# SENATE BILL NO. 29

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# INTRODUCED BY HAGER

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Judiciary.
February 16, 1981	Committee recommend bill do pass as amended. Report adopted.
February 17, 1981	Bill printed and placed on members' deaks.
February 18, 1931	Second reading, do pass.
February 19, 1981	Correctly engrossed.
February 20, 1981	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.
IN THE HO	USE
February 21, 1981	Introduced and referred to Committee on Judiciary.
March 4, 1981	Committee recommend bill be concurred in as amended. Beport adopted.
March 5, 1981	Motion pass consideration.
March 6, 1981	Second reading, concurred in.
March 10, 1981	Third reading, concurred in. Ayes, 85; Noes, 11.

## IN THE SENATE

March	11,	1981	Returned from House. Concurred in as amended.
March	13,	1981	Second reading, concurred in as amended.
March	14,	1981	Third reading, concurred in as amended. Ayes, 47; Nocs, 0. Sent to enrolling.

Reported correctly enrolled.

LC 0396/01

1	SENATE BILL NO. 29
2	INTRODUCED BY
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT PERSONS WHO
5	ESTABLISH RESIDENCE NEAR AGRICULTURAL OR FARMING OPERATIONS,
6	PLACES, ESTABLISHMENTS, OR FACILITIES THAT HAVE EXISTED FOR
7	1 YEAR OR MORE FROM BRINGING NUISANCE SUITS BASED ON
8	OBJECTION TO THE NORMAL ODORS FROM THE MAINTENANCE OF
9	LIVESTOCK OR THE SPREADING OF MANURE; AMENDING SECTIONS
10	27-30-101 AND 45-8-111, MCA."
11	
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13	Section 1. Section 27-30-101, MCA, is amended to read:
14	"27-30-101. Definition of nuisance. (1) Anything which
15	is injurious to health, indecent or offensive to the senses,
16	or an obstruction to the free use of property, so as to
17	interfere with the comfortable enjoyment of life or
18	property, or which unlawfully obstructs the free passage or

use, in the customary manner, of any navigable lake, river, 17 bay, stream, canal, or basin or any public park, square, 20 21 street, or highway is a nuisance.

(2) Nothing which is done or maintained under the 22 23 express authority of a statute can be deemed a nuisance.

24 13) No agricultural or farming operation. place.

25 establishment. or facility or any of its appurtenances or

1	<u>the operation thereof is or _becomes_a_public_or_private</u>
2	nuisance_bacause_of_the_normal_odors_from_the_maintenance_of
3	<u>livestock or the spreading of manure as a result of changed</u>
4	residential conditions in or around its locality if the
5	agricultural_or_farming_operation.place.establishment.or
6	facility_bas_been_in_operation_for_1_year_or_more_"
7	Section 2. Section 45-8-111, MCA, is amended to read:
8	"45-8-111. Public nuisance. (1) "Public nuisance"
9	means:
10	(a) a condition which endangers safety or health, is
11	offensive to the senses, or obstructs the free use of
12	property so as to interfere with the comfortable enjoyment
13	of life or property by an entire community or neighborhood
14	or by any considerable number of persons;
15	(b) any premises where persons gather for the purpose
16	of engaging in unlawful conduct; or
17	(c) a condition which renders dangerous for passage any
18	public highway or right-of-way or waters used by the public.
19	(2) A person commits the offense of maintaining a
20	public nuisance if he knowingly creates, conducts, or
21	maintains a public nuisance.
22	(3) Any act which affects an entire community or
23	neighborhood or any considerable number of persons (as
24	specified in subsection (1)(a)) is no less a nuisance
25	because the extent of the annoyance or damage inflicted upon
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	5 3 29

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2 14) No agricultural or farming operation, place. 3 establishment. or facility or any of its appurtenances or the operation thereof is or becomes a public nuisance 4 5 because of the normal odors from the maintenance of 6 livestock or the spreading of manure as a result of changed 7 residential conditions in or around its locality if the 8 agricultural or farming operation, place, establishment, or 9 facility has been in operation for 1 year or more. 10 (4)[5] A person convicted of maintaining a public nuisance shall be fined not to exceed \$500 or imprisoned in 11 12 the county jail for a term not to exceed 6 months, or both. 13 Each day of such conduct constitutes a separate offense.\*

-End-

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individuals is unequal.

Approved by Committee مى مەر on Judiciary SENATE BILL NG. 29 INTRODUCED BY HAGER A BILL FOR AN ACT ENTITLED: MAN ACT TO PROHIBIT PERSONS WHO ESTABLISH RESIDENCE OR BUSINESSES NEAR AGRICULTURAL OR FARMING OPERATIONS, PLACES, ESTABLISHMENTS, OR FACILITIES THAT HAVE EXISTED FOR 1 YEAR OR MORE FROM BRINGING NUISANCE 7 SUITS BASED ON OBJECTION TO THE NORMAL ODORS FROM THE

MAINTENANCE OF LIVESTOCK OR THE SPREADING OF MANURE; 9 AMENDING SECTIONS 27-30-101 AND 45-8-111, MCA." 10

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12

Section 1. Section 27-30-101, MCA, is amended to read: 13 #27-30-101. Definition of nuisance. (1) Anything which 14 is injurious to health, indecent or offensive to the senses, 15 or an obstruction to the free use of property, so as to 16 interfere with the comfortable enjoyment of life or 17 property, or which unlawfully obstructs the free passage or 18 19 use, in the customary manner, of any navigable lake, river, 20 bay, stream, canal, or basin or any public park, square, 21 street, or highway is a nuisance.

(2) Nothing which is done or maintained under the 22 express authority of a statute can be deemed a nuisance. 23 24 (3) No agricultural or farming operation, place,

25 establishment; or facility or any of its appurtenances or

1 the operation thereof is or becomes a public or private 2 nuisance because of the normal odors from the maintenance of livestock or the spreading of manure as a result of changed 3 residential OR COMMERCIAL conditions in or around its 4 5 locality if the agricultural or farming operation, place, establishment, or facility has been in operation for 1 year 6 7 or\_more." Section 2. Section 45-8-111, MCA, is amended to read: 8 9 "45-8-111. Public nuisance. (1) "Public nuisance" 10 means: (a) a condition which endangers safety or health, is 11 12 offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment 13 14 of life or property by an entire community or neighborhood 15 or by any considerable number of persons; (b) any premises where persons gather for the purpose 16 17 of engaging in unlawful conduct; or 18 (c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the 19 oublic. 20 21 (2) A person commits the offense of maintaining a

22 public nuisance if he knowingly creates, conducts, or 23 maintains a public nuisance.

(3) Any act which affects an entire community or 24 25 neighborhood or any considerable number of persons (as

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specified in subsection (1)(a)) is no less a nuisance
 because the extent of the annoyance or damage inflicted upon
 individuals is unequal.

(4) No agricultural or farming operation, place, 4 5 establishment, or facility or any of its appurtenances or 6 the operation thereof is or becomes a public nuisance 7 because of the normal odors from the maintenance of 8 livestock or the spreading of manure as a result of changed 9 residential OR COMMERCIAL conditions in or around its 10 locality if the agricultural or farming operation, place, 11 establishment, or facility has been in operation for 1 year 12 or more. (4)(5) A person convicted of maintaining a public 13

15 (1712) \* person convicted of maintaining a public 14 nuisance shall be fined not to exceed \$500 or imprisoned in 15 the county jail for a term not to exceed 6 months, or both. 16 Each day of such conduct constitutes a separate offense."

-End-

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1	SENATE BILL NG. 29	1	the operation thereof is or becomes a public or private
z	INTRODUCED BY HAGER	2	<u>nuisance because of the normal odors from the maintenance of</u>
3		3	<u>livestock or the spreading of manure as a result of changed</u>
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT PERSONS WHO	4	<u>residential OR_COMMERCIAL conditions in or around its</u>
5	ESTABLISH RESIDENCE <u>OR BUSINESSES</u> NEAR AGRICULTURAL OR	5	locality if the agricultural or farming operation, place,
6	FARMING OPERATIONS, PLACES, ESTABLISHMENTS, OR FACILITIES	6	<u>establishment, or facility has been in operation for 1 year</u>
7	THAT HAVE EXISTED FOR I YEAR OR MORE FROM BRINGING NUISANCE	7	or more."
8	SUITS BASED ON OBJECTION TO THE NORMAL ODORS FROM THE	8	Section 2. Section 45-8-111, MCA, is amended to read:
9	MAINTENANCE OF LIVESTOCK OR THE SPREADING OF MANURE;	9	"45-8-111• Public nuisance• (1) "Public nuisance"
10	AMENDING SECTIONS 27-30-101 AND 45-8-111, MCA."	10	means:
11		11	{a} a condition which endangers safety or health, is
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12	offensive to the senses, or obstructs the free use of
13	Section 1. Section 27-30-101, MCA, is amended to read:	13	property so as to interfere with the comfortable enjoyment
14	#27-30-101. Definition of nuisance. (1) Anything which	14	of life or property by an entire community or neighborhood
15	is injurious to health, indecent or offensive to the senses,	15	or by any considerable number of persons;
16	or an obstruction to the free use of property, so as to	16	(b) any premises where persons gather for the purpose
17	interfere with the comfortable enjoyment of life or	17	of engaging in unlawful conduct; or
18	property, or which unlawfully obstructs the free passage or	18	(c) a condition which renders dangerous for passage
19	use, in the customary manner, of any navigable lake, river,	19	any public highway or right-of-way or waters used by the
20	pay, stream, canal, or basin or any public park, square,	20	public.
21	street, or highway is a nuisance.	21	(2) A person commits the offense of maintaining a
22	(2) Nothing which is done or maintained under the	22	public nuisance if he knowingly creates, conducts, or
23	express authority of a statute can be deemed a nuisance.	23	maintains a public nuisance.
24	(3) No agricultural or farming operation, place.	24	(3) Any act which affects an entire community or
25	establishment, or facility or any of its appurtenances or	25	neighborhood or any considerable number of persons (as
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specified in subsection (1)(a)) is no less a nuisance
 because the extent of the annoyance or damage inflicted upon
 individuals is unequal.

(4) No agricultural or farming operation, place, 4 5 establishment, or facility or any of its appurtenances or 6 the operation thereof is or becomes a public nuisance 7 because of the normal odors from the maintenance of 8 livestock or the spreading of manure as a result of changed 9 residential OR COMMERCIAL conditions in or around its 10 locality if the agricultural or farming operation, place, 11 establishment, or facility has been in operation for I year 12 or more.

13 (4)(5) A person convicted of maintaining a public
14 nuisance shall be fined not to exceed \$500 or imprisoned in
15 the county jail for a term not to exceed 6 months, or both.
16 Each day of such conduct constitutes a separate offense.<sup>m</sup>

~End-

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1	SENATE BILL NO. 29	1	<u>establishment, or facility or any of its appurtenances or</u>
2	INTRODUCED BY HAGER	2	the operation thereof is or becomes a public or private
3		3	nuisance_because_of_the_normal_odors=from=the=maintenance=of
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT PERSONS WHO	4	<u>livestock-or-the-spreading-of-manure OPERAIION_IHEREOF</u> as _a
5	ESTABLISH RESIDENCE <u>OR BUSINESSES</u> NEAR <u>EXISTING</u> AGRICULTURAL	5	result of changed residential OR COMMERCIAL conditions in or
6	OR FARMING OPERATIONS, PLACES, ESTABLISHMENTS, OR FACILITIES	6	around its locality if the agricultural or farming
7	<del>THAT-HAVE-EXISTED-FOR-1-VEAR-OR-MORE</del> FROM BRINGING NUISANCE	7	<u>operation, place, establishment, or facility has been in</u>
8	SUITS BASED ON OBJECTION TO THE NORMAL OBORS-FROM-THE	8	operation for-1year-cormore LONGER THAN THE COMPLAINING
9	MAINTENANCEOFLIVESTOCKORTHESPREADINGOFMANURE	9	RESIDENT HAS BEEN IN POSSESSION OR COMMERCIAL ESTABLISHMENT
10	OPERATION_THEREOF; AMENDING SECTIONS 27-30-101 AND 45-8-111,	10	HAS_BEEN_IN_OPERATION."
11	MCA"	11	Section 2. Section 45-8-111. MCA, is amended to read:
12		12	"45-8-111. Public nuisance. (1) "Public nuisance"
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	13	means:
14	Section 1. Section 27-30-101, MCA, is amended to read:	14	(a) a condition which endangers safety or health, is
15	#27-30-101. Definition of nuisance. (1) Anything which	15	offensive to the senses, or obstructs the free use of
16	is injurious to health, indecent or offensive to the senses,	16	property so as to interfere with the comfortable enjoyment
17	or an obstruction to the free use of property, so as to	17	of life or property by an entire community or neighborhood
18	interfere with the comfortable enjoyment of life or	18	or by any considerable number of persons;
19	property, or which unlawfully obstructs the free passage or	19	(b) any premises where persons gather for the purpose
20	use, in the customary manner, of any navigable lake, river,	20	of engaging in unlawful conduct; or
21	bay, stream, canal, or basin or any public park, square,	21	(c) a condition which renders dangerous for passage
22	street, or highway is a nuisance.	22	any public highway or right-of-way or waters used by the
23	(2) Nothing which is done or maintained under the	23	public.
24	express authority of a statute can be deemed a nuisance.	24	(2) A person commits the offense of maintaining a
25	(3) No agricultural or farming operation, place,	25	public nuisance if he knowingly creates, conducts, or
			REFERENCE BILL
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1 maintains a public nuisance.

2 (3) Any act which affects an entire community or
3 neighborhood or any considerable number of persons (as
4 specified in subsection (1)(a) is no less a nuisance
5 because the extent of the annoyance or damage inflicted upon
6 individuals is unequal.

7 (4) No agricultural or farming operation, place, 8 establishment, or facility or any of its appurtenances or 9 the operation thereof is or becomes a public nuisance 10 because of the normal odors--from--the--mointenance---of 11 tivestock-or-the-spreading-of-manure OPERATION THEREOF as a 12 result of changed\_residential OR\_COMMERCIAL conditions in or 13 around its locality if the agricultural or farming 14 operation, place, establishment, or facility has been in 15 operation for-1-year-or-more LONGER THAN THE COMPLAINING RESIDENT HAS BEEN IN POSSESSION OR COMMERCIAL ESTABLISHMENT 16 17 HAS BEEN IN OPERATION.

18 (44)[5] A person convicted of maintaining a public 19 nuisance shall be fined not to exceed \$500 or imprisoned in 200: the county jail for a term not to exceed 6 months, or both. 21 Each day of such conduct constitutes a separate offense."

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BE AMENDED AS FOLLOWS:

l. Title, line 5.
Following: "NEAR"
Insert: "EXISTING"

2. Title, line 7. Following: line 6 Strike: "THAT HAVE EXISTED FOR 1 YEAR OR MORE"

3. Title, lines 8 and 9. Following: "NORMAL" on line 8 Strike: through "MANURE" on line 9 Insert: "OPERATION THEREOF"

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4. Page 2, lines 2 and 3. Following: "normal" on line 2 Strike: through "manure" on line 3 Insert: "operation thereof"

5. Page 2, lines 6 and 7. Following: "operation" on line 6 Strike: through "more" on line 7 Insert: "longer than the complaining resident has been in possession or commercial establishment has been in operation"

6. Page 3, lines 7 and 8.
Following: "normal" on line 7
Strike: through "manure" on line 8
Insert: "operation thereof"

7. Page 3, lines 11 and 12. Following: "operation" on line 11 Strike: through "more" on line 12 Insert: "longer than the complaining resident has been in possession or commercial establishment has been in operation"

Chairman.