

SENATE BILL NO. 349

INTRODUCED BY DOVER, GALT, KOLSTAD, HARRINGTON,  
JACOBSON, WILLIAMS, O'CONNELL, MENAHAN, HARP, ECK,  
IVERSON, HAFFEY, ASAY, QUILICI, DRISCOLL, LYNCH,  
D. BROWN, YARDLEY, MANUEL, TOWE, FULLER, STEPHENS,  
MUELLER, HAND, MARKS, BLAYLOCK

IN THE SENATE

February 3, 1983	Introduced and referred to Committee on Public Health, Welfare and Safety.
February 12, 1983	Committee recommend bill do pass. Report adopted.
February 14, 1983	Bill printed and placed on members' desks.
February 15, 1983	Second reading, do pass.
February 16, 1983	Correctly engrossed.
February 17, 1983	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 1, 1983	Introduced and referred to Committee on Natural Resources.
March 10, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 14, 1983	Second reading, concurred in.
March 15, 1983	Third reading, concurred in.

IN THE SENATE

March 16, 1983

Returned to Senate with  
amendments.

March 17, 1983

Second reading, amendments  
concurred in.

March 18, 1983

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 *Williams* *Senate* BILL NO. *349*  
 2 INTRODUCED BY *Dover* *Fuller* *Harp* *Jackson*  
 3 *O'Connell* *Eck* *Haffey* *Warner* *Care* *Brown*  
 4 *Menahan* *HARP* *Irwin* *Wasson* *Spink* *Stoddard*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE BOARD  
 6 OF HEALTH AND ENVIRONMENTAL SCIENCES TO GRANT AN EXEMPTION  
 7 FROM AIR QUALITY RULES, UNDER CERTAIN CIRCUMSTANCES, FOR A  
 8 PERIOD GREATER THAN 1 YEAR; AMENDING SECTION 75-2-212, MCA; *Fuller*  
 9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." *Blaylock* *Steele* *Muller* *Hand*  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 75-2-212, MCA, is amended to read:  
 12 "75-2-212. Variances -- renewals -- filing fees. (1) A  
 13 person who owns or is in control of a plant, building,  
 14 structure, process, or equipment may apply to the board for  
 15 an exemption or partial exemption from rules governing the  
 16 quality, nature, duration, or extent of emissions of air  
 17 pollutants. The application shall be accompanied by such  
 18 information and data as the board may require. The board may  
 19 grant an exemption or partial exemption if it finds that:  
 20 (a) the emissions occurring or proposed to occur do  
 21 not constitute a danger to public health or safety; and  
 22 (b) compliance with the rules from which exemption is  
 23 sought would produce hardship without equal or greater  
 24 benefits to the public.  
 25 (2) No exemption or partial exemption may be granted

1 pursuant to this section except after public hearing on due  
 2 notice and until the board has considered the relative  
 3 interests of the applicant, other owners or property likely  
 4 to be affected by the emissions, and the general public.  
 5 (3) ~~No exemption or partial exemption may be granted~~  
 6 ~~pursuant to this section for a period to exceed 1 year; but~~  
 7 the 180 exemption or partial exemption may be renewed for  
 8 like periods if no complaint is made to the board because of  
 9 it or if, after the complaint has been made and duly  
 10 considered at a public hearing held by the board on due  
 11 notice, the board finds that renewal is justified. No  
 12 renewal may be granted except on application therefor. An  
 13 application shall be made at least 60 days before the  
 14 expiration of the exemption or partial exemption.  
 15 Immediately before application for renewal the applicant  
 16 shall give public notice of his application in accordance  
 17 with rules of the board. A renewal pursuant to this  
 18 subsection shall be on the same grounds and subject to the  
 19 same limitations and requirements as provided in subsection  
 20 (1).  
 21 (4) An exemption, partial exemption, or renewal  
 22 thereof is not a right of the applicant or holder thereof  
 23 but shall be granted at the discretion of the board.  
 24 However, a person adversely affected by an exemption,  
 25 partial exemption, or renewal granted by the board may

1 obtain judicial review thereof as provided by 75-2-411.

2 (5) Nothing in this section and no exemption, partial  
3 exemption, or renewal granted pursuant to this section may  
4 be construed to prevent or limit the application of the  
5 emergency provisions and procedures of 75-2-402 to a person  
6 or his property.

7 (6) A person who owns or is in control of a plant,  
8 building, structure, process, or equipment (hereinafter  
9 called a facility) who applies to the board for an exemption  
10 or partial exemption or a renewal of an exemption or partial  
11 exemption from a rule governing the quality, nature,  
12 duration, or extent of emissions of air pollutants shall  
13 submit with the application for variance a sum of not less  
14 than \$500 or 2% of the cost of the equipment to bring the  
15 facility into compliance with the rule for which a variance  
16 is sought, whichever is greater, but not to exceed \$80,000.  
17 The department shall prepare a statement of actual costs,  
18 and funds in excess of this shall be returned to the  
19 applicant. The person requesting the variance shall  
20 describe the facility in sufficient detail, with  
21 accompanying estimates of cost and verifying materials, to  
22 permit the department to determine with reasonable accuracy  
23 the sum of the fee. For a renewal of an exemption or partial  
24 exemption, if no public hearing, environmental impact  
25 statement, or appreciable investigation by the department is

1 necessary, the minimum filing fee shall apply or the fee may  
2 be waived by the department. The filing fee shall be  
3 deposited in the earmarked revenue fund provided for in  
4 17-2-102. It is the intent of the legislature that the  
5 revenues derived from the filing fees shall be used by the  
6 department to:

7 (a) compile the information required for rendering a  
8 decision on the request;

9 (b) compile the information necessary for any  
10 environmental impact statements;

11 (c) offset the costs of a public hearing, printing, or  
12 mailing; and

13 (d) carry out its other responsibilities under this  
14 chapter.\*

15 NEW SECTION. Section 2. Effective date. This act is  
16 effective on passage and approval.

-End-

Approved by Committee  
on Public Health, Welfare  
& Safety

1 *Williams* *Senate* BILL NO. *349*  
2 INTRODUCED BY *Dover* *Fuller* *Hall* *Harmon* *Jackson*  
3 *O'Connell* *Eck* *Hall* *Harmon* *Jackson* *Carson*  
4 *Menahan* *HARP* *Harmon* *Jackson* *Carson*  
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE BOARD  
6 OF HEALTH AND ENVIRONMENTAL SCIENCES TO GRANT AN EXEMPTION  
7 FROM AIR QUALITY RULES, UNDER CERTAIN CIRCUMSTANCES, FOR A  
8 PERIOD GREATER THAN 1 YEAR; AMENDING SECTION 75-2-212, MCA;  
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." *Manuel* *Fuller*  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
11 Section 1. Section 75-2-212, MCA, is amended to read:  
12 "75-2-212. Variances -- renewals -- filing fees. (1) A  
13 person who owns or is in control of a plant, building,  
14 structure, process, or equipment may apply to the board for  
15 an exemption or partial exemption from rules governing the  
16 quality, nature, duration, or extent of emissions of air  
17 pollutants. The application shall be accompanied by such  
18 information and data as the board may require. The board may  
19 grant an exemption or partial exemption if it finds that:  
20 (a) the emissions occurring or proposed to occur do  
21 not constitute a danger to public health or safety; and  
22 (b) compliance with the rules from which exemption is  
23 sought would produce hardship without equal or greater  
24 benefits to the public.  
25 (2) No exemption or partial exemption may be granted

1 pursuant to this section except after public hearing on due  
2 notice and until the board has considered the relative  
3 interests of the applicant, other owners or property likely  
4 to be affected by the emissions, and the general public.

5 (3) ~~No exemption or partial exemption may be granted~~  
6 ~~pursuant to this section for a period to exceed 1 year; but~~  
7 the exemption or partial exemption may be renewed for  
8 like periods if no complaint is made to the board because of  
9 it or if, after the complaint has been made and duly  
10 considered at a public hearing held by the board on due  
11 notice, the board finds that renewal is justified. No  
12 renewal may be granted except on application therefor. An  
13 application shall be made at least 60 days before the  
14 expiration of the exemption or partial exemption.  
15 Immediately before application for renewal the applicant  
16 shall give public notice of his application in accordance  
17 with rules of the board. A renewal pursuant to this  
18 subsection shall be on the same grounds and subject to the  
19 same limitations and requirements as provided in subsection  
20 (1).

21 (4) An exemption, partial exemption, or renewal  
22 thereof is not a right of the applicant or holder thereof  
23 but shall be granted at the discretion of the board.  
24 However, a person adversely affected by an exemption,  
25 partial exemption, or renewal granted by the board may

1 obtain judicial review thereof as provided by 75-2-411.

2 (5) Nothing in this section and no exemption, partial  
3 exemption, or renewal granted pursuant to this section may  
4 be construed to prevent or limit the application of the  
5 emergency provisions and procedures of 75-2-402 to a person  
6 or his property.

7 (6) A person who owns or is in control of a plant,  
8 building, structure, process, or equipment (hereinafter  
9 called a facility) who applies to the board for an exemption  
10 or partial exemption or a renewal of an exemption or partial  
11 exemption from a rule governing the quality, nature,  
12 duration, or extent of emissions of air pollutants shall  
13 submit with the application for variance a sum of not less  
14 than \$500 or 2% of the cost of the equipment to bring the  
15 facility into compliance with the rule for which a variance  
16 is sought, whichever is greater, but not to exceed \$80,000.  
17 The department shall prepare a statement of actual costs,  
18 and funds in excess of this shall be returned to the  
19 applicant. The person requesting the variance shall  
20 describe the facility in sufficient detail, with  
21 accompanying estimates of cost and verifying materials, to  
22 permit the department to determine with reasonable accuracy  
23 the sum of the fee. For a renewal of an exemption or partial  
24 exemption, if no public hearing, environmental impact  
25 statement, or appreciable investigation by the department is

1 necessary, the minimum filing fee shall apply or the fee may  
2 be waived by the department. The filing fee shall be  
3 deposited in the earmarked revenue fund provided for in  
4 17-2-102. It is the intent of the legislature that the  
5 revenues derived from the filing fees shall be used by the  
6 department to:

7 (a) compile the information required for rendering a  
8 decision on the request;

9 (b) compile the information necessary for any  
10 environmental impact statements;

11 (c) offset the costs of a public hearing, printing, or  
12 mailing; and

13 (d) carry out its other responsibilities under this  
14 chapter.\*

15 NEW SECTION. Section 2. Effective date. This act is  
16 effective on passage and approval.

-End-

1 *Williams*  
2 INTRODUCED BY *Dover* *W. F. Tuley* *H. H. Jackson*  
3 *O'Connell* *Eck* *Hall* *Snyder* *Jane Brown*  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE BOARD  
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7 PERIOD GREATER THAN 1 YEAR; AMENDING SECTION 75-2-212, MCA;  
8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." *Manuel* *Fullen*  
9 *Blaylock* *Morris* *Muller* *Stevens* *Nand*

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18 information and data as the board may require. The board may  
19 grant an exemption or partial exemption if it finds that:

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21 not constitute a danger to public health or safety; and

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23 sought would produce hardship without equal or greater  
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1 pursuant to this section except after public hearing on due  
2 notice and until the board has considered the relative  
3 interests of the applicant, other owners or property likely  
4 to be affected by the emissions, and the general public.

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7     it or if, after the complaint has been made and duly  
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13    Immediately before application for renewal the applicant  
14    shall give public notice of his application in accordance  
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16    subsection shall be on the same grounds and subject to the  
17    same limitations and requirements as provided in subsection  
18    (1).

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22 thereof is not a right of the applicant or holder thereof  
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11 (c) offset the costs of a public hearing, printing, or  
12 mailing; and  
13 (d) carry out its other responsibilities under this  
14 chapter."  
15 NEW SECTION. Section 2. Effective date. This act is  
16 effective on passage and approval.

-End-



HOUSE OF REPRESENTATIVES  
March 9, 1983

HOUSE NATURAL RESOURCES AMENDMENTS TO SENATE BILL 349, third reading  
copy (blue)

1. Page 2, lines 7 and 8.  
Strike: "for like periods.

AND AS AMENDED  
BE CONCURRED IN

## SENATE BILL NO. 349

INTRODUCED BY DOVER, GALT, KOLSTAD, HARRINGTON,  
JACORSON, WILLIAMS, O'CONNELL, MENAHAN, HARP, ECK,  
IVERSON, HAFEEY, ASAY, QUILICI, ORISCOLL, LYNCH,  
J. BROWN, YARDLEY, MANUEL, TOWE, FULLER, STEPHENS,  
MUELLER, HAND, MARKS, BLAYLOCK

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(a) the emissions occurring or proposed to occur do  
not constitute a danger to public health or safety; and

(b) compliance with the rules from which exemption is  
sought would produce hardship without equal or greater  
benefits to the public.

(2) No exemption or partial exemption may be granted  
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notice and until the board has considered the relative  
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to be affected by the emissions, and the general public.

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shall give public notice of his application in accordance  
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same limitations and requirements as provided in subsection  
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1   thereof is not a right of the applicant or holder thereof  
 2   but shall be granted at the discretion of the board.  
 3   However, a person adversely affected by an exemption,  
 4   partial exemption, or renewal granted by the board may  
 5   obtain judicial review thereof as provided by 75-2-411.

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 7   exemption, or renewal granted pursuant to this section may  
 8   be construed to prevent or limit the application of the  
 9   emergency provisions and procedures of 75-2-402 to a person  
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 17   submit with the application for variance a sum of not less  
 18   than \$500 or 2% of the cost of the equipment to bring the  
 19   facility into compliance with the rule for which a variance  
 20   is sought, whichever is greater, but not to exceed \$80,000.  
 21   The department shall prepare a statement of actual costs,  
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1   permit the department to determine with reasonable accuracy  
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 10   department to:

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 12   decision on the request;

13       (b) compile the information necessary for any  
 14   environmental impact statements;

15       (c) offset the costs of a public hearing, printing, or  
 16   mailing; and

17       (d) carry out its other responsibilities under this  
 18   chapter."

19       ~~NEW SECTION.~~ Section 2. Effective date. This act is  
 20   effective on passage and approval.

-End-