

SENATE BILL NO. 400

INTRODUCED BY B. BROWN

BY REQUEST OF THE GOVERNOR'S OFFICE

IN THE SENATE

|                   |   |
|-------------------|---|
| February 11, 1983 | Introduced and referred to Committee on Natural Resources.      |
| February 18, 1983 | Committee recommend bill do pass. Report adopted.               |
| February 19, 1983 | Bill printed and placed on members' desks.                      |
| February 21, 1983 | Second reading, do pass.  |
| February 22, 1983 | Correctly engrossed.  |
| February 23, 1983 | Third reading, passed. Ayes, 47; Noes, 2. Transmitted to House. |

IN THE HOUSE

|                   |  |
|-------------------|--|
| February 28, 1983 | Introduced and referred to Committee on Natural Resources. |
| March 10, 1983    | Committee recommend bill be concurred in. Report adopted.  |
| March 11, 1983    | Second reading, concurred in.                              |
| March 15, 1983    | Third reading, concurred in.                               |

IN THE SENATE

March 16, 1983

Returned to Senate. Sent  
to enrolling.

Reported correctly  
enrolled.

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 2 INTRODUCED BY *Bob Brown*  
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4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A UNIFORM  
 6 TRANSBOUNDARY POLLUTION RECIPROCAL ACCESS ACT."

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

9 Section 1. Short title. This [act] may be cited as the  
 10 "Uniform Transboundary Pollution Reciprocal Access Act."

11 Section 2. Definitions. As used in this [act], the  
 12 following definitions apply:

13 (1) "Person" means an individual person, corporation,  
 14 business trust, estate, partnership, association, joint  
 15 venture, government in its private or public capacity,  
 16 governmental subdivision or agency, or any other legal  
 17 entity.

18 (2) "Reciprocating jurisdiction" means a state of the  
 19 United States of America, the District of Columbia, the  
 20 Commonwealth of Puerto Rico, a territory or possession of  
 21 the United States, or a province or territory of Canada,  
 22 which has enacted this [act] or provides substantially  
 23 equivalent access to its courts and administrative agencies.

24 Section 3. Forum. An action or other proceeding for  
 25 injury or threatened injury to property or person in a

1 reciprocating jurisdiction caused by pollution originating,  
 2 or that may originate, in this state may be brought in this  
 3 state.

4 Section 4. Right to relief. A person who suffers or is  
 5 threatened with injury to his person or property in a  
 6 reciprocating jurisdiction caused by pollution originating,  
 7 or that may originate, in this state has the same rights to  
 8 relief with respect to the injury or threatened injury and  
 9 may enforce those rights in this state as if the injury or  
 10 threatened injury occurred in this state.

11 Section 5. Applicable law. The law to be applied in an  
 12 action or other proceeding brought pursuant to this [act],  
 13 including what constitutes "pollution", is the law of this  
 14 state, excluding choice of law rules.

15 Section 6. Equality of rights. This [act] does not  
 16 accord a person injured or threatened with injury in another  
 17 jurisdiction any rights superior to those that the person  
 18 would have if injured or threatened with injury in this  
 19 state.

20 Section 7. Right additional to other rights. The right  
 21 provided in this [act] is in addition to and not in  
 22 derogation of any other rights.

23 Section 8. Application of sovereign immunity. The  
 24 defense of sovereign immunity is applicable in any action or  
 25 other proceeding brought pursuant to this [act] only to the

1 extent that it would apply to a person injured or threatened  
2 with injury in this state.

3 Section 9. Uniformity of application and construction.  
4 This [act] shall be applied and construed to carry out its  
5 general purpose to make uniform the law with respect to the  
6 subject of this [act] among jurisdictions enacting it.

-End-

Approved by Committee  
on Natural Resources

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