

## SENATE BILL NO. 56

INTRODUCED BY B. HAMLETT

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING NOTICE REQUIREMENTS FOR USE OF NAVIGABLE RIVERBEDS; EXTENDING THE AUTHORIZATION OF USE FORM FILING DEADLINE; SPECIFYING CERTAIN NOTICE DATES; AMENDING SECTIONS 77-1-1112 AND 77-1-1114, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 77-1-1112, MCA, is amended to read:

**"77-1-1112. Historic use of navigable riverbeds -- authorization required -- exemptions.** (1) A person using the bed of a navigable river below the low-water mark without written authorization from the department prior to October 1, 2011, who wants to continue use of the bed of a navigable river after October 1, 2011, shall file for authorization of the use on a form prescribed by the department for a lease, license, or easement by July 15, ~~2017~~ 2021.

(2) A person using the bed of a river below the low-water mark without written authorization from the department who wants to continue use of the bed after the date the river is determined to be a navigable river shall file for authorization of the use on a form prescribed by the department for a lease, license, or easement within 5 years after the date that notice is issued by the department as provided in 77-1-1114.

(3) The application must include:

(a) an application fee of \$50;

(b) a notarized affidavit:

(i) demonstrating that the applicant or the applicant's predecessor in interest used the bed of a navigable river and that the use continues;

(ii) describing the acreage covered by the footprint prior to October 1, 2011, or, for applications under subsection (2), the acreage covered by the footprint prior to the date the river was determined to be navigable; and

(iii) demonstrating that the use applied for under this section is the use shown in the evidence provided in subsection (3)(c); and

- 1 (c) (i) aerial photographs demonstrating the use to which the application for authorization applies; or  
2 (ii) other evidence of the use to which the application for authorization applies.
- 3 (4) The department shall issue the authorization for a lease, license, or easement if:  
4 (a) the applicant provides evidence to satisfy the requirements of subsection (3);  
5 (b) the applicant pays the application fee and the full market value of the footprint acreage;  
6 (c) the department has, if necessary, made a site inspection of the use to which the application for  
7 authorization applies;  
8 (d) the authorization is for only the acreage of the footprint historically used by the applicant or the  
9 applicant's predecessor in interest; and  
10 (e) the authorization is approved by the board.
- 11 (5) Proceeds from the application fee must be deposited in the account in 77-1-1113 and must be used  
12 by the department to administer the provisions of this section.
- 13 (6) The full market value collected pursuant to subsection (4)(b) must be deposited in the appropriate  
14 trust fund established for receipt of income from the land over which an authorized use is granted.
- 15 (7) Issuance of an authorization pursuant to this section is exempt from the requirements of Title 22,  
16 chapter 3, part 4, and Title 75, chapter 1, parts 1 and 2.
- 17 (8) The department shall waive the survey requirements of 77-2-102 if the department determines that  
18 there is sufficient information available to define the boundaries of the proposed use for the purposes of recording  
19 the easement or issuing a license or lease.
- 20 (9) The requirements of this section do not apply to footprints:  
21 (a) related to hunting, fishing, or trapping;  
22 (b) that existed prior to November 8, 1889;  
23 (c) for which the applicant can show an easement obtained from a state agency prior to October 1, 2011,  
24 or prior to the date the river was determined to be a navigable river; or  
25 (d) associated with a power site regulated pursuant to Title 77, chapter 4, part 2.
- 26 (10) A person using the bed of a navigable river who is subject to this section may continue to use the  
27 bed of the navigable river for that purpose while applying for a lease, license, or easement or until the applicable  
28 timeframe for obtaining a lease, license, or easement expires. The state may not impede access to a footprint  
29 or use of a footprint during the applicable timeframe or after a lease, license, or easement is obtained.
- 30 (11) The provisions of this section do not restrict the power of the board to seek adjudication of title

1 pursuant to 77-1-105."

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3 **Section 2.** Section 77-1-1114, MCA, is amended to read:

4 **"77-1-1114. Notice required.** (1) ~~The~~ Before July 1, 2016, the department shall provide notice of the  
5 requirements of this part to owners of property adjacent to rivers that ~~are~~ were navigable rivers on October 1,  
6 2011, and provide notice pursuant to subsection (3).

7 (2) For a river determined to be a navigable river after October 1, 2011, the department shall provide  
8 notice of the requirements of this part to owners of property adjacent to the navigable river within 6 months of the  
9 determination that the river is navigable. The 5-year period pursuant to 77-1-1112 begins when the department  
10 issues this notice and publishes the notice required in subsection (3) of this section.

11 (3) The department shall publish notice of navigable rivers and the requirements of this part twice in a  
12 newspaper of general circulation in the area of the navigable river."

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

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