

SENATE BILL NO. 348

Introduced: 02/03/83

Referred to Committee on Judiciary: 02/03/83

Hearing: 2/16/83

Died in Committee.

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BILL NO. 348

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE DEFINITION

OF "NAVIGABLE STREAM"; AMENDING SECTION 85-1-112, MCA."

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

Section 1. Section 85-1-112, MCA, is amended to read:

"85-1-112. Navigable waters. (1) All lakes wholly or

partly within this state which have been meandered and returned as navigable by the surveyors employed by the government of the United States and all lakes which are navigable in fact are hereby declared to be navigable and public waters, and all persons shall have the same rights therein and thereto that they have in and to any other navigable or public waters.

(2) ~~All rivers and streams which have been meandered and returned as navigable by the surveyors employed by the government of the United States and all rivers and streams which are navigable in fact are hereby declared navigable. A stream is navigable if it was navigable in fact on November 8, 1889. A stream was navigable in fact on that date if it was actually used in its ordinary condition as a highway for commerce, trade, and travel in the customary modes of commerce, trade, and travel on water and if the commerce,~~

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~~trade, and travel were successful activities. Periodic use of a stream for the sole purpose of floating logs during high water is not considered use for commerce, trade, or travel. Use of a stream for fishing, floating of aquatic crafts, or any other recreational use, whether or not such activities are conducted by professional guides or outfitters, is not considered use for commerce, trade, or travel and does not make a stream navigable.~~

~~(3) Subsection (2) does not apply to navigability for purposes of determining title."~~

-End-

INTRODUCED BILL

-2-

SK 5/16