

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

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

3 ~~57(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 JUDICIARY1 SENATE BILL NO. 41
2 INTRODUCED BY PINSONEAULT

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11 three residences in the area and at least three complainants
12 are found to be affected by the condition complained-of.
13 Each--complainant--must--have--lived-in-the-residence-for-at
14 least-10-of-the-past-12-months-and-used-it--as--his--mailing
15 address--during-that-period--A-county-attorney-need-not-take
16 further-action-on--a--complaint--he--decides--was--made--for
17 harassment--purposes--or--any--purpose--other--than-a-common
18 interest-in-abating-a-nuisance.

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