

HOUSE BILL NO. 768

Introduced: 02/12/83

Referred to Committee on Judiciary: 02/12/83

Hearing: 2/18/83

Died in Committee

1 House BILL NO. 768  
2 INTRODUCED BY Wacain

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GIVE SURVEYORS THE  
5 RIGHT OF ACCESS ONTO PRIVATE PROPERTY WHEN NECESSARY FOR THE  
6 COMPLETION OF A SURVEY."

7  
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Surveyors -- right of access. (1) Whenever  
10 necessary for the completion of a property or boundary  
11 survey, a registered land surveyor or one or more of his  
12 assistants may enter upon public or private lands in this  
13 state, but they may not enter buildings located on the  
14 property.

15 (2) A surveyor making an entry pursuant to this  
16 section is liable to the landowner for actual damage to  
17 crops or other property. He is not liable for exemplary  
18 damages except when the damages are a result of gross  
19 negligence.

20 (3) Failure of the surveyor to satisfy liabilities  
21 incurred by himself or his employees as provided in  
22 subsection (2) constitutes misconduct in the practice of  
23 land surveying and subjects the surveyor to potential  
24 revocation of his certificate of registration as provided in  
25 37-67-331.

1 (4) A surveyor entering private lands under this  
2 section is considered to be licensed to enter private lands  
3 pursuant to 45-6-201 and is not subject to charges of the  
4 offense of criminal trespass as defined in 45-6-203.

5 (5) If right of entry is denied in violation of this  
6 section, the surveyor, on behalf of himself or his client,  
7 or both, may institute an action in the district court of  
8 the judicial district in which the land is situated for an  
9 injunction to allow entry. In addition to any award pursuant  
10 to Title 27, chapter 19, the surveyor or his client, or  
11 both, are entitled to all costs, including attorney fees,  
12 incurred as a result of obtaining the injunction.

13 Section 2. Codification instruction. Section 1 is  
14 intended to be codified as an integral part of Title 76,  
15 chapter 3.

-End-

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