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SB BILL NO. 132

INTRODUCED BY

Sharon S. Gustafson
Cristina Taylor *Christopher Beck*

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PERSON WHO DESIRES TO ENTER OR REMAIN UPON LAND TO OBTAIN THE EXPLICIT PERMISSION OF THE LANDOWNER OR OTHER AUTHORIZED PERSON, EXCEPT WHEN THE STREAM ACCESS LAW APPLIES; ELIMINATING THE PROVISION THAT PERMISSION TO ENTER LAND IS EXTENDED BY FAILURE TO POST NOTICE DENYING ENTRY; PROVIDING THAT LANDOWNER PERMISSION IS REQUIRED FOR ENTRY ONTO PRIVATE PROPERTY FOR ALL HUNTING; AND AMENDING SECTIONS 45-6-201 AND 87-3-304, MCA."

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

Section 1. Section 45-6-201, MCA, is amended to read:

"45-6-201. Definition of "enter or remain unlawfully". (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when ~~he~~ the person is not licensed, invited, or otherwise privileged to do so. ~~Privilege~~ Except as provided in Title 23, chapter 2, part 3, privilege to enter or remain upon land is extended ~~either~~ by the explicit permission of the landowner or other authorized person ~~or by the failure of the landowner or other authorized person to post notice denying entry onto private land~~. The privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person.

(2) To provide for effective posting of private land through which the public has no right-of-way, ~~the notice provided for in subsection (1) must satisfy the following requirements:~~

(a) a notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

(3) To provide for effective posting of private land through which or along which the public has an unfenced right-of-way by means of a public road, a landowner shall:

1 (a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters
2 the private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD
3 NEXT ___ MILES"; or

4 (b) place a notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the
5 roadway at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced
6 private land, except that orange markings may not be placed on posts where the public roadway enters the
7 private land.

8 (4) ~~If~~ Regardless of whether property has been posted in substantial compliance with subsection
9 (2) or (3), it is considered closed to public access unless explicit permission to enter is given by the
10 landowner or ~~his~~ the landowner's authorized agent.

11 (5) The department of fish, wildlife, and parks shall attempt to educate and inform all persons
12 holding hunting, fishing, or trapping licenses or permits by including on any publication concerning the
13 licenses or permits, in condensed form, the provisions of this section concerning entry on private land. The
14 department shall use public media, as well as its own publications, in attempting to educate and inform
15 other recreational users of the provisions of this section. In the interests of providing the public with clear
16 information regarding the public nature of certain unfenced rural rights-of-way, the department may develop
17 and distribute posting signs that satisfy the requirements of subsection (3).

18 (6) For purposes of this section, "land" means land as defined in 70-15-102.

19 (7) In no event may civil liability be imposed upon the owner or occupier of premises by reason of
20 any privilege created by this section."

21
22 **Section 2.** Section 87-3-304, MCA, is amended to read:

23 **"87-3-304. Landowner's permission required for big game hunting.** Every resident and nonresident
24 must have obtained permission of the landowner, lessee, or their agents before hunting ~~big game animals~~
25 on private property."

26 -END-

SB BILL NO. *132*

INTRODUCED BY

Sharon S. Gossfeldt Jaska
Cristina Taylor

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2 the private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD
3 NEXT ___ MILES"; or

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5 roadway at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced
6 private land, except that orange markings may not be placed on posts where the public roadway enters the
7 private land.

8 (4) ~~Regardless of whether~~ property has been posted in substantial compliance with subsection
9 (2) or (3), it is considered closed to public access unless explicit permission to enter is given by the
10 landowner or ~~his~~ the landowner's authorized agent.

11 (5) The department of fish, wildlife, and parks shall attempt to educate and inform all persons
12 holding hunting, fishing, or trapping licenses or permits by including on any publication concerning the
13 licenses or permits, in condensed form, the provisions of this section concerning entry on private land. The
14 department shall use public media, as well as its own publications, in attempting to educate and inform
15 other recreational users of the provisions of this section. In the interests of providing the public with clear
16 information regarding the public nature of certain unfenced rural rights-of-way, the department may develop
17 and distribute posting signs that satisfy the requirements of subsection (3).

18 (6) For purposes of this section, "land" means land as defined in 70-15-102.

19 (7) In no event may civil liability be imposed upon the owner or occupier of premises by reason of
20 any privilege created by this section."

21

22 **Section 2.** Section 87-3-304, MCA, is amended to read:

23 **"87-3-304. Landowner's permission required ~~for big game~~ hunting.** Every resident and nonresident
24 must have obtained permission of the landowner, lessee, or their agents before hunting ~~big game animals~~
25 on private property."

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-END-

SB BILL NO. 132

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INTRODUCED BY Senator Jay Hotel 6103 Field Zastu
Prison Jayla Beaumont Beck

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PERSON WHO DESIRES TO ENTER OR REMAIN UPON LAND TO OBTAIN THE EXPLICIT PERMISSION OF THE LANDOWNER OR OTHER AUTHORIZED PERSON, EXCEPT WHEN THE STREAM ACCESS LAW APPLIES; ELIMINATING THE PROVISION THAT PERMISSION TO ENTER LAND IS EXTENDED BY FAILURE TO POST NOTICE DENYING ENTRY; PROVIDING THAT LANDOWNER PERMISSION IS REQUIRED FOR ENTRY ONTO PRIVATE PROPERTY FOR ALL HUNTING; AND AMENDING SECTIONS 45-6-201 AND 87-3-304, MCA."

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(2) To provide for effective posting of private land through which the public has no right-of-way, ~~the notice provided for in subsection (1) must satisfy the following requirements:~~

(a) a notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

(3) To provide for effective posting of private land through which or along which the public has an unfenced right-of-way by means of a public road, a landowner shall:



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3 NEXT ___ MILES"; or

4 (b) place a notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the
5 roadway at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced
6 private land, except that orange markings may not be placed on posts where the public roadway enters the
7 private land.

8 (4) ~~if~~ Regardless of whether property has been posted in substantial compliance with subsection
9 (2) or (3), it is considered closed to public access unless explicit permission to enter is given by the
10 landowner or ~~his~~ the landowner's authorized agent.

11 (5) The department of fish, wildlife, and parks shall attempt to educate and inform all persons
12 holding hunting, fishing, or trapping licenses or permits by including on any publication concerning the
13 licenses or permits, in condensed form, the provisions of this section concerning entry on private land. The
14 department shall use public media, as well as its own publications, in attempting to educate and inform
15 other recreational users of the provisions of this section. In the interests of providing the public with clear
16 information regarding the public nature of certain unfenced rural rights-of-way, the department may develop
17 and distribute posting signs that satisfy the requirements of subsection (3).

18 (6) For purposes of this section, "land" means land as defined in 70-15-102.

19 (7) In no event may civil liability be imposed upon the owner or occupier of premises by reason of
20 any privilege created by this section."

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22 **Section 2.** Section 87-3-304, MCA, is amended to read:

23 **"87-3-304. Landowner's permission required for ~~big game~~ hunting.** Every resident and nonresident
24 must have obtained permission of the landowner, lessee, or their agents before hunting ~~big game animals~~
25 on private property."

26

-END-

SENATE BILL NO. 132

INTRODUCED BY MESAROS, ROSE, GROSFIELD, TASH, CRISMORE, L. TAYLOR, DEBRUYCKER, BECK

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PERSON WHO DESIRES TO ENTER OR REMAIN UPON LAND TO OBTAIN THE EXPLICIT PERMISSION OF THE LANDOWNER OR OTHER AUTHORIZED PERSON, EXCEPT ~~WHEN THE STREAM ACCESS LAW APPLIES~~ FOR CERTAIN INCIDENTAL PURPOSES; ELIMINATING THE PROVISION THAT PERMISSION TO ENTER LAND IS EXTENDED BY FAILURE TO POST NOTICE DENYING ENTRY; PROVIDING THAT LANDOWNER PERMISSION IS REQUIRED FOR ENTRY ONTO PRIVATE PROPERTY FOR ALL HUNTING AND CERTAIN FISHING; AND AMENDING SECTIONS 45-6-201 AND 87-3-304, MCA."

WHEREAS, THE ACT OF RECREATING ON PRIVATE LAND IS A PRIVILEGE AND NOT A RIGHT;

AND

WHEREAS, IT IS COMMON COURTESY TO ASK PERMISSION BEFORE ENTERING PRIVATE

PROPERTY; AND

WHEREAS, INCREASED COMMUNICATION NORMALLY LEADS TO LESS CONFRONTATION; AND

WHEREAS, WITH INCREASING RECREATIONAL ACTIVITY ON PRIVATE LAND, IT IS ESSENTIAL TO MAINTAIN A GOOD RAPPORT BETWEEN LANDOWNERS AND RECREATIONALISTS; AND

WHEREAS, THE STATE OF MONTANA HOLDS THE FREE-ROAMING WILDLIFE IN PUBLIC TRUST AND IT IS THE RESPONSIBILITY OF THE STATE TO WORK DILIGENTLY WITH ALL INTERESTED PARTIES TO INFORM AND EDUCATE THEM ON ALL ASPECTS OF RECREATIONAL ACTIVITIES; AND

WHEREAS, IT IS AN UNFUNDED MANDATE BY THE STATE TO REQUIRE PRIVATE PROPERTY OWNERS TO POST PROPERTY TO PREVENT PUBLIC ACCESS.

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

Section 1. Section 45-6-201, MCA, is amended to read:

"45-6-201. Definition of "enter or remain unlawfully". (1) A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when ~~he~~ the person is not licensed, invited, or otherwise privileged to do so. ~~Privilege Except as provided in Title 23, chapter 2, part 3, privilege~~

1 PRIVILEGE to enter or remain upon land is extended ~~either~~ by the explicit permission of the landowner or
 2 other authorized person ~~or by the failure of the landowner or other authorized person to post notice denying~~
 3 ~~entry onto private land.~~ The privilege may be revoked at any time by personal communication of notice by
 4 the landowner or other authorized person to the entering person.

5 (2) To provide for effective posting of private land through which the public has no right-of-way,
 6 ~~the notice provided for in subsection (1) must satisfy the following requirements:~~

7 (a) a notice must be placed on a post, structure, or natural object by marking it with written notice
 8 or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are
 9 used, the entire post must be painted; and

10 (b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point
 11 of access to the property, including both sides of a water body crossing the property wherever the water
 12 body intersects an outer boundary line.

13 (3) To provide for effective posting of private land through which or along which the public has
 14 an unfenced right-of-way by means of a public road, a landowner shall:

15 (a) place a conspicuous sign no closer than 30 feet of the centerline of the roadway where it enters
 16 the private land, stating words substantially similar to "PRIVATE PROPERTY, NO TRESPASSING OFF ROAD
 17 NEXT ___ MILES"; or

18 (b) place a notice, as described in subsection (2)(a), no closer than 30 feet of the centerline of the
 19 roadway at regular intervals of not less than one-fourth mile along the roadway where it borders unfenced
 20 private land, except that orange markings may not be placed on posts where the public roadway enters the
 21 private land.

22 (4) ~~If~~ Regardless of whether property has been posted in substantial compliance with subsection
 23 (2) or (3), it is considered closed to public access unless explicit permission to enter is given by the
 24 landowner or ~~his~~ the landowner's authorized agent. A PERSON WHO INCIDENTALLY ENTERS PROPERTY
 25 CLOSED TO PUBLIC ACCESS IS NOT IN VIOLATION OF THIS SUBSECTION IF THE ENTRY IS BECAUSE
 26 OF THE PERSON'S MISTAKEN BELIEF CONCERNING THE LOCATION OF PROPERTY BOUNDARIES.

27 (5) The department of fish, wildlife, and parks shall ~~attempt to~~ educate and inform all persons
 28 holding hunting, fishing, or trapping licenses or permits by including on any publication concerning the
 29 licenses or permits, in condensed form, the provisions of this section concerning entry on private land. The
 30 department shall use public media, as well as its own publications, in ~~attempting to educate and inform~~

1 EDUCATING AND INFORMING other recreational users of the provisions of this section. In the interests of
2 providing the public with clear information regarding the public nature of certain unfenced rural
3 rights-of-way, the department may develop and distribute posting signs that satisfy the requirements of
4 subsection (3).

5 (6) THIS SECTION DOES NOT PREVENT THE ENTRY UPON PROPERTY BY EMERGENCY
6 PERSONNEL, INDIVIDUALS ENGAGED IN RETRIEVING STRAY LIVESTOCK, PERSONS WHO ENTER FOR
7 PURPOSES OF INQUIRY OR INCIDENTAL SOLICITATION, OR PERSONS WITH EXPRESS OR IMPLIED
8 PERMISSION TO CONDUCT BUSINESS OR SERVICE-RELATED ACTIVITIES.

9 ~~(6)~~(7) For purposes of this section, "land" means land as defined in 70-15-102.

10 ~~(7)~~(8) In no event may civil liability be imposed upon the owner or occupier of premises by reason
11 of any privilege created by this section."

12

13 **Section 2.** Section 87-3-304, MCA, is amended to read:

14 **"87-3-304. Landowner's permission required for ~~big game~~ hunting AND FISHING.** Every resident
15 and nonresident must have obtained permission of the landowner, lessee, or their agents before hunting
16 ~~big game animals~~ on private property OR FISHING UPON WATERS NOT SUBJECT TO ACCESS UNDER
17 TITLE 23, CHAPTER 2, PART 3."

18

-END-