

HOUSE BILL NO. 840

INTRODUCED BY HANSON, E. SMITH, NATHE, ABRAMS, GILBERT

IN THE HOUSE

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| February 15, 1985 | Introduced and referred to Committee on Business and Labor. |
| February 22, 1985 | Committee recommend bill do pass as amended. Report adopted. Bill printed and placed on members' desks. |
| February 25, 1985 | Second reading, do pass. Considered correctly engrossed. |
| February 26, 1985 | Third reading, passed. Transmitted to Senate. |

IN THE SENATE

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| March 4, 1985 | Introduced and referred to Committee on Judiciary. |
| March 22, 1985 | Committee recommend bill be concurred in. Report adopted. |
| March 23, 1985 | Second reading, concurred in. |
| March 26, 1985 | Third reading, concurred in. Ayes, 40; Noes, 10. Returned to House. |

IN THE HOUSE

March 27, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 HOUSE BILL NO. 840
 2 INTRODUCED BY M. Hanson E. Smith NATHL. Adams
 3 Gilbert

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN OIL,
 5 GAS, OR OTHER MINERAL LESSEE MUST REMOVE FROM COUNTY RECORDS
 6 ANY LEASE THAT IS CANCELED OR EXPIRED; PROVIDING A CRIMINAL
 7 PENALTY FOR FAILING TO REMOVE A FORFEITED, CANCELED, OR
 8 EXPIRED LEASE; AMENDING SECTIONS 45-2-311 AND 82-1-201,
 9 MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 82-1-201, MCA, is amended to read:

13 "82-1-201. Release of record upon forfeiture of lease
 14 -- penalty. (1) When any oil, gas, or other mineral lease
 15 heretofore or hereafter executed ~~shall become~~ and recorded
 16 is forfeited, canceled, or expires, it shall be the duty of
 17 the lessee, his successor, or assigns, within 60 days from
 18 the date of the such forfeiture, cancellation, or expiration
 19 of any and all leases, to have such lease or abstract of
 20 such lease released from record in the county where the
 21 leased land is situated without cost to the owner thereof.

22 (2) A lessee who fails to comply with subsection (1)
 23 within 30 days of written notice from the lessor is guilty
 24 of a misdemeanor punishable by a fine of up to \$100."

25 Section 2. Section 45-2-311, MCA, is amended to read:

1 "45-2-311. Criminal responsibility of corporations.
 2 (1) A corporation may be prosecuted for the commission of an
 3 offense if, but only if:

4 (a) the offense is a misdemeanor and is defined by
 5 45-5-204, 45-6-315, 45-6-317, 45-6-318, 45-6-326, 45-6-327,
 6 45-8-113, 45-8-114, 45-8-212, 45-8-214, 82-1-201, or
 7 82-10-104 or by another statute which clearly indicates a
 8 legislative purpose to impose liability on a corporation and
 9 an agent of the corporation performs the conduct which is an
 10 element of the offense while acting within the scope of his
 11 office or employment and in behalf of the corporation,
 12 except that any limitation in the defining statute
 13 concerning the corporation's accountability for certain
 14 agents or under certain circumstances is applicable; or

15 (b) the commission of the offense is authorized,
 16 requested, commanded, or performed by the board of directors
 17 or by a high managerial agent who is acting within the scope
 18 of his employment in behalf of the corporation.

19 (2) A corporation's proof that the high managerial
 20 agent having supervisory responsibility over the conduct
 21 which is the subject matter of the offense exercised due
 22 diligence to prevent the commission of the offense is a
 23 defense to a prosecution for any offense to which subsection
 24 (1)(a) refers, other than an offense for which absolute
 25 liability is imposed. This subsection is inapplicable if the

1 legislative purpose of the statute defining the offense is
2 inconsistent with the provisions of this subsection.

3 (3) For the purposes of this section:

4 (a) "agent" means any director, officer, servant,
5 employee, or other person who is authorized to act in behalf
6 of the corporation;

7 (b) "high managerial agent" means an officer of the
8 corporation or any other agent who has a position of
9 comparable authority for the formulation of corporate policy
10 or the supervision of subordinate employees in a managerial
11 capacity."

-End-

APPROVED BY COMM. ON
BUSINESS & INDUSTRY

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

Section 1. Section 82-1-201, MCA, is amended to read:

"82-1-201. Release of record upon forfeiture of lease -- penalty. (1) When any oil, gas, or other mineral lease heretofore or hereafter executed ~~shall become~~ and recorded ~~is~~ forfeited, canceled, or expires, it shall be the duty of the lessee, his successor, or assigns, within 60 days from the date of the such forfeiture, cancellation, or expiration of any and all leases, to have such lease or abstract of such lease released from record in the county where the leased land is situated without cost to the owner thereof.

(2) A lessee who fails to comply with subsection (1) within 30 days of written notice from the lessor is guilty of a misdemeanor punishable by a fine of up to ~~\$100~~ \$250."

Section 2. Section 45-2-311, MCA, is amended to read:

"45-2-311. Criminal responsibility of corporations.

(1) A corporation may be prosecuted for the commission of an offense if, but only if:

(a) the offense is a misdemeanor and is defined by 45-5-204, 45-6-315, 45-6-317, 45-6-318, 45-6-326, 45-6-327, 45-8-113, 45-8-114, 45-8-212, 45-8-214, 82-1-201, or 82-10-104 or by another statute which clearly indicates a legislative purpose to impose liability on a corporation and an agent of the corporation performs the conduct which is an element of the offense while acting within the scope of his office or employment and in behalf of the corporation, except that any limitation in the defining statute concerning the corporation's accountability for certain agents or under certain circumstances is applicable; or

(b) the commission of the offense is authorized, requested, commanded, or performed by the board of directors or by a high managerial agent who is acting within the scope of his employment in behalf of the corporation.

(2) A corporation's proof that the high managerial agent having supervisory responsibility over the conduct which is the subject matter of the offense exercised due diligence to prevent the commission of the offense is a defense to a prosecution for any offense to which subsection (1)(a) refers, other than an offense for which absolute liability is imposed. This subsection is inapplicable if the

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