

1 HOUSE BILL NO. 70

2 INTRODUCED BY R. SHAW

3 BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE AMOUNT OF TIMBER ALLOWED FOR SALE
6 UNDER COMMERCIAL PERMITS; AMENDING SECTIONS 77-5-201 AND 77-5-212, MCA; AND PROVIDING
7 AN IMMEDIATE EFFECTIVE DATE."

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

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11 **Section 1.** Section 77-5-201, MCA, is amended to read:

12 **"77-5-201. Sale of timber.** (1) Under the direction of the board, the department may sell the timber crop
13 and other crops of the forests after examination, estimate, appraisal, and report and under any rules established
14 by the board. Timber or forest products sold from state trust lands may be sold by a stumpage method or a
15 lump-sum method or marketed by the state through contract harvesting as provided in 77-5-214 through
16 77-5-219.

17 (2) Timber proposed for sale in excess of ~~400,000~~ 500,000 board feet must be advertised in a paper of
18 the county in which the timber is situated for a period of at least 30 days, during which time the department must
19 receive sealed bids up to the hour of the closing of the bids, as specified in the notice of sale.

20 (3) (a) In cases of emergency because of fire, insect, fungus, parasite, or blowdown or to address forest
21 health concerns or in cases when the department is required to act immediately to take advantage of access
22 granted by permission of an adjoining landowner, timber proposed for sale not in excess of 1 million board feet
23 may be advertised by invitation to bid for a period of not less than 10 days. The department may reject any bids,
24 upon approval of the board, or it shall award the sale to the highest responsible bidder.

25 (b) (i) In cases when the department is required to act immediately to take advantage of access granted
26 by permission of an adjoining landowner and there is only one potential buyer with legal access, the department
27 may negotiate a sale of timber not in excess of 2 million board feet without offering the timber for bid if the sale
28 is for fair market value.

29 (ii) The provisions of subsection (3)(b)(i) do not apply to situations when the only access is totally
30 controlled by a potential purchaser of the timber, in which case the department shall seek to negotiate permanent,

1 reciprocal access.

2 (c) In the situations described in subsections (3)(a) and (3)(b)(i), the department is not required to comply
3 with the provisions of 75-1-201(1) to the extent that compliance is precluded by limited time available to take
4 advantage of the sales opportunities described by this subsection (3)."

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6 **Section 2.** Section 77-5-212, MCA, is amended to read:

7 **"77-5-212. Commercial permits for timber sale.** (1) Permits for quantities of 500,000 board feet or less
8 may be issued to citizens of the state for commercial purposes, at commercial rates, without advertising, and
9 under restrictions and rules that the board may approve for the sale of timber:

10 ~~—— (a) in quantities of less than 100,000 board feet; and~~

11 ~~—— (b) in cases of emergency due to fire, insect, fungus, parasite, or blowdown and no other, in quantities~~
12 ~~of less than 500,000 board feet.~~

13 (2) To apply for a permit under this section, an individual shall:

14 (a) complete a permit application on a form provided by the department and submit the completed
15 application to the department office that is responsible for management of the state land where the proposed sale
16 is located;

17 (b) using ribbon, mark the area of the proposed sale; and

18 (c) designate on a U.S. geological survey map or other approved map the area proposed for sale and
19 existing roads that would be used to remove timber from the site.

20 (3) For sales of less than 30,000 board feet, an individual shall provide proof of vehicle liability insurance
21 and \$1 million in commercial general liability insurance, naming the state of Montana as additionally insured, and
22 shall provide a performance bond in an amount not to exceed \$1,000.

23 (4) For sales of 30,000 board feet or more, an individual shall provide proof of vehicle liability insurance
24 and \$1 million in commercial general liability insurance, naming the state of Montana as additionally insured, and
25 shall provide a performance bond in accordance with 77-5-202.

26 (5) Unless the timber proposed for sale is already sold or is part of another proposed sale being reviewed
27 by the department, the department shall review completed permit applications within 30 days of the application's
28 submittal. If the proposed sale complies with existing state and federal laws and regulations, the department shall
29 perform an appraisal within 60 days of the application's submittal.

30 (6) The department shall issue a permit within 5 working days of the date that the applicant agrees to

1 the terms of the proposed sale, unless the parties mutually agree upon a time extension.

2 (7) Repeated permits of this kind may not be issued to avoid advertising and the consequent competition
3 secured by advertising.

4 (8) Permit applications ~~pursuant to subsection (1)(b)~~ for timber sales in cases of emergency due to fire,
5 insect, fungus, parasite, or blowdown, and no other, are categorical exclusions as defined by rule, and the
6 department is not required to comply with the provisions of 75-1-201(1) in reviewing those applications.

7 (9) Proposed timber sales under subsection ~~(1)(b)~~ (8) do not take precedence over the timely sale and
8 harvest of green timber pursuant to 77-5-207.

9 (10) Permit applications made pursuant to this section may be subject to further environmental review,
10 and the number of permits may be limited if the department determines that sales may have a cumulative effect
11 on geographic area."

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13 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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