

SENATE BILL 345

Introduced by Bianchi

2/09	Introduced
2/09	Referred to Judiciary
2/09	First Reading
2/20	Hearing
2/22	Tabled in Committee

SUNSHINE BILL NO. 345

INTRODUCED BY Bismuth

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PLAINTIFF TO RECOVER ATTORNEY FEES AND COSTS IN PROPERTY DAMAGE ACTIONS; AND AMENDING SECTIONS 25-10-101 AND 25-10-303, MCA."

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

**Section 1.** Section 25-10-101, MCA, is amended to read:

"25-10-101. When costs allowed, of course, to plaintiff. Costs are allowed, of course, to the plaintiff upon a judgment in his the plaintiff's favor in the following cases:

(1) in an action for the recovery of real property or damages thereto to real property;

(2) in an action to recover the possession of personal property where the value of the property exceeds \$50; such the value shall must be determined by the jury, court, or referee by whom the action is tried;

(3) in an action for the recovery of money or damages, exclusive of interest, when plaintiff recovers over \$50;

(4) in a special proceeding;

(5) in an action which involves the title or possession or right of possession of real estate; or the legality of any tax, impost, assessment, toll, or municipal fine; or quo

warranto proceedings;

(6) in an action to foreclose a lien or pledge, to prevent or abate a nuisance, or for an injunction; or

(7) in an action for property damage ~~arising-out-of-the ownership,--maintenance,or-use-of-a-motor-vehicle~~ if he the plaintiff is entitled to attorney's attorney fees under 25-10-303."

**Section 2.** Section 25-10-303, MCA, is amended to read:

"25-10-303. Attorney's Attorney fees -- ~~motor-vehicle property damage claim~~. In an action involving solely the recovery of property damages ~~arising-out-of-the-ownership, maintenance,or--use--of--a--motor--vehicle,~~ in which the plaintiff secures a judgment equal to or greater than the amount of damages claimed by the plaintiff in his the plaintiff's last written offer to the defendant, or-his the defendant's agent, or a responsible insurance company prior to the filing of the cause of action, the court shall allow plaintiff's reasonable attorney's-fee attorney fees, which shall must be fixed by the court, ~~not--withstanding notwithstanding~~ any agreement between the parties to the contrary. If the defendant, or-his the defendant's agent, or a responsible insurance company fails to make any offer within 15 days of the date requested to do so by the plaintiff, the plaintiff may file the cause of action and, if successful in the action, ~~shall-be is~~ entitled to his

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1 reasonable attorney's-fee attorney fees under this provision  
2 section."

-End-