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.

INTRODUCED BY Boylon Konduck 1 2 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST 5 DISCLOSURE INITIATIVE NG. 85 TO DELETE THE PROVISION 6 ALLOWING ENFORCEMENT BY PRIVATE INCIVIOUALS 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."

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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:

"NEW SECTION. Section 18. Civil penalties 14 and enforcement. (1) Any person who violates any of the 15 provisions of this chapter shall be subject to civil 16 penalties of not less than \$250 and not more than \$7,500 17 18 according to the discretion of the district court, as court 19 of criginal jurisdiction. A lobbyist who violates any of the provisions of this chapter shall have his/her license 20 suspended or revoked according to the discretion of the 21 court. Any public official holding elective office adjudged 22 23 in violation of the provisions of this act is additionally subject to recall under Montana Recall Act, 2-16-601, MCA 24 25 et seg., 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 t41---fa1-Anv----individual----who---has----natified----he 10 commissionery--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 thereinsfter-referred-to-as-a-citizen*s--action}--authorized 15 under-this-chapter-if: 16 ti)--the--sttorney--general--ond-the-appropriate-county 17 attarney-have-failed-to-commence-on-action-hereunder--within 18 40-deys-after-such-noticey-and 19 (ii)-said--attorneys--then--fail--to-commence-an-action 20 within-10-days-efter-a--written--natice--delivered--to--them 21 advising--them--that--a-citizen*s-action-will-be-brought-if 22 they-do-not-bring-on-action+ 23 tb}--Each--notification--shall--toll--the--statute---of 24 limitations--applicable--until-the-expiration-of-the-waiting 25 periody INTRODUCED BILL

-- SB 385

LC 2321/01

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1	{c}If-thc-individual-who-brings-the-citizen*saction
2	prevailsyhe/sheshall-be-entitled-to-be-reimbursed-by-the
3	state-of-Montana-for-costsandattorney*sfeesincurrad+
4	Providedthatinthecase-of-a-citizen*s-action-which-is
5	dismissed-and-which-the-court-aiso-finds-was-brought-without
6	reasonablecauseythecourtmcyordertheindividual
7	commencingtheactiontopayallcostsoftrialand
8	reasonable-attorney^s-fees-incurred-by-the-defendant+
9	{57[4] No civil action may be brought under this
10	section more than seven-years <u>lyear</u> after the occurrence of
11	the facts which give rise to the action.
12	<pre>f67(5) All civil penalties imposed pursuant to this</pre>
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	precadence over all other matters pending before the court.
19	<pre>+0+171 If the court finds for the plaintiff, judgment</pre>
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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Approved by Committee on State Administration

I SENATE BILL NO. 385 basis for recall to those mentioned in 2-16-603(3), MCA. 1 2 INTRODUCED BY BOYLAN, KANDUCH 2 (2) The attorney general, commissioner, or the county 3 3 attorney of the county in which the violation takes place A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST 4 may bring criminal or civil actions in the name of the state 4 5 DISCLOSURE INITIATIVE NO. 85 TO DELETE THE PROVISION 5 for any appropriate criminal or civil remedy. ALLOWING ENFORCEMENT BY PRIVATE INDIVIDUALS AND TO PROVIDE A 6 (3) If a prosecution is undertaken by the commissioner 6 7 1-YEAR STATUTE OF LIMITATIONS FOR THE PROSECUTION OF CIVIL 7 or any county attorney, all costs associated with the 8 SUITS BROUGHT TO ENFORCE THE LOBBYIST DISCLOSURE LAW; prosecution shall be paid by the state of Montana. 8 9 AMENDING SECTION 18 OF THE INITIATIVE." 9 {4}---ta}-Any----individua}---who---hos---notified---the 10 10 commissionery--the--attorney--general--and--the--appropriate BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 11 county--attorney--in-writing-that-there-is-reason-to-believe 12 Section 1. Section 18 of Initiative 85 is amended to 12 that-some-portion-of-this--chapter--is--being--violated--may 13 read: 13 himself/herself--bring--in--the--name-of-the-state-an-action 14 "NEW SECTION. Section 18. Civil penalties and 14 thereinafter-referred-to-as-a-citizen4s--action}--authorized 15 enforcement. (1) Any person who violates any of the 15 under-this-chapter-if+ provisions of this chapter shall be subject to civil 16 16 ti}--the--attorney--general--and-the-appropriate-county penalties of not less than \$250 and not more than \$7,500 17 17 attorney-have-failed-to-commence-an-action-hereunder--within 18 according to the discretion of the district court, as court 18 40-days-after-such-noticev-and 19 of original jurisdiction. A lobbyist who violates any of the 19 fii)-said--attorneys--then--fail--to-commence-an-action 20 provisions of this chapter shall have his/her license 20 within-10-days-after-a--written--notice--delivered--to--them 21 suspended or revoked according to the discretion of the 21 advising--them--that--a--citizen*s-action-will-be-brought-if 22 court. Any public official holding elective office adjudged they-do-not-bring-an-action* 22 23 in violation of the provisions of this act is additionally 23 fbt--Each--notification--shall--toll--the--statute---of 24 subject to recall under Montana Recall Act, 2-16-601, MCA 24 fimitations--applicable--until-the-expiration-of-the-waiting 25 et seq., and such violation shall constitute an additional 25 perioda

-2- SECOND READING

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L tet--if-the-individual-who-brings-the-eitizen*s--action 2 prevoitsy--hershe--shall-be-entitled-to-be-reimbursed-by-the 3 state-of-Montana-for-costs--and--attorney*s--fees--incurred* Frovided--that--in--the--case-of-a-citizenfa-action-which-is 4 5 dismissed-and-which-the-court-also-finds-was-brought-without 6 reasonable--causey--the--court--may--order--the---individual 7 commencing--the--action--to--pay--all--costs--of--trial--and reasonable-attorney#s-fees-incurred-by-the-defendant* 8 9 (5)(4) No civil action may be brought under this 10 section more than seven-years I year after the occurrence DISCOVERY of the facts which give rise to the action. 11 12 (6)(5) All civil penalties imposed pursuant to this 13 section shall be deposited in the state general fund. (7)(6) A hearing under this chapter shall be held by 14 the court unless the defendant-licensee demands a jury 15 trial. The trial shall be held as soon as possible but at 16 least 20 days after the filing of the charges and shall take 17 18 precedence over all other matters pending before the court. +8+(7) If the court finds for the plaintiff, judgment 19 shall be rendered revoking or suspending the license and the 20 clerk of court shall file a certified copy of the judgment 21 22 with the commissioner."

-End-

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1 SENATE BILL NO. 385 2 INTRODUCED BY BOYLAN, KANDUCH 3 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LOBBYIST 4 DISCLOSURE INITIATIVE NO. 85 TO DELETE THE PROVISION 5 ALLOWING ENFORCEMENT BY PRIVATE INDIVIDUALS AND TO PROVIDE A 6 7 1-YEAR STATUTE OF LIMITATIONS FOR THE PROSECUTION OF CIVIL SUITS BROUGHT TO ENFORCE THE LOBBYIST DISCLOSURE LAW; 8 AMENDING SECTION 18 OF THE INITIATIVE." 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 18 of Initiative 85 is amended to 12 13 read: penalties "NEW SECTION. Section 18. Civil and 14 enforcement. (1) Any person who violates any of the 15 provisions of this chapter shall be subject to civil 16 penalties of not less than \$250 and not more than \$7,500 17 according to the discretion of the district court, as court 13 of original jurisdiction. A lobbyist who violates any of the 19 provisions of this chapter shall have his/her license 20 suspended or revoked according to the discretion of the 21 22 court. Any public official holding elective office adjudged in violation of the provisions of this act is additionally 23 subject to recall under Montana Recall Act, 2-16-601, MCA 24 et seq., and such violation shall constitute an additional 25

basis for recall to those mentioned in 2-16-603(3) + MCA+ 1 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. (3) If a prosecution is undertaken by the commissioner 6 7 or any county attorney, all costs associated with the 8 prosecution shall be paid by the state of Montana. 9 +++--+a+-+ny----individual---who---has---notified---the 10 commissioner.--the--attorney--denerat--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 thereinafter-referred-to-as-a-citizen*s--action}--authorized 15 under-this-chapter-if* ti)--the--attorney--general--and-the-appropriate-county 16 17 attorney-have-failed-to-commence-an-action-hereunder--within 18 40-days-after-such-noticey-and 19 tiit-said--attorneys--then--fait--to-commence-an-action 20 within-18-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 tb}--fach--notification--shall--toll--the--statute---of 24 limitations---opplicable--until-the-expiration-of-the-waiting 25 periodu

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SB 385

THIRD READING

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L (c)--if-the-individual-who-brings-the-citizen*s--action 2 prevails,--he/she--shall-be-entitled-to-be-reimbursed-by-the З state-of-Montona-for-costs--and--attorney*s--fees--incurred+ 4 Provided--that--in--the--case-of-a-citizen#9-action-which-is 5 dismissed-and-which-the-court-also-finds-was-brought-without 6 reasonable--couser--the--court--may--order--the---individual commencing--the--action--to--pay--all--costs--of--trial--and 7 8 reasonable-sttorney*s-fees-incurred-by-the-defendant* +5+(4) No civil action may be brought under this 9 10 section more than seven-years <u>lyear</u> after the occurrence DISCOVERY of the facts which give rise to the action. 11 12 (6) 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 the court unless the defendant-licensee demands a jury 15 trial. The trial shall be held as soon as possible but at 16 17 least 20 days after the filing of the charges and shall take precedence over all other matters pending before the court. 18 (8)(7) If the court finds for the plaintiff, judgment 19 shall be rendered revoking or suspending the license and the 20 clerk of court shall file a certified copy of the judgment 21 with the commissioner." 22

-End-

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