

SENATE BILL NO. 347

Introduced: 02/03/83

Referred to Committee on Judiciary: 02/03/83

Hearing: 2/16/83

Report: 02/18/83, Do Pass, As Amended

2nd Reading: 02/21/83

3rd Reading: 02/23/83

Transmitted to House: 02/23/83

Referred to Committee on Judiciary: 02/28/83

Hearing: 3/8/83

Died in House Committee.

Senate BILL NO. 347

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT

PRESCRIPTIVE EASEMENT CANNOT BE ACQUIRED BY RECREATIONAL  
USE; AMENDING SECTION 70-19-405, MCA."

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

NEW SECTION. Section 1. Prescriptive easement. (1) *Ellison*

Prescriptive easement means a right to use another's  
property that is acquired by open, notorious, adverse, and  
continuous use for a period of 5 years.

(2) A prescriptive easement cannot be acquired through  
use of or entry upon land or water for recreational  
purposes.

Section 2. Section 70-19-405, MCA, is amended to read:

"70-19-405. Title by prescription. Occupancy Except as  
provided in [section 1], occupancy for the period prescribed  
by this chapter as sufficient to bar an action for the  
recovery of the property confers a title thereto,  
denominated a title by prescription, which is sufficient  
against all."

-End-

INTRODUCED BILL

SR 347

Approved by Committee  
on Judiciary

## SENATE BILL NO. 347

INTRODUCED BY GALT, H. HAMMOND, STORY, MARBUT, CURTISS,  
GRAHAM, ELLISON, KOLSTAD, SHAH, CONOVER, HANSON, ASAY,  
DOHSNER, LEE, MAZUREK, BLISS, HOLLIDAY, SEVERSON,  
LYBECK, KEATING, MCCALLUM, SHIFT, DOVER, HAGER,  
RYAN, HAND, WALLIN, TVEIT, ELLERD

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A  
PRESCRIPTIVE EASEMENT CANNOT BE ACQUIRED BY RECREATIONAL  
USE;" AMENDING SECTION 70-19-405, MCA."

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

~~NEW SECTION~~ Section 1. Prescriptive easement ~~NOT~~  
~~ACQUIRED BY RECREATIONAL USE.~~ ~~{1}--Prescriptive-easement~~  
~~means-a-right-to-use-another's-property-that-is-acquired-by~~  
~~open-notorious-adverse-and-continuous-use-for-a-period-of~~  
~~5-years.~~

~~{2}~~ A prescriptive easement cannot be acquired through  
use of or entry upon land or water for recreational  
purposes.

~~Section 2--Section 70-19-405, MCA, is amended to read:~~  
~~"70-19-405--Title-by-prescription--Occupancy Except~~  
~~as-provided-in-section-13--occupancy--for--the--period~~  
~~prescribed-by-this-chapter-as-sufficient-to-bar--an--action~~  
~~for--the--recovery--of--the-property-confers-a-title-thereto~~

~~1~~ ~~denominated-a-title-by-prescription--which-is-sufficient~~  
~~2~~ ~~against-it."~~

-End-

## SENATE BILL NO. 347

INTRODUCED BY GALT, H. HAMMOND, STORY, MARBUT, CURTISS,  
GRAHAM, ELLISON, KOLSTAD, SHAW, CONOVER, HANSON, ASAY,  
OCHSNER, LEE, MAZUREK, BLISS, HOLLIDAY, SEVERSON,  
LYBECK, KEATING, MCCALLUM, SHIFT, DOVER, HAGER,  
RYAN, HAND, WALLIN, TVEIT, ELLERD

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A  
PRESCRIPTIVE EASEMENT CANNOT BE ACQUIRED BY RECREATIONAL  
USE†-AMENDING-SECTION-70-19-405-MCA."

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

~~NEW-SECTION:~~ Section 1. Prescriptive easement ~~NOT~~  
~~ACQUIRED BY RECREATIONAL USE. (1) Prescriptive easement~~  
~~means a right to use another's property that is acquired by~~  
~~open, notorious, adverse and continuous use for a period of~~  
~~5 years.~~

(2) A prescriptive easement cannot be acquired through  
use of or entry upon land or water for recreational  
purposes.

~~Section 2. Section 70-19-405-MCA, is amended to read:~~  
~~"70-19-405. Title by prescription. Occupancy Except~~  
~~as provided in (section 1) occupancy for the period~~  
~~prescribed by this chapter as sufficient to bar an action~~  
~~for the recovery of the property confers a title thereto~~

~~denominated a title by prescription, which is sufficient~~  
~~against all.~~

-End-