

HOUSE BILL NO. 17

1/07 Introduced  
1/07 Referred to Judiciary  
1/10 Fiscal Note Requested  
1/17 Fiscal Note Received  
2/14 Hearing  
2/22 Adverse Committee Report  
2/23 On Motion Taken From Adverse Committee  
Report, Referred to 2nd Reading  
3/05 2nd Reading Do Not Pass  
3/06 Bill Killed

1                   HOUSE       BILL NO.    17  
 2 INTRODUCTION BY    MARKS  
 3                   BY REQUEST OF INTERIM SUBCOMMITTEE NO. 2  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE  
 6 REQUIREMENT THAT NOTICE BE POSTED OR OTHERWISE COMMUNICATED  
 7 FOR THE COMMISSION OF THE OFFENSE OF CRIMINAL TRESPASS TO  
 8 LAND; IMPOSING ABSOLUTE LIABILITY FOR CERTAIN CRIMINAL  
 9 TRESPASSES TO LAND; EXPANDING THE AUTHORITY OF WARDENS TO  
 10 ENFORCE THE CRIMINAL MISCHIEF, CRIMINAL TRESPASS, AND LITTER  
 11 LAWS ON PRIVATE LANDS BEING USED FOR RECREATIONAL PURPOSES;  
 12 AMENDING SECTIONS 10-1-612, 45-6-201, 45-6-203, AND  
 13 87-1-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."  
 14

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

16       Section 1. Section 10-1-612, MCA, is amended to read:  
 17       "10-1-612. Arrest of trespassers and disturbers. (1)  
 18 The commanding officer may arrest or authorize the arrest of  
 19 a person who trespasses upon a camp or parade ground,  
 20 armory, arsenal, rifle range, or any other place devoted to  
 21 or used for military purposes.

- 22       (2) The commanding officer may arrest a person who:  
 23       (a) interrupts, molests, or disturbs the orderly  
 24 discharge of duty by those under arms;  
 25       (b) disturbs or prevents the passage of troops going

1 to or returning from any duty; or  
 2       (c) assaults a member of the uniformed militia while  
 3 that member is performing any military duty.

4       (3) A person who is arrested under this section shall  
 5 be transferred to the civil authorities in the county where  
 6 the offense was committed.

7       (4) A person committing an offense for which an arrest  
 8 may be made pursuant to this section is ~~guilty-of-a~~  
 9 ~~misdemeanor punishable as provided in 45-6-203.~~"

10       Section 2. Section 45-6-201, MCA, is amended to read:

11       "45-6-201. Definition of "enter or remain unlawfully".

12 ~~{1} A person enters or remains unlawfully in or upon any~~  
 13 ~~vehicle, occupied structure, or premises when he is not~~  
 14 ~~licensed, invited, or otherwise privileged to do so. A~~  
 15 ~~person--who--enters--or--remains--upon--land--does--so--with~~  
 16 ~~privilege--unless--notice--is--personally--communicated--to--him--by~~  
 17 ~~an--authorized--person--or--unless--such--notice--is--given--by~~  
 18 ~~posting--in--a--conspicuous--manner.~~

19 ~~{2}--in-no-event-shall-civil-liability-be-imposed--upon~~  
 20 ~~the-owner-or-occupier-of-premises-by-reason-of-any-privilege~~  
 21 ~~created-by-this-section."~~

22       Section 3. Section 45-6-203, MCA, is amended to read:

23       "45-6-203. Criminal trespass to property land and  
 24 other premises. (1) (a) A person commits the offense of  
 25 criminal trespass to-property if he knowingly:



1 ~~(a)~~(i) knowingly enters or remains unlawfully in an  
2 ~~occupied--structure~~ or upon the premises, including land, of  
3 another; or

4 ~~(b)~~(ii) enters or remains unlawfully ~~in--or--upon--the~~  
5 premises upon land of another.

6 (b) Absolute liability within the meaning of 45-2-104  
7 is imposed for the conduct described in subsection  
8 (1)(a)(ii).

9 (2) (a) A person convicted of the offense of criminal  
10 trespass to property under subsection (1)(a)(i) shall be  
11 fined not to exceed \$500 or be imprisoned in the county jail  
12 for any term not to exceed 6 months, or both.

13 (b) A person convicted of criminal trespass under  
14 subsection (1)(a)(ii) shall be fined not to exceed \$500.

15 (3) For purposes of this section, "land" has the same  
16 meaning as the definition contained in 70-15-102."

17 Section 4. Section 87-1-504, MCA, is amended to read:

18 "87-1-504. Protection of private property -- wardens  
19 as ex officio fire wardens. (1) It shall be the duty of  
20 wardens (state conservation officers) to enforce the  
21 provisions of 45-6-101, 45-6-203, and 75-10-212(2) on  
22 private lands ~~where public--recreation--is--permitted~~ being  
23 used for recreational purposes and to act as ex officio fire  
24 wardens as provided by 77-5-104.

25 (2) As used in this section, "recreational purposes"

1 has the same meaning as the definition contained in  
2 70-16-301."

3 NEW SECTION. Section 5. Effective date. This act is  
4 effective on passage and approval.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN049-85

Form BD-15

In compliance with a written request received January 10 19 85, there is hereby submitted a Fiscal Note for H.B. 17 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Eliminate the requirement that notice be posted or otherwise communicated for the commission of the offense of criminal trespass to land; imposing absolute liability for certain criminal trespass to land; expanding the authority of wardens to enforce the criminal mischief, criminal trespass, and litter laws on private lands being used for recreational purposes.

ASSUMPTIONS:

1. We estimate the Department of Fish, Wildlife and Parks was involved in 100 trespass cases per year over the past three years.
2. Each case requires approximately three days to respond, investigate, apprehend, and process through the courts.
3. We anticipate the new legislation will result in an increase of trespass cases by 3½ times.
4. The number of cases will increase 5% per year.
5. The bill is passed and signed into law on April 1, 1985.

FISCAL IMPACT:

	<u>FY 1985</u>	<u>FY 1986</u>	<u>FY 1987</u>	<u>Total 85 Biennium</u>	<u>Total 87 Biennium</u>
Expenditures:					
Personal Services	\$ 8,798	\$123,165	\$129,323	\$ 8,798	\$252,488
Operating Expenses	2,993	41,895	43,990	2,993	85,885
Total Cost	\$ 11,791	\$165,060	\$173,313	\$ 11,791	\$338,373
Earmarked Special Revenue Fund	\$ 11,791	\$165,060	\$173,313	\$ 11,791	\$338,373

*David L. Hunter*

BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Jan 16, 1985

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The anticipated increase in enforcement costs will continue into future years.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

The bill does not exclude persons involved in the conduct of official business. Costs to governmental agencies could increase if ownership must be determined through records prior to entering.

Some of the costs associated with enforcement may not relate to persons who purchase licenses. Other sources of revenue for this enforcement may be appropriate because of this.

BY COMMITTEE  
ON JUDICIARY  
RECOMMEND DO NOT PASS  
ON MOTION TAKEN FROM  
ADVERSE COMMITTEE REPORT AND  
PLACED ON SECOND READING

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2   INTRODUCED BY   MARKS  
3                   BY REQUEST OF INTERIM SUBCOMMITTEE NO. 2

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8   LAND; IMPOSING ABSOLUTE LIABILITY FOR CERTAIN CRIMINAL  
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10  ENFORCE THE CRIMINAL MISCHIEF, CRIMINAL TRESPASS, AND LITTER  
11  LAWS ON PRIVATE LANDS BEING USED FOR RECREATIONAL PURPOSES;  
12  AMENDING SECTIONS 10-1-612, 45-6-201, 45-6-203, AND  
13  87-1-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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19   a person who trespasses upon a camp or parade ground,  
20   armory, arsenal, rifle range, or any other place devoted to  
21   or used for military purposes.

22       (2) The commanding officer may arrest a person who:

23       (a) interrupts, molests, or disturbs the orderly  
24   discharge of duty by those under arms;

25       (b) disturbs or prevents the passage of troops going

1   to or returning from any duty; or  
2       (c) assaults a member of the uniformed militia while  
3   that member is performing any military duty.

4       (3) A person who is arrested under this section shall  
5   be transferred to the civil authorities in the county where  
6   the offense was committed.

7       (4) A person committing an offense for which an arrest  
8   may be made pursuant to this section is ~~guilty of a~~  
9   misdemeanor punishable as provided in 45-6-203."

10       Section 2. Section 45-6-201, MCA, is amended to read:

11       "45-6-201. Definition of "enter or remain unlawfully".

12   ~~{1} A person enters or remains unlawfully in or upon any~~  
13   ~~vehicle, occupied structure, or premises when he is not~~  
14   ~~licensed, invited, or otherwise privileged to do so. A~~  
15   ~~person who enters or remains upon land does so with~~  
16   ~~privilege unless notice is personally communicated to him by~~  
17   ~~an authorized person or unless such notice is given by~~  
18   ~~posting in a conspicuous manner.~~

19   ~~{2} In no event shall civil liability be imposed upon~~  
20   ~~the owner or occupier of premises by reason of any privilege~~  
21   ~~created by this section."~~

22       Section 3. Section 45-6-203, MCA, is amended to read:

23       "45-6-203. Criminal trespass to property land and  
24   other premises. (1) (a) A person commits the offense of  
25   criminal trespass to property if he knowingly:



1        ~~ta)(i)~~ knowingly enters or remains unlawfully in an  
2        ~~occupied--structure or upon the premises, including land, of~~  
3        ~~another; or~~

4        ~~tb)(ii)~~ enters or remains unlawfully ~~in--or--upon--the~~  
5        ~~premises upon land~~ of another.

6        (b) Absolute liability within the meaning of 45-2-104  
7        is imposed for the conduct described in subsection  
8        (1)(a)(ii).

9        (2) (a) A person convicted of the offense of criminal  
10        ~~trespass to-property under subsection (1)(a)(i)~~ shall be  
11        fined not to exceed \$500 or be imprisoned in the county jail  
12        for any term not to exceed 6 months, or both.

13        (b) A person convicted of criminal trespass under  
14        subsection (1)(a)(ii) shall be fined not to exceed \$500.

15        (3) For purposes of this section, "land" has the same  
16        meaning as the definition contained in 70-15-102."

17        Section 4. Section 87-1-504, MCA, is amended to read:

18        "87-1-504. Protection of private property -- wardens  
19        as ex officio fire wardens. (1) It shall be the duty of  
20        wardens (state conservation officers) to enforce the  
21        provisions of 45-6-101, 45-6-203, and 75-10-212(2) on  
22        private lands ~~where-public--recreation--is--permitted being~~  
23        used for recreational purposes and to act as ex officio fire  
24        wardens as provided by 77-5-104.

25        (2) As used in this section, "recreational purposes"

1        has the same meaning as the definition contained in  
2        70-16-301."

3        NEW SECTION. Section 5. Effective date. This act is  
4        effective on passage and approval.

-End-