

HOUSE BILL 563

IN THE HOUSE

February 3, 1979

Introduced and referred to
Committee on Natural Resources.

February 20, 1979

Committee recommend bill, do
not pass.

February 21, 1979

Report adopted.

1 House BILL NO. 563
 2 INTRODUCED BY Douglas Manning
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A
 5 RECREATIONAL WATERWAY SYSTEM FOR THE PURPOSE OF GIVING THE
 6 GENERAL PUBLIC THE RIGHT TO USE FOR OUTDOOR RECREATIONAL
 7 PURPOSES CERTAIN WATERS OF THE STATE."
 8

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

10 Section 1. Definitions. As used in [this act], unless
 11 the context indicates otherwise, the following definitions
 12 apply:

13 (1) "Recreational waterway" means any stream or river
 14 and its associated sloughs or meanders, flowing or
 15 otherwise, wholly or partly within this state which:

16 (a) in a natural state is capable during normal high
 17 water of floating small nonpowered craft or small craft
 18 powered by oar or motor for outdoor recreational or
 19 commercial purposes; or

20 (b) has been declared navigable by a court of
 21 competent jurisdiction.

22 (2) "Outdoor recreational purposes" includes but is
 23 not limited to any one or any combination of hunting,
 24 fishing, swimming, boating in powered or nonpowered craft,
 25 picnicking, hiking, studying nature and visiting, viewing,

1 or enjoying historical, archaeological, geological, scenic,
 2 or scientific sites. The use of motorized vehicles, except
 3 boats, is excluded from the definition of outdoor
 4 recreational purposes.

5 (3) "Ordinary or natural high-water mark" means that
 6 line which the water impresses on the soil by covering it
 7 for a sufficient period to deprive the soil of its
 8 vegetation and destroy its value for agricultural purposes.

9 Section 2. Outdoor recreational use authorized. All
 10 recreational waterways between the flow lines of the
 11 ordinary or natural high-water marks are open to the public
 12 for travel and passage up or downstream for outdoor
 13 recreational purposes.

14 Section 3. Outdoor recreational use restricted. No
 15 member of the public may without permission of the owner
 16 enter on or cross over private land at any point other than
 17 within the boundaries described in [section 2], except that
 18 where dams or other obstructions interfere with passage,
 19 members of the public may walk or portage around the dams or
 20 obstruction reentering the prescribed boundaries at the
 21 nearest point where it is safe to do so.

22 Section 4. Prohibition on placement of obstruction. No
 23 person may place any obstruction intended to keep the public
 24 from enjoying its rights under [this act] between the
 25 waterline and the ordinary or natural high-water mark on any

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1 recreational waterway. Fences necessary for livestock
2 control may be erected but not in a manner excluding the
3 public.

4 Section 5. Saving clause. No portion of this act may
5 be construed to alter any existing title to real property.

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