

SB 41 INTRODUCED BY PINSONEAULT
RURAL PUBLIC NUISANCE EXISTS IF THREE AREA
RESIDENTS COMPLAIN AND ARE AFFECTED

1/05	INTRODUCED	
1/05	REFERRED TO JUDICIARY	
1/09	HEARING	
1/14	COMMITTEE REPORT--BILL PASSED AS AMENDED	
1/16	2ND READING PASS MOTION FAILED	17 27
1/16	2ND READING INDEFINITELY POSTPONED	33 13

1 SENATE BILL NO. 41
 2 INTRODUCED BY PINSONEAULT
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC
 5 NUISANCE AFFECTS A CONSIDERABLE NUMBER OF PERSONS IF THREE
 6 RURAL AREA RESIDENTS BRING A PUBLIC NUISANCE COMPLAINT AND
 7 ARE FOUND TO BE AFFECTED BY THE CONDITION COMPLAINED OF; AND
 8 AMENDING SECTION 45-8-111, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. Section 45-8-111, MCA, is amended to read:

12 "45-8-111. Public nuisance. (1) "Public nuisance"
 13 means:

14 (a) a condition which endangers safety or health, is
 15 offensive to the senses, or obstructs the free use of
 16 property so as to interfere with the comfortable enjoyment
 17 of life or property by an entire community or neighborhood
 18 or by any considerable number of persons;

19 (b) any premises where persons gather for the purpose
 20 of engaging in unlawful conduct; or

21 (c) a condition which renders dangerous for passage
 22 any public highway or right-of-way or waters used by the
 23 public.

24 (2) A person commits the offense of maintaining a
 25 public nuisance if he knowingly creates, conducts, or

1 maintains a public nuisance.

2 (3) Any act which affects an entire community or
 3 neighborhood or any considerable number of persons (as
 4 specified in subsection (1)(a)) is no less a nuisance
 5 because the extent of the annoyance or damage inflicted upon
 6 individuals is unequal.

7 (4) In an area outside the limits of a city or town, a
 8 public nuisance affects a considerable number of persons, as
 9 that term is used in subsection (1)(a), if a common
 10 complaint is made by at least one occupant in each of three
 11 residences in the area and at least three complainants are
 12 found to be affected by the condition complained of. Each
 13 complainant must have lived in the residence for at least 10
 14 of the past 12 months and used it as his mailing address
 15 during that period. A county attorney need not take further
 16 action on a complaint he decides was made for harassment
 17 purposes or any purpose other than a common interest in
 18 abating a nuisance.

19 ~~(4)~~(5) No agricultural or farming operation, place,
 20 establishment, or facility or any of its appurtenances or
 21 the operation thereof is or becomes a public nuisance
 22 because of the normal operation thereof as a result of
 23 changed residential or commercial conditions in or around
 24 its locality if the agricultural or farming operation,
 25 place, establishment, or facility has been in operation



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1 longer than the complaining resident has been in possession
2 or commercial establishment has been in operation.

3 ~~(5)~~(6) A person convicted of maintaining a public
4 nuisance shall be fined not to exceed \$500 or imprisoned in
5 the county jail for a term not to exceed 6 months, or both.
6 Each day of such conduct constitutes a separate offense."

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

SENATE BILL NO. 41

INTRODUCED BY PINSONEAULT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PUBLIC NUISANCE AFFECTS A CONSIDERABLE NUMBER OF PERSONS IF THREE RURAL AREA RESIDENTS BRING A PUBLIC NUISANCE COMPLAINT AND ARE FOUND TO BE AFFECTED BY THE CONDITION COMPLAINED OF; AND AMENDING SECTION 45-8-111, MCA."

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

Section 1. Section 45-8-111, MCA, is amended to read:

"45-8-111. Public nuisance. (1) "Public nuisance" means:

(a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if he knowingly creates, conducts, or

maintains a public nuisance.

(3) Any act which affects an entire community or neighborhood or any considerable number of persons (as specified in subsection (1)(a)) is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

~~(4) In an area outside the limits of a city or town, a public-nuisance CONDITION affects a considerable number of persons, as that term is used in subsection (1)(a), if a common complaint is made by at least one occupant in each of three residences in the area and at least three complainants are found to be affected by the condition ~~complained-of-~~ Each-complainant-must-have-lived-in-the-residence-for-at least-10-of-the-past-12-months-and-used-it-as-his-mailing address-during-that-period-A-county-attorney-need-not-take further-action-on-a-complaint-he-decides-was-made-for harassment-purposes-or-any-purpose-other-than-a-common interest-in-abating-a-nuisance.~~

~~(4)(5) No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation~~

1 longer than the complaining resident has been in possession
2 or commercial establishment has been in operation.

3 †5†(5) A person convicted of maintaining a public
4 nuisance shall be fined not to exceed \$500 or imprisoned in
5 the county jail for a term not to exceed 6 months, or both.
6 Each day of such conduct constitutes a separate offense."

-End-