

SENATE BILL NO. 251

INTRODUCED BY T. FACEY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO SHORT-TERM RENTAL FACILITIES; CLARIFYING THAT LOCAL GOVERNMENTS MAY REGULATE CERTAIN OCCUPANCIES EXPLICITLY EXCLUDED FROM THE PROVISIONS OF THE LANDLORD TENANT ACT; CLARIFYING THE TERM "FACILITY" INCLUDES SHORT-TERM RENTAL FACILITIES FOR PURPOSES OF THE LODGING TAX; CLARIFYING WHAT CONSTITUTES TRANSIENT OCCUPANCY UNDER THE EXCLUSIONS TO THE LANDLORD TENANT ACT; AMENDING SECTIONS 7-1-111, 15-65-101, AND 70-24-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who

1 holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or
2 higher class, issued by the federal communications commission of the United States;

3 (18) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load,
4 object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway
5 that is under the jurisdiction of an entity other than the local government unit."
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7 **Section 2.** Section 15-65-101, MCA, is amended to read:

8 **"15-65-101. Definitions.** For purposes of this part, the following definitions apply:

9 (1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of the
10 facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment,
11 or any other similar charges.

12 (2) (a) "Campground" means a place, publicly or privately owned, used for public camping where
13 persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

14 (b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended
15 for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or
16 more.

17 (3) "Council" means the tourism advisory council established in 2-15-1816.

18 (4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight
19 lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a
20 facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch,
21 guest ranch, hostel, public lodginghouse, ~~or~~ bed and breakfast facility, or vacation home, home, apartment, or
22 room rented by or on behalf of the owner.

23 (b) The term does not include any health care facility, as defined in 50-5-101, or any facility owned by
24 a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years
25 for camping purposes, any hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average
26 daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under
27 2-18-501 for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented
28 solely on a monthly basis or for a period of 30 days or more.

29 (5) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana
30 law and recognized by a majority of the governing body in the city, consolidated city-county, resort area, or resort

1 area district in which the bureau is located.

2 (6) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana
3 law and recognized by the council as the entity for promoting tourism within one of several regions established
4 by executive order of the governor.

5 (7) "Resort area" means an area established pursuant to 7-6-1508.

6 (8) "Resort area district" has the meaning provided in 7-6-1501."

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8 **Section 3.** Section 70-24-104, MCA, is amended to read:

9 **"70-24-104. Exclusions from application of chapter.** Unless created to avoid the application of this
10 chapter, the following arrangements are not governed by this chapter:

11 (1) residence at a public or private institution if incidental to detention or the provision of medical,
12 geriatric, educational, counseling, religious, or similar service, including all housing provided by the Montana
13 university system and other postsecondary institutions;

14 (2) occupancy under a contract of sale of a dwelling unit or the property of which it is a part if the
15 occupant is the purchaser or a person who succeeds to the purchaser's interest;

16 (3) occupancy by a member of a fraternal or social organization in the portion of a structure operated
17 for the benefit of the organization;

18 (4) transient occupancy in a ~~hotel or motel~~ facility as defined in 15-65-101;

19 (5) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

20 (6) occupancy under a rental agreement covering premises used by the occupant primarily for
21 commercial or agricultural purposes;

22 (7) occupancy by an employee of a landlord whose right to occupancy is conditional upon employment
23 in and about the premises; and

24 (8) occupancy outside a municipality under a rental agreement that includes hunting, fishing, or
25 agricultural privileges, along with the use of the dwelling unit."

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27 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

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29 NEW SECTION. **Section 5. Applicability.** [Section 2] applies to tax years beginning after December
30 31, 2017.

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