

HOUSE BILL NO. 69

INTRODUCED BY DEBRUYCKER, JENKINS,
PATTERSON, KELLER, STRIZICH, DEMARS

IN THE HOUSE

JANUARY 4, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 5, 1989	FIRST READING.
JANUARY 30, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 31, 1989	PRINTING REPORT.
FEBRUARY 1, 1989	SECOND READING, DO PASS.
FEBRUARY 2, 1989	ENGROSSING REPORT.
FEBRUARY 3, 1989	THIRD READING, PASSED. AYES, 97; NOES, 3.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 4, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK & IRRIGATION. FIRST READING.
MARCH 9, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 10, 1989	SECOND READING, CONCURRED IN.
MARCH 13, 1989	THIRD READING, CONCURRED IN. AYES, 42; NOES, 0.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 15, 1989

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS
CONCURRED IN.

MARCH 16, 1989

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Anuse BILL NO. 69
2 INTRODUCED BY [Signature]
3 [Signature]
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE
5 DEPARTMENT OF STATE LANDS TO CANCEL A LEASE OF STATE LAND
6 AND THE PREFERENCE RIGHT FOR FURTHER LEASING OF STATE LAND
7 OF ANY LESSEE CONVICTED OF A FELONY OFFENSE INVOLVING
8 DANGEROUS DRUGS AND INVOLVING THE USE OF ANY PORTION OF HIS
9 PROPERTY, INCLUDING PRIVATE LAND OR LAND LEASED FROM THE
10 STATE; AMENDING SECTIONS 77-6-210 AND 77-6-212, MCA; AND
11 PROVIDING AN APPLICABILITY DATE."
12

13 WHEREAS, the drug problem in Montana is growing and
14 every effort should be made to curb drug traffic in the
15 state; and

16 WHEREAS, rural areas in Montana are prime drug
17 cultivation and processing areas for marijuana, hashish, and
18 related products; and

19 WHEREAS, both privately deeded land and land leased
20 from the state that are under the control of one manager,
21 operator, or family should be considered a unit.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 NEW SECTION. Section 1. Definition. As used in this
25 part, "unit" means privately deeded land and land leased

1 from the state that is under the control of one operator,
2 manager, or family.

3 **Section 2.** Section 77-6-210, MCA, is amended to read:

4 "77-6-210. Cancellation of leases. (1) The department
5 may cancel a lease for any of the following causes:

6 (a) fraud, misrepresentation, or concealment of facts
7 relating to its issue, which if known would have prevented
8 its issue in the form or to the party issued;

9 (b) subleasing state land contrary to the provisions
10 of 77-6-212;

11 (c) using the land for other purposes than those
12 authorized by the lease; and

13 (d) conviction of the lessee for a felony offense
14 involving a dangerous drug, as defined in Title 50, chapter
15 32, and involving the planting, propagating, cultivating,
16 growing, harvesting, manufacturing, compounding, converting,
17 producing, processing, preparing, testing, analyzing,
18 packaging, repackaging, storing, or concealing of a
19 dangerous drug on any portion of the unit;

20 (d)(e) for any other cause which in the judgment of
21 the department makes the cancellation of the lease necessary
22 in order to do justice to all parties concerned and to
23 protect the interests of the state.

24 (2) Cancellation of a lease under this section does
25 not entitle the lessee to any refund of rentals paid or

1 exemption from the payment of any rentals, penalties, or
2 other compensation due the state."

3 **Section 3.** Section 77-6-212, MCA, is amended to read:

4 "77-6-212. Loss of preference right -- cancellation of
5 lease -- subleasing -- pasturing agreements. (1) Except as
6 provided in subsections (3) and (4), a lessee of state land
7 classed as agricultural or grazing land may not exercise the
8 preference right provided in 77-6-205 if he subleases the
9 land for more than 2 years in the term of the lease.

10 (2) The department shall cancel a lease of state
11 agricultural or grazing land if the lessee subleases the
12 land for more than 3 years during the term of the lease,
13 unless the sublease is made between members of a family as
14 provided in subsection (3).

15 (3) A lessee under subsection (1) or (2) may sublease
16 the land for a period of not more than 5 years without
17 losing the preference right or the lease to state land if,
18 during the term of the lease, the land is subleased only to
19 a spouse, son, daughter, adopted child, or sibling of the
20 lessee.

21 (4) The lessee does not lose the preference right or
22 right to lease because of subleasing as provided under this
23 section if:

24 (a) the sublease is one-third or less acres of the
25 lease; or

1 (b) the sublease is considered to be a pasturing
2 agreement and is approved in writing by the department prior
3 to the initiation of the agreement.

4 (5) For purposes of this section, a sublease may not
5 be considered a pasturing agreement unless the lessee
6 personally retains management and physical control of the
7 land and livestock. "Management" means but is not limited
8 to:

9 (a) providing all costs for improvements, land
10 maintenance, and range renovation, if range renovation is
11 approved by the department;

12 (b) making all decisions regarding rotation or other
13 placement of livestock on state land;

14 (c) making all decisions regarding turn-in and
15 turn-out dates of the livestock on state land; and

16 (d) making all decisions regarding proper range
17 management, including placement of water, fencing, and salt.

18 (6) A lessee of state land classified as agricultural
19 or grazing land shall lose the preference right provided in
20 77-6-205 upon conviction of a felony offense involving a
21 dangerous drug, as defined in Title 50, chapter 32, and
22 involving the planting, propagating, cultivating, growing,
23 harvesting, manufacturing, compounding, converting,
24 producing, processing, preparing, testing, analyzing,
25 packaging, repackaging, storing, or concealing of a

1 dangerous drug on any portion of the unit."

2 NEW SECTION. Section 4. Codification instruction.

3 [Section 1] is intended to be codified as an integral part
4 of Title 77, chapter 6, part 2, and the provisions of Title
5 77, chapter 6, part 2, apply to [section 1].

6 NEW SECTION. Section 5. Applicability. [This act]
7 applies to state leases entered into on or after [the
8 effective date of this act].

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 69

INTRODUCED BY DEBRUYCKER, JENKINS,
PATTERSON, KELLER, STRIZICH, DEMARS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE DEPARTMENT OF STATE LANDS TO CANCEL A LEASE OF STATE LAND AND THE PREFERENCE RIGHT FOR FURTHER LEASING OF STATE LAND OF ANY LESSEE CONVICTED OF A FELONY OFFENSE INVOLVING DANGEROUS DRUGS AND INVOLVING THE USE OF ANY PORTION OF HIS PROPERTY, INCLUDING PRIVATE LAND OR LAND LEASED FROM THE STATE; AMENDING SECTIONS 77-6-210 AND 77-6-212, MCA; AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, the drug problem in Montana is growing and every effort should be made to curb drug traffic in the state; and

WHEREAS, rural areas in Montana are prime drug cultivation and processing areas for marijuana, hashish, and related products; and

WHEREAS, both privately deeded land and land leased from the state that are under the control of one manager, operator, or family should be considered a unit.

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

NEW SECTION. Section 1. Definition. As used in this

part, "unit" means privately deeded land and, OR land leased from the state, OR A COMBINATION OF THE TWO, that is under the control of one operator, manager, or family.

Section 2. Section 77-6-210, MCA, is amended to read:

"77-6-210. Cancellation of leases. (1) The department may cancel a lease for any of the following causes:

(a) fraud, misrepresentation, or concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued;

(b) subleasing state land contrary to the provisions of 77-6-212;

(c) using the land for other purposes than those authorized by the lease; and

(d) conviction of the lessee for a felony offense involving a dangerous drug, as defined in Title 50, chapter 32, and involving the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, or concealing of a dangerous drug on any portion of the unit;

(d)(e) for any other cause which in the judgment of the department makes the cancellation of the lease necessary in order to do justice to all parties concerned and to protect the interests of the state.

(2) Cancellation of a lease under this section does

not entitle the lessee to any refund of rentals paid or exemption from the payment of any rentals, penalties, or other compensation due the state."

Section 3. Section 77-6-212, MCA, is amended to read:

"77-6-212. Loss of preference right -- cancellation of lease -- subleasing -- pasturing agreements. (1) Except as provided in subsections (3) and (4), a lessee of state land classed as agricultural or grazing land may not exercise the preference right provided in 77-6-205 if he subleases the land for more than 2 years in the term of the lease.

(2) The department shall cancel a lease of state agricultural or grazing land if the lessee subleases the land for more than 3 years during the term of the lease, unless the sublease is made between members of a family as provided in subsection (3).

(3) A lessee under subsection (1) or (2) may sublease the land for a period of not more than 5 years without losing the preference right or the lease to state land if, during the term of the lease, the land is subleased only to a spouse, son, daughter, adopted child, or sibling of the lessee.

(4) The lessee does not lose the preference right or right to lease because of subleasing as provided under this section if:

(a) the sublease is one-third or less acres of the

lease; or

(b) the sublease is considered to be a pasturing agreement and is approved in writing by the department prior to the initiation of the agreement.

(5) For purposes of this section, a sublease may not be considered a pasturing agreement unless the lessee personally retains management and physical control of the land and livestock. "Management" means but is not limited to:

(a) providing all costs for improvements, land maintenance, and range renovation, if range renovation is approved by the department;

(b) making all decisions regarding rotation or other placement of livestock on state land;

(c) making all decisions regarding turn-in and turn-out dates of the livestock on state land; and

(d) making all decisions regarding proper range management, including placement of water, fencing, and salt.

(6) A lessee of state land classified as agricultural or grazing land shall lose the preference right provided in 77-6-205 upon conviction of a felony offense involving a dangerous drug, as defined in Title 50, chapter 32, and involving the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing,

1 packaging, repackaging, storing, or concealing of a
2 dangerous drug on any portion of the unit."

3 NEW SECTION. Section 4. Codification instruction.
4 [Section 1] is intended to be codified as an integral part
5 of Title 77, chapter 6, part 2, and the provisions of Title
6 77, chapter 6, part 2, apply to [section 1].

7 NEW SECTION. Section 5. Applicability. [This act]
8 applies to state leases entered into on or after [the
9 effective date of this act].

-End-

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10 PROPERTY, INCLUDING PRIVATE LAND OR LAND LEASED FROM THE
11 STATE; AMENDING SECTIONS 77-6-210 AND 77-6-212, MCA; AND
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18 cultivation and processing areas for marijuana, hashish, and
19 related products; and

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21 from the state that are under the control of one manager,
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8 relating to its issue, which if known would have prevented
9 its issue in the form or to the party issued;

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11 of 77-6-212;

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13 authorized by the lease; and

14 (d) conviction of the lessee for a felony offense
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16 32, and involving the planting, propagating, cultivating,
17 growing, harvesting, manufacturing, compounding, converting,
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22 the department makes the cancellation of the lease necessary
23 in order to do justice to all parties concerned and to
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1 not entitle the lessee to any refund of rentals paid or
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9 preference right provided in 77-6-205 if he subleases the
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24 section if:

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6 be considered a pasturing agreement unless the lessee
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7 NEW SECTION. Section 5. Applicability. [This act]
8 applies to state leases entered into on or after [the
9 effective date of this act].

-End-

SENATE STANDING COMMITTEE REPORT

March 9, 1989

MR. PRESIDENT:

We, your committee on Agriculture, Livestock, and Irrigation, having had under consideration HB 69 (third reading copy -- blue), respectfully report that HB 69 be amended and as so amended be concurred in:

Sponsor: DeBruycker (Jenkins)

1. Title, line 8.

Strike: "ANY LESSEE"

Insert: "CERTAIN LESSEES"

2. Title, line 9.

Strike: "HIS"

Insert: "THEIR"

3. Page 2, line 20.

Following: "unit."

Insert: " however, when a state land lease is held by an association, company, or corporation, conviction of a member of the association, company, or corporation under this subsection does not result in cancellation of the lease unless it appears that the operator, manager, or family in control of the association, company, or corporation is a consenting party or privy to a violation of this subsection;"

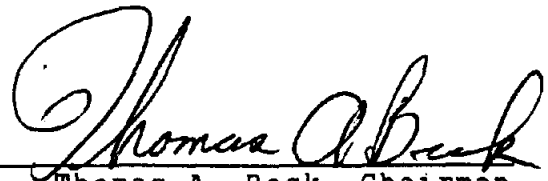
4. Page 5, line 2.

Following: "unit."

Insert: "When a state land lease is held by an association, company, or corporation, conviction of a member of the association, company, or corporation under this subsection does not result in loss of lease preference unless it appears that the operator, manager, or family in control of the association, company, or corporation is a consenting party or privy to a violation of this subsection."

BE CONCURRED IN AS AMENDED

Signed: _____


Thomas A. Beck, Chairman

SENATE

HOUSE BILL NO. 69

INTRODUCED BY DEBRUYCKER, JENKINS,
PATTERSON, KELLER, STRIZICH, DEMARS

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INVOLVING DANGEROUS DRUGS AND INVOLVING THE USE OF ANY
PORTION OF HIS THEIR PROPERTY, INCLUDING PRIVATE LAND OR
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"77-6-210. Cancellation of leases. (1) The department
may cancel a lease for any of the following causes:

(a) fraud, misrepresentation, or concealment of facts
relating to its issue, which if known would have prevented
its issue in the form or to the party issued;

(b) subleasing state land contrary to the provisions
of 77-6-212;

(c) using the land for other purposes than those
authorized by the lease; and

(d) conviction of the lessee for a felony offense
involving a dangerous drug, as defined in Title 50, chapter
32, and involving the planting, propagating, cultivating,
growing, harvesting, manufacturing, compounding, converting,
producing, processing, preparing, testing, analyzing,
packaging, repackaging, storing, or concealing of a
dangerous drug on any portion of the unit; HOWEVER, WHEN A
STATE LAND LEASE IS HELD BY AN ASSOCIATION, COMPANY, OR
CORPORATION, CONVICTION OF A MEMBER OF THE ASSOCIATION,
COMPANY, OR CORPORATION UNDER THIS SUBSECTION DOES NOT
RESULT IN CANCELLATION OF THE LEASE UNLESS IT APPEARS THAT
THE OPERATOR, MANAGER, OR FAMILY IN CONTROL OF THE

ASSOCIATION, COMPANY, OR CORPORATION IS A CONSENTING PARTY
OR PRIVY TO A VIOLATION OF THIS SUBSECTION;

(d)(e) for any other cause which in the judgment of the department makes the cancellation of the lease necessary in order to do justice to all parties concerned and to protect the interests of the state.

(2) Cancellation of a lease under this section does not entitle the lessee to any refund of rentals paid or exemption from the payment of any rentals, penalties, or other compensation due the state."

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(2) The department shall cancel a lease of state agricultural or grazing land if the lessee subleases the land for more than 3 years during the term of the lease, unless the sublease is made between members of a family as provided in subsection (3).

(3) A lessee under subsection (1) or (2) may sublease the land for a period of not more than 5 years without losing the preference right or the lease to state land if,

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(5) For purposes of this section, a sublease may not be considered a pasturing agreement unless the lessee personally retains management and physical control of the land and livestock. "Management" means but is not limited to:

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2 or grazing land shall lose the preference right provided in
3 77-6-205 upon conviction of a felony offense involving a
4 dangerous drug, as defined in Title 50, chapter 32, and
5 involving the planting, propagating, cultivating, growing,
6 harvesting, manufacturing, compounding, converting,
7 producing, processing, preparing, testing, analyzing,
8 packaging, repackaging, storing, or concealing of a
9 dangerous drug on any portion of the unit. WHEN A STATE LAND
10 LEASE IS HELD BY AN ASSOCIATION, COMPANY, OR CORPORATION,
11 CONVICTION OF A MEMBER OF THE ASSOCIATION, COMPANY, OR
12 CORPORATION UNDER THIS SUBSECTION DOES NOT RESULT IN LOSS OF
13 LEASE PREFERENCE UNLESS IT APPEARS THAT THE OPERATOR,
14 MANAGER, OR FAMILY IN CONTROL OF THE ASSOCIATION, COMPANY,
15 OR CORPORATION IS A CONSENTING PARTY OR PRIVY TO A VIOLATION
16 OF THIS SUBSECTION."

17 NEW SECTION. Section 4. Codification instruction.
18 [Section 1] is intended to be codified as an integral part
19 of Title 77, chapter 6, part 2, and the provisions of Title
20 77, chapter 6, part 2, apply to [section 1].

21 NEW SECTION. Section 5. Applicability. [This act]
22 applies to state leases entered into on or after [the
23 effective date of this act].

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