

Senate Bill 385

In The Senate

February 7, 1981	Introduced and referred to Committee on State Administration.
February 18, 1981	Committee recommend bill do pass as amended.
February 19, 1981	Bill printed and placed on members' desks.
February 20, 1981	Motion pass consideration.
February 21, 1981	Second reading do pass.
February 23, 1981	Correctly engrossed.
February 24, 1981	Third reading passed.

In The House

March 3, 1981	Introduced and referred to Committee on State Administration.
April 23, 1981	Died in Committee.

1 *Senate* BILL NO. *385*
 2 INTRODUCED BY *Boylan Kondruch*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST
 5 DISCLOSURE INITIATIVE NO. 85 TO DELETE THE PROVISION
 6 ALLOWING ENFORCEMENT BY PRIVATE INDIVIDUALS AND TO PROVIDE A
 7 1-YEAR STATUTE OF LIMITATIONS FOR THE PROSECUTION OF CIVIL
 8 SUITS BROUGHT TO ENFORCE THE LOBBYIST DISCLOSURE LAW;
 9 AMENDING SECTION 18 OF THE INITIATIVE."

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

12 Section 1. Section 18 of Initiative 85 is amended to
 13 read:

14 NEW SECTION. Section 18. Civil penalties and
 15 enforcement. (1) Any person who violates any of the
 16 provisions of this chapter shall be subject to civil
 17 penalties of not less than \$250 and not more than \$7,500
 18 according to the discretion of the district court, as court
 19 of original jurisdiction. A lobbyist who violates any of the
 20 provisions of this chapter shall have his/her license
 21 suspended or revoked according to the discretion of the
 22 court. Any public official holding elective office adjudged
 23 in violation of the provisions of this act is additionally
 24 subject to recall under Montana Recall Act, 2-16-601, MCA
 25 et seq., and such violation shall constitute an additional

1 basis for recall to those mentioned in 2-16-603(3), MCA.

2 (2) The attorney general, commissioner, or the county
 3 attorney of the county in which the violation takes place
 4 may bring criminal or civil actions in the name of the state
 5 for any appropriate criminal or civil remedy.

6 (3) If a prosecution is undertaken by the commissioner
 7 or any county attorney, all costs associated with the
 8 prosecution shall be paid by the state of Montana.

9 ~~(4) Any individual who has notified the~~
 10 ~~commissioner, the attorney general, and the appropriate~~
 11 ~~county attorney in writing that there is reason to believe~~
 12 ~~that some portion of this chapter is being violated may~~
 13 ~~himself/herself bring in the name of the state an action~~
 14 ~~(hereinafter referred to as a citizen's action) authorized~~
 15 ~~under this chapter if:~~

16 ~~(i) the attorney general and the appropriate county~~
 17 ~~attorney have failed to commence an action hereunder within~~
 18 ~~40 days after such notice; and~~

19 ~~(ii) said attorneys then fail to commence an action~~
 20 ~~within 10 days after a written notice delivered to them~~
 21 ~~advising them that a citizen's action will be brought if~~
 22 ~~they do not bring an action;~~

23 ~~(b) Each notification shall toll the statute of~~
 24 ~~limitations applicable until the expiration of the waiting~~
 25 ~~period;~~

INTRODUCED BILL
 -2- SB 385

1 ~~(e) If the individual who brings the citizen's action~~
2 ~~prevails, he/she shall be entitled to be reimbursed by the~~
3 ~~state of Montana for costs and attorney's fees incurred.~~
4 ~~Provided that in the case of a citizen's action which is~~
5 ~~dismissed and which the court also finds was brought without~~
6 ~~reasonable cause, the court may order the individual~~
7 ~~commencing the action to pay all costs of trial and~~
8 ~~reasonable attorney's fees incurred by the defendants.~~

9 ~~(5)(4)~~ No civil action may be brought under this
10 section more than ~~seven years~~ 1 year after the occurrence of
11 the facts which give rise to the action.

12 ~~(6)(5)~~ All civil penalties imposed pursuant to this
13 section shall be deposited in the state general fund.

14 ~~(7)(6)~~ A hearing under this chapter shall be held by
15 the court unless the defendant-licensee demands a jury
16 trial. The trial shall be held as soon as possible but at
17 least 20 days after the filing of the charges and shall take
18 precedence over all other matters pending before the court.

19 ~~(8)(7)~~ If the court finds for the plaintiff, judgment
20 shall be rendered revoking or suspending the license and the
21 clerk of court shall file a certified copy of the judgment
22 with the commissioner."

-End-

Approved by Committee
on State Administration

SENATE BILL NO. 385

INTRODUCED BY BOYLAN, KANDUCH

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST DISCLOSURE INITIATIVE NO. 85 TO DELETE THE PROVISION ALLOWING ENFORCEMENT BY PRIVATE INDIVIDUALS AND TO PROVIDE A 1-YEAR STATUTE OF LIMITATIONS FOR THE PROSECUTION OF CIVIL SUITS BROUGHT TO ENFORCE THE LOBBYIST DISCLOSURE LAW; AMENDING SECTION 18 OF THE INITIATIVE."

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

Section 1. Section 18 of Initiative 85 is amended to read:

"NEW SECTION. Section 18. Civil penalties and enforcement. (1) Any person who violates any of the provisions of this chapter shall be subject to civil penalties of not less than \$250 and not more than \$7,500 according to the discretion of the district court, as court of original jurisdiction. A lobbyist who violates any of the provisions of this chapter shall have his/her license suspended or revoked according to the discretion of the court. Any public official holding elective office adjudged in violation of the provisions of this act is additionally subject to recall under Montana Recall Act, 2-16-601, MCA et seq., and such violation shall constitute an additional

basis for recall to those mentioned in 2-16-603(3), MCA.

(2) The attorney general, commissioner, or the county attorney of the county in which the violation takes place may bring criminal or civil actions in the name of the state for any appropriate criminal or civil remedy.

(3) If a prosecution is undertaken by the commissioner or any county attorney, all costs associated with the prosecution shall be paid by the state of Montana.

~~(4) (a) Any individual who has notified the commissioner, the attorney general and the appropriate county attorney in writing that there is reason to believe that some portion of this chapter is being violated may himself/herself bring in the name of the state an action (hereinafter referred to as a citizen's action) authorized under this chapter if~~

~~(i) the attorney general and the appropriate county attorney have failed to commence an action hereunder within 40 days after such notice and~~

~~(ii) said attorneys then fail to commence an action within 10 days after a written notice delivered to them advising them that a citizen's action will be brought if they do not bring an action.~~

~~(b) Each notification shall toll the statute of limitations applicable until the expiration of the waiting period.~~

1 ~~(c) If the individual who brings the citizen's action~~
2 ~~prevails, he/she shall be entitled to be reimbursed by the~~
3 ~~state of Montana for costs and attorney's fees incurred.~~
4 ~~Provided that in the case of a citizen's action which is~~
5 ~~dismissed and which the court also finds was brought without~~
6 ~~reasonable cause, the court may order the individual~~
7 ~~commencing the action to pay all costs of trial and~~
8 ~~reasonable attorney's fees incurred by the defendant.~~

9 (5)(4) No civil action may be brought under this
10 section more than seven years 1 year after the occurrence
11 DISCOVERY of the facts which give rise to the action.

12 (6)(5) All civil penalties imposed pursuant to this
13 section shall be deposited in the state general fund.

14 (7)(6) A hearing under this chapter shall be held by
15 the court unless the defendant-licensee demands a jury
16 trial. The trial shall be held as soon as possible but at
17 least 20 days after the filing of the charges and shall take
18 precedence over all other matters pending before the court.

19 (8)(7) If the court finds for the plaintiff, judgment
20 shall be rendered revoking or suspending the license and the
21 clerk of court shall file a certified copy of the judgment
22 with the commissioner."

-End-

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basis for recall to those mentioned in 2-16-603(3), MCA.

(2) The attorney general, commissioner, or the county attorney of the county in which the violation takes place may bring criminal or civil actions in the name of the state for any appropriate criminal or civil remedy.

(3) If a prosecution is undertaken by the commissioner or any county attorney, all costs associated with the prosecution shall be paid by the state of Montana.

~~(4) Any individual who has notified the commissioner, the attorney general, and the appropriate county attorney in writing that there is reason to believe that some portion of this chapter is being violated may himself/herself bring in the name of the state an action (hereinafter referred to as a citizen's action) authorized under this chapter if:~~

~~(i) the attorney general and the appropriate county attorney have failed to commence an action hereunder within 40 days after such notice; and~~

~~(ii) said attorneys then fail to commence an action within 10 days after a written notice delivered to them advising them that a citizen's action will be brought if they do not bring an action.~~

~~(b) Each notification shall toll the statute of limitations applicable until the expiration of the waiting period.~~

1 ~~{c}--if-the-individual-who-brings-the-citizen's--action~~
2 ~~prevails--he/she--shall-be-entitled-to-be-reimbursed-by-the~~
3 ~~state-of-Montana-for-costs--and--attorney's--fees--incurred~~
4 ~~Provided--that--in--the--case-of-a-citizen's-action-which-is~~
5 ~~dismissed-and-which-the-court-also-finds-was-brought-without~~
6 ~~reasonable--cause--the--court--may--order--the--individual~~
7 ~~commencing--the--action--to--pay--all--costs--of--trial--and~~
8 ~~reasonable-attorney's-fees-incurred-by-the-defendant~~

9 ~~{5}{4}~~ No civil action may be brought under this
10 section more than seven years 1 year after the occurrence
11 DISCOVERY of the facts which give rise to the action.

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13 section shall be deposited in the state general fund.

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15 the court unless the defendant-licensee demands a jury
16 trial. The trial shall be held as soon as possible but at
17 least 20 days after the filing of the charges and shall take
18 precedence over all other matters pending before the court.

19 ~~{8}{7}~~ If the court finds for the plaintiff, judgment
20 shall be rendered revoking or suspending the license and the
21 clerk of court shall file a certified copy of the judgment
22 with the commissioner."

-End-