

HOUSE BILL 241

Introduced by Harper

1/17	Introduced
1/18	Referred to Natural Resources
2/17	Hearing
2/17	Tabled in Committee

House BILL NO. 241

1 INTRODUCED BY Hayes

2 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A MINER USING  
5 MINERAL PROCESSING REAGENTS TO OBTAIN AN OPERATING PERMIT  
6 FROM THE DEPARTMENT OF STATE LANDS AND TO COMPLY WITH METAL  
7 MINE RECLAMATION REQUIREMENTS; DEFINING "MINERAL PROCESSING  
8 REAGENT"; AND AMENDING SECTIONS 82-4-303, 82-4-305, AND  
9 82-4-335, MCA."

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

12 Section 1. Section 82-4-303, MCA, is amended to read:

13 "82-4-303. Definitions. As used in this part, unless  
14 the context indicates otherwise, the following definitions  
15 apply:

16 (1) "Abandonment of surface or underground mining" may  
17 be presumed when it is shown that continued operation will  
18 not resume.

19 (2) "Board" means the board of land commissioners or  
20 such state employee or state agency as may succeed to its  
21 powers and duties under this part.

22 (3) "Department" means the department of state lands.

23 (4) "Disturbed land" means that area of land or  
24 surface water disturbed, beginning at the date of the

25  
1 issuance of the permit, and it comprises that area from  
2 which the overburden, tailings, waste materials, or minerals  
3 have been removed and tailings ponds, waste dumps, roads,  
4 conveyor systems, leach dumps, and all similar excavations  
5 or covering resulting from the operation and which have not  
6 been previously reclaimed under the reclamation plan.

7 (5) "Exploration" means all activities conducted on or  
8 beneath the surface of lands resulting in material  
9 disturbance of the surface for the purpose of determining  
10 the presence, location, extent, depth, grade, and economic  
11 viability of mineralization in those lands, if any, other  
12 than mining for production and economic exploitation, as  
13 well as all roads made for the purpose of facilitating  
14 exploration, except as noted in 82-4-305 and 82-4-310.

15 (6) "Mineral" means any ore, rock, or substance, other  
16 than oil, gas, bentonite, clay, coal, sand, gravel,  
17 phosphate rock, or uranium, taken from below the surface or  
18 from the surface of the earth for the purpose of milling,  
19 concentration, refinement, smelting, manufacturing, or other  
20 subsequent use or processing or for stockpiling for future  
21 use, refinement, or smelting.

22 (7) "Mineral processing reagent" means a chemical  
23 reagent used in leaching operations, including but not  
24 limited to cyanide compounds, acids, and thiourea.

25 (7)(8) "Mining" commences at such time as the operator

1 first mines ores or minerals in commercial quantities for  
 2 sale, beneficiation, refining, or other processing or  
 3 disposition or first takes bulk samples for metallurgical  
 4 testing in excess of aggregate of 10,000 short tons.

5 t8}(9) "Ore processing" means milling, heap leaching,  
 6 flotation, vat leaching, or other standard hard-rock mineral  
 7 concentration processes.

8 t9}(10) "Person" means any person, corporation, firm,  
 9 association, partnership, or other legal entity engaged in  
 10 exploration for or mining of minerals on or below the  
 11 surface of the earth, reprocessing of tailings or waste  
 12 materials, or operation of a hard-rock mill.

13 t10}(11) "Reclamation plan" means the operator's  
 14 written proposal, as required and approved by the board, for  
 15 reclamation of the land that will be disturbed, which  
 16 proposal shall include, to the extent practical at the time  
 17 of application for an operating permit:

18 (a) a statement of the proposed subsequent use of the  
 19 land after reclamation;

20 (b) plans for surface gradient restoration to a  
 21 surface suitable for the proposed subsequent use of the land  
 22 after reclamation is completed and the proposed method of  
 23 accomplishment;

24 (c) the manner and type of revegetation or other  
 25 surface treatment of disturbed areas;

1 (d) procedures proposed to avoid foreseeable  
 2 situations of public nuisance, endangerment of public  
 3 safety, damage to human life or property, or unnecessary  
 4 damage to flora and fauna in or adjacent to the area;  
 5 (e) the method of disposal of mining debris;  
 6 (f) the method of diverting surface waters around the  
 7 disturbed areas where necessary to prevent pollution of  
 8 those waters or unnecessary erosion;  
 9 (g) the method of reclamation of stream channels and  
 10 stream banks to control erosion, siltation, and pollution;  
 11 (h) such maps and other supporting documents as may be  
 12 reasonably required by the department; and  
 13 (i) a time schedule for reclamation that meets the  
 14 requirements of 82-4-336.

15 t11}(12) (a) "Small miner" means a person, firm, or  
 16 corporation that engages in the business of mining or  
 17 reprocessing of tailings or waste materials that does not  
 18 remove from the earth during any calendar year material in  
 19 excess of 36,500 tons in the aggregate, that holds no  
 20 operating permit under 82-4-335, that does not use a mineral  
 21 processing reagent, and that conducts:

22 (i) operations resulting in not more than 5 acres of  
 23 the earth's surface being disturbed and unreclaimed; or  
 24 (ii) two operations which disturb and leave unreclaimed  
 25 less than 5 acres per operation if the respective mining

1 properties are:

2 (A) the only operations engaged in by the person,  
 3 firm, or corporation;  
 4 (B) at least 1 mile apart at their closest point; and  
 5 (C) not operated simultaneously except during seasonal  
 6 transitional periods not to exceed 30 days.

7 (b) For the purpose of this definition only, the  
 8 department shall, in computing the area covered by the  
 9 operation, exclude access or haulage roads that are required  
 10 by a local, state, or federal agency having jurisdiction  
 11 over that road to be constructed to certain specifications  
 12 if that public agency notifies the department in writing  
 13 that it desires to have the road remain in use and will  
 14 maintain it after mining ceases.

15 ~~(12)~~(13) "Surface mining" means all or any part of the  
 16 process involved in mining of minerals by removing the  
 17 overburden and mining directly from the mineral deposits  
 18 thereby exposed, including but not limited to open-pit  
 19 mining of minerals naturally exposed at the surface of the  
 20 earth, mining by the auger method, and all similar methods  
 21 by which earth or minerals exposed at the surface are  
 22 removed in the course of mining. Surface mining does not  
 23 include the extraction of oil, gas, bentonite, clay, coal,  
 24 sand, gravel, phosphate rock, or uranium or excavation or  
 25 grading conducted for on-site farming, on-site road

1 construction, or other on-site building construction.

2 ~~(13)~~(14) "Underground mining" means all methods of  
 3 mining other than surface mining.

4 ~~(14)~~(15) "Unit of surface-mined area" means that area  
 5 of land and surface water included within an operating  
 6 permit actually disturbed by surface mining during each  
 7 12-month period of time, beginning at the date of the  
 8 issuance of the permit, and it comprises and includes the  
 9 area from which overburden or minerals have been removed,  
 10 the area covered by mining debris, and all additional areas  
 11 used in surface mining or underground mining operations  
 12 which by virtue of such use are thereafter susceptible to  
 13 erosion in excess of the surrounding undisturbed portions of  
 14 land.

15 ~~(15)~~(16) "Vegetative cover" means the type of  
 16 vegetation, grass, shrubs, trees, or any other form of  
 17 natural cover considered suitable at time of reclamation."

18 **Section 2.** Section 82-4-305, MCA, is amended to read:

19 "82-4-305. Exemption -- small miners -- written  
 20 agreement. (1) No provisions of this part shall apply to any  
 21 small miner when the small miner annually agrees in writing:  
 22 (a) ~~that--he--shall~~ not to pollute or contaminate any  
 23 stream;  
 24 (b) ~~that--he--shall~~ to provide protection for human and  
 25 animal life through the installation of bulkheads installed

1 over safety collars and the installation of doors on tunnel  
 2 portals; and

3 (c) not to use any mineral processing reagents; and  
 4 (e)(d) he--shall to provide a map locating his mining  
 5 operations. Such The map shall be to a size and scale as  
 6 determined by the department.

7 (2) For small-miner exemptions obtained after  
 8 September 30, 1985, no small miner may obtain or continue an  
 9 exemption under subsection (1) unless he annually certifies  
 10 in writing:

11 (a) if the small miner is a natural person, that:

12 (i) no business association or partnership of which he  
 13 is a member or partner has a small-miner exemption; and  
 14 (ii) no corporation of which he is an officer,  
 15 director, or owner of record of 25% or more of any class of  
 16 voting stock has a small-miner exemption; or

17 (b) if the small miner is a partnership or business  
 18 association, that:

19 (i) none of the associates or partners holds a  
 20 small-miner exemption; and

21 (ii) none of the associates or partners is an officer,  
 22 director, or owner of 25% or more of any class of voting  
 23 stock of a corporation that has a small-miner exemption; or

24 (c) if the small miner is a corporation, that no  
 25 officer, director, or owner of record of 25% or more of any

1 class of voting stock of the corporation:

2 (i) holds a small-miner exemption;  
 3 (ii) is a member or partner in a business association  
 4 or partnership that holds a small-miner exemption;  
 5 (iii) is an officer, director, or owner of record of  
 6 25% or more of any class of voting stock of another  
 7 corporation that holds a small-miner exemption."

8 **Section 3.** Section 82-4-335, MCA, is amended to read:

9 **"82-4-335. Operating permit.** (1) No person shall  
 10 engage in mining, ore processing, or reprocessing of  
 11 tailings or waste material or construct or operate a  
 12 hard-rock mill or use mineral processing reagents in a  
 13 mining operation or disturb land in anticipation of those  
 14 activities in the state without first obtaining an operating  
 15 permit from the board to do so. A separate operating permit  
 16 shall be required for each complex. Prior to receiving an  
 17 operating permit from the board, any person must pay the  
 18 basic permit fee of \$25 and must submit an application on a  
 19 form provided by the board, which shall contain the  
 20 following information and any other pertinent data required  
 21 by the rules:

22 (a) name and address of the operator and, if a  
 23 corporation or other business entity, the name and address  
 24 of its principal officers, partners, and the like and its  
 25 resident agent for service of process, if required by law;

1       (b) minerals expected to be mined;  
2       (c) a proposed reclamation plan;  
3       (d) expected starting date of operations;  
4       (e) a map showing the specific area to be mined and  
5       the boundaries of the land which will be disturbed,  
6       topographic detail, the location and names of all streams,  
7       roads, railroads, and utility lines on or immediately  
8       adjacent to the area, location of proposed access roads to  
9       be built, and the names and addresses of the surface and  
10      mineral owners of all lands within the mining area, to the  
11      extent known to applicant;  
12      (f) types of access roads to be built and manner of  
13      reclamation of road sites on abandonment;  
14      (g) a plan which will provide, within limits of normal  
15      operating procedures of the industry, for completion of the  
16      operation;  
17      (h) ground water and surface water hydrologic data  
18      gathered from a sufficient number of sources and length of  
19      time to characterize the hydrologic regime;  
20      (i) a plan detailing the design, operation, and  
21      monitoring of impounding structures, including but not  
22      limited to tailings impoundments and water reservoirs,  
23      sufficient to ensure that such structures are safe and  
24      stable;  
25      (j) a plan identifying methods to be used to monitor

1       for the accidental discharge of objectionable materials and  
2       remedial action plans to be used to control and mitigate  
3       discharges to surface or ground water; and  
4       (k) an evaluation of the expected life of any tailings  
5       impoundment or waste area and the potential for expansion of  
6       the tailings impoundment or waste site.  
7       (2) Except as provided in subsection (4), the permit  
8       provided for in subsection (1) for a large-scale mineral  
9       development as defined in 90-6-302 shall be conditioned to  
10      provide that activities under the permit may not commence  
11      until the impact plan is approved under 90-6-307 and until  
12      the permittee has provided a written guarantee to the  
13      department and to the hard-rock mining impact board of  
14      compliance within the time schedule with the commitment made  
15      in the approved impact plan, as provided in 90-6-307. If  
16      the permittee does not comply with that commitment within  
17      the time scheduled, the board, upon receipt of written  
18      notice from the hard-rock mining impact board, shall suspend  
19      the permit until it receives written notice from the  
20      hard-rock mining impact board that the permittee is in  
21      compliance.  
22      (3) When the department determines that a permittee  
23      has become or will become a large-scale mineral developer  
24      pursuant to 82-4-339 and 90-6-302(4) and provides notice as  
25      required under 82-4-339, within 6 months of receiving the

1 notice, the permittee shall provide the board with proof  
2 that he has obtained a waiver of the impact plan requirement  
3 from the hard-rock mining impact board or that he has filed  
4 an impact plan with the hard-rock mining impact board and  
5 the appropriate county or counties. If the permittee does  
6 not file the required proof or if the hard-rock mining  
7 impact board certifies to the board that the permittee has  
8 failed to comply with the hard-rock mining impact review and  
9 implementation requirements in Title 90, chapter 6, parts 3  
10 and 4, the board shall suspend the permit until the  
11 permittee files the required proof or until the hard-rock  
12 mining impact board certifies that the permittee has  
13 complied with the hard-rock mining impact review and  
14 implementation requirements.

15 (4) Compliance with 90-6-307 is not required for  
16 exploration and bulk sampling for metallurgical testing when  
17 the aggregate samples are less than 10,000 tons."

18 **Section 4. Extension of authority.** Any existing  
19 authority to make rules on the subject of the provisions of  
20 [this act] is extended to the provisions of [this act].

-End-