

SENATE BILL 480

IN THE SENATE

February 12, 1979

Introduced and referred to
Committee on Natural Resources.

February 20, 1979

Committee recommend bill, do
not pass, as amended.

1 *Seneca* BILL NO. *480*
 2 INTRODUCED BY *Eric Palmer*

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 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING DIRECT
 5 ACCESS TO SUNLIGHT AS A PROPERTY RIGHT PROTECTED BY LAW AND
 6 AUTHORIZING PERMIT SYSTEMS FOR USE AND APPLICATION OF SOLAR
 7 ENERGY."

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

10 Section 1. Policy. The legislature recognizes that
 11 economic benefits can be derived for the people of the state
 12 from the use of solar energy. Operations, research,
 13 experimentation, and development in the field of solar
 14 energy use shall, therefore, be encouraged. While
 15 recognizing the value of research and development of solar
 16 energy use techniques and devices by governmental agencies,
 17 the legislature finds and declares that the actual
 18 construction and use of solar devices, whether at public or
 19 private expense, is properly a commercial activity which the
 20 law should encourage to be carried out, whenever
 21 practicable, by private enterprise.

22 Section 2. Definitions. As used in [this act], the
 23 following definitions apply:

24 (1) (a) "Solar collector" means any device or
 25 combination of devices or elements which rely upon sunshine

1 as an energy source and which are capable of collecting not
 2 less than 25,000 Btu on a clear winter-solstice day. The
 3 term also includes any substance or device which collects
 4 solar energy for use in:

- 5 (i) the heating or cooling of a structure or building;
- 6 (ii) the heating or pumping of water;
- 7 (iii) industrial, commercial, or agricultural
- 8 processes; or
- 9 (iv) the generation of electricity.

10 (b) A solar collector may be used for purposes in
 11 addition to the collection of solar energy. These uses
 12 include but are not limited to serving as a structural
 13 member or part of a roof of a building or structure and
 14 serving as a window or wall.

15 (2) "Solar right" means a right to an unobstructed
 16 line-of-sight path from a solar collector to the sun, which
 17 permits radiation from the sun to impinge directly on the
 18 solar collector.

19 Section 3. Declaration of solar rights. The
 20 legislature declares that the right to beneficial use of
 21 solar energy is a property right, the exercise of which is
 22 to be encouraged and regulated by the laws of this state.
 23 Such property right shall be known as a solar right.

24 Section 4. Creation of right -- beneficial use. (1) A
 25 solar right arises from application of solar energy to a

1 beneficial use. Such beneficial use is the basis, the
 2 measure, and the limit of the solar rights, except as
 3 otherwise provided by written contract. If the amount of
 4 solar energy which a solar collector user can beneficially
 5 use varies with the season of the year, then the extent of
 6 the solar right varies likewise.

7 (2) No solar right may be obtained if the
 8 line-of-sight path from the sun to the solar collector is
 9 less than 10 feet above the land surface at the point where
 10 the path crosses the property boundary.

11 Section 5. Prior appropriation. In disputes involving
 12 solar rights, priority in time is priority in right.
 13 Nothing in this section diminishes in any way the right of
 14 eminent domain of the state or any of its political
 15 subdivisions or any other entity that currently has such a
 16 right.

17 Section 6. Transferability. Solar rights are freely
 18 transferable within the bounds of such regulation as the
 19 legislature may impose. The transfer of a solar right shall
 20 be recorded in accordance with chapter 21 of Title 70.

21 Section 7. Solar permits required. Unless singular
 22 overriding state concerns occur which significantly affect
 23 the health and welfare of the citizens of this state, permit
 24 systems for the use and application of solar energy may be
 25 imposed by local governing bodies.

1 Section 8. Prior rights unaffected. Nothing in [this
 2 act] shall be construed to alter, amend, deny, impair, or
 3 modify any solar right, lease, easement, or contract right
 4 which has vested prior to July 1, 1979.

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