

SENATE BILL NO. 29
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' desks.
February 18, 1981	Second reading, do pass.
February 19, 1981	Correctly engrossed.
February 20, 1981	Third reading, passed. Ayes, 48; Noes, 0. Transmitted to House.

IN THE HOUSE

February 21, 1981	Introduced and referred to Committee on Judiciary.
March 4, 1981	Committee recommend bill be concurred in as amended. Report 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; Nays, 0.
Sent to enrolling.

Reported correctly enrolled.

1 SENATE BILL NO. 29
2 INTRODUCED BY HAGER

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 OCCRS 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
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.

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

24 ~~(3) No agricultural or farming operations, places,~~
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~~
3 ~~livestock or the spreading of manure as a result of changed~~
4 ~~residential conditions in or around its locality if the~~
5 ~~agricultural or farming operation, place, establishment, or~~
6 ~~facility has 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

1 individuals is unequal.

2 ~~(4) No agricultural or farming operation, place,~~
3 ~~establishment, or facility or any of its appurtenances or~~
4 ~~the operation thereof is or becomes a public nuisance~~
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
11 nuisance shall be fined not to exceed \$500 or imprisoned in
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-

Approved by Committee
on Judiciary

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Section 1. Section 27-30-101, MCA, is amended to read:

"27-30-101. Definition of nuisance. (1) Anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street, or highway is a nuisance.

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

(3) No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or

the operation thereof is or becomes a public or private nuisance because of the normal odors from the maintenance of livestock or the spreading of manure as a result of changed residential OR COMMERCIAL conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation for 1 year or more."

Section 2. Section 45-8-111, MCA, is amended to read:

"45-8-111. Public nuisance. (1) "Public nuisance" means:

(a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if he knowingly creates, conducts, or maintains a public nuisance.

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

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

4 (4) No agricultural or farming operation, place,
5 establishment, or facility or any of its appurtenances or
6 the operation thereof is or becomes a public nuisance
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8 livestock or the spreading of manure as a result of changed
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11 establishment, or facility has been in operation for 1 year
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use, in the customary manner, of any navigable lake, river,
bay, stream, canal, or basin or any public park, square,
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express authority of a statute can be deemed a nuisance.

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of life or property by an entire community or neighborhood
or by any considerable number of persons;

(b) any premises where persons gather for the purpose
of engaging in unlawful conduct; or

(c) a condition which renders dangerous for passage
any public highway or right-of-way or waters used by the
public.

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public nuisance if he knowingly creates, conducts, or
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neighborhood or any considerable number of persons (as

1 specified in subsection (1)(a)) is no less a nuisance
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(2) Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

(3) No agricultural or farming operation, place,

establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public or private nuisance because of the normal odors from the maintenance of livestock or the spreading of manure OPERATION THEREOF as a result of changed residential OR COMMERCIAL conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation for a year or more LONGER THAN THE COMPLAINING RESIDENT HAS BEEN IN POSSESSION OR COMMERCIAL ESTABLISHMENT HAS BEEN IN OPERATION."

Section 2. Section 45-8-111, MCA, is amended to read:

"45-8-111. Public nuisance. (1) "Public nuisance" means:

(a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

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(2) A person commits the offense of maintaining a public nuisance if he knowingly creates, conducts, or

1 maintains a public nuisance.

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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
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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--maintenance---of
11 livestock--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-i-year-or-more LONGER THAN THE COMPLAINING
16 RESIDENT HAS BEEN IN POSSESSION OR COMMERCIAL ESTABLISHMENT
17 HAS BEEN IN OPERATION.

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

-End-

HOUSE AMENDMENTS TO

Respectfully report as follows: That.....SENATE..... Bill No. 29

BE AMENDED AS FOLLOWS:

- 1. 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"

JUDICIARY COMMITTEE
SENATE BILL 29 - Continued

.....3/3/81..... 19...

- 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"

BE CONCURRED IN AS AMENDED
~~XXX PASS AS AMENDED~~

Kerry Verste
KERRY VERSTE,
Joseph P. Chertney
Chairman.