shall constitute a separate  
20 offense."

21 Section 5. Validation. No herd district established  
22 prior to [the effective date of this act] may be held  
23 invalid because the boundaries do not follow section lines.

24 Section 6. Effective date. This act is effective on  
25 passage and approval.

March 10, 1979

SENATE STANDING COMMITTEE REPORT  
(Agriculture, Livestock & Irrigation)

That House Bill No. 521 be amended as follows:

1. Page 4, line 2.

Following: "sheep,"

Insert: "asses, hogs,"

2. Page 4, line 6.

Following: line 5

Strike: "\$500"

Insert: "\$250"

3. Page 4, line 7.

Following: "sheep,"

Insert: "asses, hogs,"

4. Page 4, line 11.

Following: "bull"

Insert: ", stallion, or jackass"

5. Page 4, line 15.

Following: "~~\$250~~"

Strike: "\$500"

Insert: "\$250"

6. Page 4, line 25.

Following: "~~\$500~~"

Strike: "\$1,000"

Insert: "\$500"

7. Page 5, line 13.

Following: "~~\$250~~"

Strike: "\$500"

Insert: "\$250"

Following: "~~\$500~~"

Strike: "\$1,000"

Insert: "\$500"