

SENATE BILL NO. 313

INTRODUCED BY J. PETERSON

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE PROCESS BY WHICH THE DEPARTMENT
5 OF FISH, WILDLIFE, AND PARKS SHALL RESPOND IF BEAVER ACTIVITY ON A PROPERTY RESULTS IN
6 SEVERE DAMAGE TO OR MENACE TO ADJACENT PROPERTY; AUTHORIZING THE DEPARTMENT TO
7 REMOVE BEAVER AND BEAVER DAMS; AND AMENDING SECTION 87-3-503, MCA."

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

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11 **Section 1.** Section 87-3-503, MCA, is amended to read:
12 **"87-3-503. Destruction of beaver and muskrat houses unlawful -- exception.** ~~(1) It shall be~~ Except
13 as provided in 87-1-224 and subsections (2) through (5) of this section, it is unlawful and punishable, as in this
14 part provided in 87-1-102(1), for any person at any time to willfully destroy, open or leave open, or partially
15 destroy a house of any muskrat or beaver, except that this shall This does not prohibit trapping in the house of
16 muskrats when authorized by the commission shall authorize such trapping.

17 (2) If beaver activity or the dam of a beaver results in severe damage to or menace to the structures,
18 canal banks, or other works:

19 (a) of an irrigation project or district or stock water pond, any employee or resident landowner on the
20 project or district may kill or trap or cause to be killed or trapped any muskrat or beaver pursuant to 87-3-501(2);
21 and

22 (b) on property adjacent to where the activity occurs or the dam is located, the adjacent landowner may
23 file a complaint with the department.

24 (3) When the department receives a complaint pursuant to subsection (2)(b), the landowner on whose
25 property the beaver activity or dam is located must be notified by mail or telephone of the complaint and the
26 department shall request inspection of the land. A representative of the department and the landowner or the
27 landowner's representative shall inspect the land at an agreeable time within 10 days of notification of the
28 landowner. If within 10 days after notification the department is unable to gain cooperation of the landowner, the
29 department may enter and inspect the land to determine if the complaint is valid.

30 (4) If the department determines that the complaint is valid, the department shall notify the landowner

1 or the landowner's representative and issue a permit, free of charge, to the landowner for the removal of the
2 beaver and any dam. The number of beaver that may be removed must be designated by the department
3 representative making the inspection.

4 (5) If a landowner who is issued a permit pursuant to subsection (4) refuses to remove the beaver or any
5 dam in the 10-day period or if the landowner does not desire to do so and advises the department, the
6 department may enter the landowner's property and remove the beaver by trapping or transplanting the beaver
7 and may remove any dam by blasting or other means. If the landowner requests an injunction or stay of the
8 removal activity within 10 days of receipt of the permit, the department may not institute removal until the matter
9 is finally resolved except in the case of an emergency. In that case, the landowner is liable for costs as provided
10 in subsection (6) only to the extent determined appropriate by the department or the court that finally resolves
11 the matter.

12 (6) If the department removes the beaver or dam pursuant to subsection (5), the department shall submit
13 a bill to the landowner, itemizing hours of labor, material, and equipment time. The bill must specify and order a
14 payment due date of 30 days from the date the bill is sent."

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