

HOUSE BILL NO. 644

INTRODUCED BY W. CURDY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO WILDFIRES AND UNMANNED AERIAL VEHICLE SYSTEMS; PROHIBITING INTERFERENCE WITH WILDFIRE SUPPRESSION EFFORTS INCLUDING BY THE USE OF UNMANNED AERIAL VEHICLE SYSTEMS; RESTRICTING GOVERNMENTAL ENTITIES WITH SELF-GOVERNING POWERS FROM ENACTING ORDINANCES GOVERNING THE PRIVATE USE OF AN UNMANNED AERIAL VEHICLE IN RELATION TO A WILDFIRE; PROVIDING PENALTIES; AND AMENDING SECTION 7-1-111, MCA."

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

NEW SECTION. Section 1. Obstruction of AERIAL wildfire suppression effort -- penalty -- exceptions. (1) A person may not obstruct, impede, prevent, or otherwise interfere with a lawful AERIAL wildfire suppression response by a state or local government effort by any means, including by the use of an unmanned aerial vehicle system.

(2) A person who violates subsection (1) is liable for a civil penalty to the state or local government for an amount equivalent to the reasonable costs of obstructing, impeding, preventing, or interfering with ~~the~~ AN AERIAL wildfire suppression response effort. THE PENALTY MAY NOT EXCEED THE ACTUAL FLIGHT COSTS OF THE AERIAL WILDFIRE SUPPRESSION RESPONSE EFFORT THAT WAS OBSTRUCTED, IMPEDED, PREVENTED, OR INTERFERED WITH.

(3) Subsection (1) does not apply to the operation of an unmanned aerial vehicle system conducted by a unit or agency of the United States government or of a state, tribal, or local government, including any individual conducting an operation pursuant to a contract or other agreement entered into with the unit or agency, for the purpose of protecting the public safety and welfare, including firefighting, law enforcement, or emergency response.

- (4) As used in this section, the following definitions apply:
- (a) "Unmanned aerial vehicle" means an aircraft that is:
 - (i) capable of sustaining flight; and
 - (ii) operated with no possible direct human intervention from on or within the aircraft.
 - (b) "Unmanned aerial vehicle system" means the entire system used to operate an unmanned aerial

1 vehicle, including:

2 (i) the unmanned aerial vehicle;

3 (ii) communications equipment;

4 (iii) navigation equipment;

5 (iv) controllers;

6 (v) support equipment; and

7 (vi) autopilot functionality.

8 (c) "Wildfire" means an unplanned, unwanted fire burning uncontrolled and consuming vegetative fuels.

9 (d) "Wildfire suppression" means an effort to contain, extinguish, or suppress a wildfire.

10

11 **Section 2.** Section 7-1-111, MCA, is amended to read:

12 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
13 exercising the following:

14 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
15 exercise of an independent self-government power;

16 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to
17 those provisions, it may exercise any power of a public employer with regard to its employees;

18 (3) any power that applies to or affects the public school system, except that a local unit may impose an
19 assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise
20 any power that it is required by law to exercise regarding the public school system;

21 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public
22 convenience and necessity pursuant to Title 69, chapter 12;

23 (5) any power that establishes a rate or price otherwise determined by a state agency;

24 (6) any power that applies to or affects any determination of the department of environmental quality with
25 regard to any mining plan, permit, or contract;

26 (7) any power that applies to or affects any determination by the department of environmental quality
27 with regard to a certificate of compliance;

28 (8) any power that defines as an offense conduct made criminal by state statute, that defines an offense
29 as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6 months'
30 imprisonment, or both, except as specifically authorized by statute;

1 (9) any power that applies to or affects the right to keep or bear arms, except that a local government
2 has the power to regulate the carrying of concealed weapons;

3 (10) any power that applies to or affects a public employee's pension or retirement rights as established
4 by state law, except that a local government may establish additional pension or retirement systems;

5 (11) any power that applies to or affects the standards of professional or occupational competence
6 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

7 (12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title
8 75, chapter 7, part 1, or Title 87;

9 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended
10 to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70,
11 chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords
12 to comply with ordinances or provisions that are applicable to all other businesses or residences within the local
13 government's jurisdiction.

14 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

15 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
16 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may
17 enter into a cooperative agreement with the department of agriculture concerning the use and application of
18 commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
19 government from adopting or implementing zoning regulations or fire codes governing the physical location or
20 siting of fertilizer manufacturing, storage, and sales facilities.

21 (16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
22 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
23 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
24 communications commission of the United States;

25 (17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna
26 at heights and dimensions sufficient to accommodate amateur radio service communications by a person who
27 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or
28 higher class, issued by the federal communications commission of the United States;

29 (18) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load,
30 object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway

1 that is under the jurisdiction of an entity other than the local government unit;
2 (19) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in relation
3 to a wildfire."

4
5 NEW SECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an
6 integral part of Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [section 1].

7 - END -