SENATE BILL NO. 1

INTRODUCED BY B. BEARD

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING PRIVATE NUISANCE LAWS RELATED TO MARIJUANA BUSINESSES; PROVIDING FOR A PRIVATE NUISANCE CAUSE OF ACTION; AND AMENDING SECTION 27-30-106, MCA.”

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

Section 1. Section 27-30-106, MCA, is amended to read:

"**27-30-106. Definition of private nuisance.** (1) A private nuisance is a condition arising out of the use of real property that:

(a) is injurious to health or safety, indecent or offensive to the senses of an individual on an adjacent or neighboring property, or

(b) obstructs the free use of an adjacent ~~of~~ or neighboring property so as to interfere with the comfortable enjoyment of life or property.

(2) The following may not be considered a private nuisance or be the basis for a private nuisance cause of action:

(a) an action or condition that is authorized, approved, licensed, or mandated by statute, ordinance, regulation, permit, license, order, rule, or other similar measure issued, adopted, promulgated, or approved by a government entity. This includes conditions or actions that are subject to an order, notice, or decree issued under 75-10-711 or 75-10-712; or

(b) noises resulting from the shooting activities on a shooting range during established hours of operation.

(3) An agricultural or farming operation, a place, an establishment, or a facility or any of its appurtenances or the operation of those things is not or does not become a private nuisance because of its normal operation as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the

complaining resident has been in possession or commercial establishment has been in operation.

(4) A marijuana business, as defined in 16-12-102, that causes or creates the conditions described in subsection (1) of this section may be subject to an action for private nuisance pursuant to 27-30-303 if the action is brought by a person who has been residing at an adjacent or neighboring property for a period of time that is longer than the marijuana business has been in operation."

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