

SENATE BILL NO. 401

INTRODUCED BY D. LENZ

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA ADMINISTRATIVE PROCEDURE ACT TO RESTRICT THE ADOPTION OF DEFINITIONS IN RULES DURING THE AGENCY RULEMAKING PROCESS; PROVIDING LEGISLATIVE INTENT; PROHIBITING ADOPTION OF A DEFINITION IF THERE IS ALREADY A STATUTORY DEFINITION; REQUIRING AN AGENCY TO RECOMMEND LEGISLATION FOR PREINTRODUCTION IF A DEFINITION IS DESIRED BY THE AGENCY; AMENDING SECTION 2-4-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-4-301, MCA, is amended to read:

"2-4-301. Legislative findings -- policy not to allow adopting of definitions -- authority

Authority to adopt not conferred. (1) (a) The legislature finds that it is an infringement on legislative power for an agency to revise a definition that is already codified in state law when the agency definition is applicable to the administration of the laws that are duly enacted by the legislature.

(b) The legislature finds further than an agency has the ability to suggest legislation for introduction by presenting a proposal to an interim committee, and that all definitions should be enacted by the legislature and not by an agency that lacks the power to legislate.

(c) While recognizing the goal to have all definitions codified in law, the legislature also recognizes that it takes time to repeal definitions that are currently in existing rules.

(2) Beginning on [the effective date of this act], an agency may not adopt or amend a rule by including a definition that is already codified in the Montana Code Annotated if the definition is applicable to the agency. An agency may incorporate a statutory definition by providing a citation to the existing statute.

(3) An agency may not promulgate a new definition that is not in the Montana Code Annotated unless it is for the purpose of clarification. When an agency adopts a clarification definition in rule that is not provided in statute, the agency shall propose a bill for introduction that includes the definition in the proposed

1 legislation. This bill must be proposed to the applicable interim committee in 5-5-202 that has jurisdiction over
2 the subject matter prior to commencement of the next regular legislative session.

3 (4) Beginning on [the effective date of this act], an agency that proposes an amendment to an
4 existing rule shall strike all definitions in the existing rule and provide a citation to the definition that is codified in
5 statute unless the definition is for purposes of clarification, in which case the agency shall propose a bill for
6 introduction under the provisions of subsection (3).

7 (5) Except as provided in part 2 and this section, nothing in this chapter confers authority upon-on
8 or augments the authority of any state agency to adopt, administer, or enforce any rule."

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10 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2025.

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