

## HOUSE BILL NO. 355

INTRODUCED BY K. WALSH, M. NIKOLAKAKOS, C. SCHOMER, E. TILLEMANN, L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT RELATED EASEMENTS RIGHTS ARE  
RETAINED WHEN A CANAL OR DITCH IS CONVERTED INTO A PIPELINE; AND AMENDING SECTION 70-  
17-112, MCA."

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

**Section 1.** Section 70-17-112, MCA, is amended to read:

**"70-17-112. Interference with canal or ditch easements prohibited.** (1) A person with a canal or  
ditch easement has a secondary easement to enter, inspect, repair, and maintain a canal or ditch or to operate  
the appropriation works. A person retains this secondary easement if the canal or ditch is converted into a  
pipeline and the pipeline is conspicuously marked.

(2) A person may not encroach ~~upon~~ on or otherwise impair any easement for a canal or ditch  
used for irrigation or any other lawful domestic or commercial purpose, including carrying return water. A  
person may not encroach on or otherwise impair any easement for a canal or ditch under this subsection that  
has been converted into a pipeline.

(3) The provisions of subsection (2) do not apply if the holder of the canal ~~or~~, ditch, or pipeline  
easement consents in writing to the encroachment or impairment.

(4) Each canal or ditch easement obtained by prescription or conveyance is included within the  
scope of this section. Nothing in this section establishes a secondary easement where none existed prior to  
April 14, 1981. This section does not affect contracts or agreements concluded prior to April 14, 1981.

(5) If a legal action is brought to enforce the provisions of this section, the prevailing party is  
entitled to costs and reasonable attorney fees."

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