

SENATE BILL NO. 214

INTRODUCED BY E. ARNTZEN

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A PROCESS FOR A PUBLIC HEARING AND RECOMMENDATION BY A LOCAL GOVERNING BODY ON A CLAIM THAT A PUBLIC NUISANCE EXISTS; REQUIRING A PETITION TO BE FILED; REQUIRING CERTAIN INFORMATION TO BE INCLUDED IN THE PETITION; AND REQUIRING THE GOVERNING BODY TO DETERMINE WHETHER A PUBLIC NUISANCE EXISTS AND, IF SO, TO RECOMMEND AN ACTION."

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

**NEW SECTION. Section 1. Declaration of nuisance upon petition and hearing.** (1) On receipt of a petition for a hearing signed by at least 25% of the registered electors who reside in an area within one-half mile of property on which the petitioners claim a public nuisance exists, the governing body having jurisdiction where the property is located shall schedule a public hearing. The hearing must be held no later than 45 days after the petition is received in the office of the clerk of the governing body.

(2) The petition must:

- (a) require the printed name of each signatory;
- (b) include either the street address or the legal description of the property where each signatory resides, whichever the signatory prefers; and
- (c) describe the activity on the property that the petitioners consider to be a nuisance, including when the activity occurs, how the activity is injurious to the petitioners, and how the activity affects the petitioners' free use of their property or the property on which they reside or of a public park, square, street, or highway.

(3) The governing body shall provide notice of the hearing as provided in 7-1-2121 and 7-1-2122 for counties or in 7-1-4127 and 7-1-4129 for municipalities and shall provide a copy of the petition and notice of the hearing to all owners of the property on which the petitioners claim a nuisance exists.

(4) At the hearing, the governing body shall accept testimony from any interested person regarding whether the activity occurring on the property that is the subject of the petition constitutes a public nuisance.

(5) Within 30 days after the date of the hearing, the governing body shall determine whether, based on testimony provided at the hearing and any other information collected by the governing body, it considers the

1 activity to constitute a public nuisance. If the governing body considers the activity to constitute a public nuisance,  
2 the governing body shall recommend that an action be brought and a remedy be pursued, as provided in  
3 27-30-202.

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5 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
6 integral part of Title 27, chapter 30, part 2, and the provisions of Title 27, chapter 30, part 2, apply to [section 1].

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