

MARCH 30, 1987

THIRD READING, CONCURRED IN.
AYES, 47; NOES, 3.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 7, 1987

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 8, 1987

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

1 House BILL NO. 478 Compton
 2 INTRODUCED BY Thomas W. Meyer
 3 STRATTON
 4 A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING WEED DISTRICTS
 5 IMMUNITY FROM LIABILITY FOR NEGLIGENT ACTS; LIMITING
 6 NONECONOMIC DAMAGES RECOVERABLE FROM A WEED DISTRICT; AND
 7 AMENDING SECTION 27-1-701, MCA."
 8

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

10 NEW SECTION. Section 1. Liability restrictions.

11 (1) A district is immune from liability for negligent acts
12 other than those constituting gross negligence.

13 (2) In cases of gross negligence or willful acts, a
14 district is liable for economic damages within the limits
15 established under 2-9-108. A district is not liable for
16 noneconomic damages in excess of \$10,000.

17 (3) The provisions of 2-9-305 apply to board members,
18 supervisors, and employees of a district.

19 Section 2. Section 27-1-701, MCA, is amended to read:

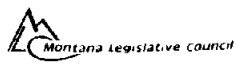
20 "27-1-701. Liability for negligence as well as willful
21 acts. Everyone Except as otherwise provided by law, everyone
22 is responsible not only for the results of his willful acts
23 but also for an injury occasioned to another by his want of
24 ordinary care or skill in the management of his property or
25 person except so far as the latter has willfully or by want

1 of ordinary care brought the injury upon himself."

2 NEW SECTION. Section 3. Codification instruction.
3 Section 1 is intended to be codified as an integral part of
4 Title 7, chapter 22, part 21, and the provisions of Title 7,
5 chapter 22, part 21, apply to section 1.

6 NEW SECTION. Section 4. Two-thirds vote. Because
7 section 1 grants limited immunity from suit for weed
8 districts, a two-thirds vote of the members of each house of
9 the legislature is required for passage under Article II,
10 section 18, of the Montana constitution.

-End-



STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB478, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill would grant weed districts immunity from liability for negligent acts; limit non-economic damages recoverable from a weed district; and amending section 27-1-701, MCA.

FISCAL IMPACT:

There will be no fiscal impact.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

It is estimated that the amount of liability insurance premium paid by weed control districts will decrease.

David L. Hunter DATE 2/2/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Fred Thomas DATE 2-2-87

FRED THOMAS, PRIMARY SPONSOR

Fiscal Note for HB478, as introduced.

HB 478

APPROVED BY COMMITTEE ON JUDICIARY

HOUSE BILL NO. 478

INTRODUCED BY THOMAS, MEYERS, BRANDEWIE, HOFMAN, COMPTON, SWYSGOOD, SEVERSON, BISHOP, HIRSCH, HOLLIDAY, BECK, HARDING, STRATFORD, HAYNE, LYBECK, WEEDING, THAYER, GIACOMETTO, HANSON, DEVLIN, THOFT, MENKE, KELLER, O'CONNELL, GILBERT, DONALDSON, SWIFT, STANG, MANUEL, NATHE, MARKS, SQUIRES, DEMARS, HOFFMAN, POFF, KOEHNKE, PATTERSON

A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING WEED DISTRICTS IMMUNITY FROM LIABILITY FOR NEGLIGENT ACTS; ~~EMITTING NONECONOMIC---DAMAGES---RECOVERABLE--FROM--A--WEED--DISTRICT~~ REQUIRING WEED DISTRICTS TO MAKE INFORMATION ON HERBICIDES AVAILABLE TO THE PUBLIC AND TO PERSONS USING HERBICIDES; AND AMENDING SECTION 27-1-701, MCA; AND PROVIDING APPLICABILITY AND EFFECTIVE DATES."

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

NEW SECTION. Section 1. Liability restrictions.

{1} A district, AS DEFINED IN 7-22-2101, is immune from liability for negligent acts other than those constituting gross negligence.

~~{2}--in--cases--of--gross-negligence-or-willful-acts--a district-is-liable-for-economic-damages--within--the--limits established--under--2-9-100--A--district--is-not-liable-for noneconomic-damages-in-excess-of-\$10,000-~~

{3} The provisions of 2-9-305 apply to board members, supervisors, and employees of a district.

NEW SECTION. SECTION 2. INFORMATION ON HERBICIDE USE. THE DISTRICT MUST PROVIDE INFORMATION ON PROTECTIVE CLOTHING, HEALTH HAZARDS, AND PROPER APPLICATION TECHNIQUES TO MIXERS, LOADERS, AND APPLICATORS OF HERBICIDES AND MAKE THE INFORMATION AVAILABLE FOR REVIEW BY THE PUBLIC AT THE DISTRICT OFFICE.

Section 3. Section 27-1-701, MCA, is amended to read: "27-1-701. Liability for negligence as well as willful acts. Everyone Except as otherwise provided by law, everyone is responsible not only for the results of his willful acts but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person except so far as the latter has willfully or by want of ordinary care brought the injury upon himself."

NEW SECTION. Section 4. Codification instruction. Section-1-is SECTIONS 1 AND 2 ARE intended to be codified as an integral part of Title 7, chapter 22, part 21, and the provisions of Title 7, chapter 22, part 21, apply to section 1 SECTIONS 1 AND 2.

NEW SECTION. Section 5. Two-thirds vote. Because section 1 grants limited immunity from suit for weed districts, a two-thirds vote of the members of each house of the legislature is required for passage under Article II,



1 section 18, of the Montana constitution.

2 NEW SECTION. SECTION 6. EFFECTIVE DATE --

3 APPLICABILITY. THIS ACT IS EFFECTIVE JULY 1, 1987, AND

4 APPLIES TO CLAIMS ACCRUING AFTER JULY 1, 1987.

-End-

HOUSE BILL NO. 478

INTRODUCED BY THOMAS, MEYERS, BRANDEWIE, HOFMAN, COMPTON, SWYSGOOD, SEVERSON, BISHOP, HIRSCH, HOLLIDAY, BECK, HARDING, STRATFORD, HAYNE, LYBECK, WEEDING, THAYER, GIACOMETTO, HANSON, DEVLIN, THOFT, MENKE, KELLER, O'CONNELL, GILBERT, DONALDSON, SWIFT, STANG, MANUEL, NATHE, MARKS, SQUIRES, DEMARS, HOFFMAN, POFF, KOEHNKE, PATTERSON

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{1} A district, AS DEFINED IN 7-22-2101, is immune from liability for negligent acts other than those constituting gross negligence.

{2} ~~In cases of gross negligence or willful acts, a district is liable for economic damages within the limits established under 2-9-100. A district is not liable for noneconomic damages in excess of \$10,000.~~

{3} The provisions of 2-9-305 apply to board members, supervisors, and employees of a district.

NEW SECTION. SECTION 2. INFORMATION ON HERBICIDE USE. THE DISTRICT MUST PROVIDE INFORMATION ON PROTECTIVE CLOTHING, HEALTH HAZARDS, AND PROPER APPLICATION TECHNIQUES TO MIXERS, LOADERS, AND APPLICATORS OF HERBICIDES AND MAKE THE INFORMATION AVAILABLE FOR REVIEW BY THE PUBLIC AT THE DISTRICT OFFICE.

Section 3. Section 27-1-701, MCA, is amended to read: "27-1-701. Liability for negligence as well as willful acts. Everyone Except as otherwise provided by law, everyone is responsible not only for the results of his willful acts but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person except so far as the latter has willfully or by want of ordinary care brought the injury upon himself."

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 STRATFORD, HAYNE, LYBECK, WEEDING, THAYER, GIACOMETTO,
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A BILL FOR AN ACT ENTITLED: "AN ACT GRANTING WEED DISTRICTS
 IMMUNITY FROM LIABILITY FOR NEGLIGENT ACTS IN THE USE OF
HERBICIDES; LIMITING NONECONOMIC DAMAGES RECOVERABLE FROM A
WEED DISTRICT REQUIRING WEED DISTRICTS TO MAKE INFORMATION
ON HERBICIDES AVAILABLE TO THE PUBLIC AND TO PERSONS USING
HERBICIDES; AND AMENDING SECTION 27-1-701, MCA; AND
PROVIDING APPLICABILITY AND EFFECTIVE DATES AND A
TERMINATION DATE."

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

NEW SECTION. Section 1. Liability restrictions.

~~{1}~~ A district, AS DEFINED IN 7-22-2101, is immune from
 liability for negligent acts other than those constituting
LIABLE FOR DAMAGES CAUSED BY ITS USE OF HERBICIDES ONLY FOR
AN ACT OR OMISSION THAT CONSTITUTES gross negligence.

~~{2}~~ In cases of gross negligence or willful acts, a
district is liable for economic damages within the limits

~~established under 2-9-108. A district is not liable for~~
~~noneconomic damages in excess of \$10,000.~~

~~{3}~~ The provisions of 2-9-305 apply to board members,
 supervisors, and employees of a district.

NEW SECTION. SECTION 2. INFORMATION ON HERBICIDE USE.
THE DISTRICT MUST PROVIDE INFORMATION ON PROTECTIVE
CLOTHING, HEALTH HAZARDS, AND PROPER APPLICATION TECHNIQUES
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Section 3. Section 27-1-701, MCA, is amended to read:

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 acts. Everyone Except as otherwise provided by law, everyone
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 but also for an injury occasioned to another by his want of
 ordinary care or skill in the management of his property or
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 section 1 grants limited immunity from suit for weed

1 districts, a two-thirds vote of the members of each house of
2 the legislature is required for passage under Article II,
3 section 18, of the Montana constitution.

4 NEW SECTION. SECTION 6. EFFECTIVE DATE --
5 APPLICABILITY. THIS ACT IS EFFECTIVE JULY 1, 1987, AND
6 APPLIES TO CLAIMS ACCRUING AFTER JULY 1, 1987.

7 NEW SECTION. SECTION 7. TERMINATION. THIS ACT
8 TERMINATES JULY 1, 1991.

-End-

SENATE

ON MOTION, MARCH 27, 1987, HOUSE BILL 478 TAKEN AS AMENDED FROM THE SENATE JUDICIARY COMMITTEE.

1. Title, line 10.

Following: "ACTS"

Insert: "IN THE USE OF HERBICIDES"

2. Title, line 15.

Following: "DATES"

Insert: "AND A TERMINATION DATE"

3. Page 1, lines 19 through 21.

Following: "is" on line 19

Strike: remainder of line 19 through line 20

Following: line 20

Insert: "liable for damages caused by its use of herbicides only for an act or omission that constitutes"

4. Page 3, line 5.

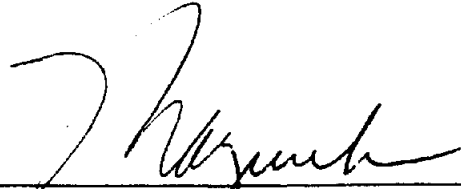
Following: line 4

Insert: "NEW SECTION. Section 7. Termination. This act terminates July 1, 1991."

AMENDMENTS ADOPTED

HELD IN COMMITTEE BY A 5 TO 5 TIE VOTE

KAC



Senator Mazurek