

NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: The 1975 Legislature passed the Natural Streambed and Land Preservation Act to govern private party actions in and around a streambed. The act was passed

“to provide for a policy of preserving the natural or existing shape, form, and course of streams to activities of private persons or organizations; and in do doing to keep soil erosion and sedimentation to a minimum.”¹

The act tasked the state’s 58 conservation districts with a permitting process – the “310 permit,” named after the bill number for the act, Senate Bill 310. A 310 permit is necessary for any activity that alters or modified the bed or banks of a perennially flowing stream. Other local, state, and federal permits may be also be required, such as a federal dredge-and-fill permit (404 permit) or a floodplain development permit.

The definition of what is a stream is key to the 310 permitting process. The original language of the act defined a stream subject to a permit as “any natural, perennial flowing stream, or river, its bed and immediate banks.”² The definition was amended to allow for exemptions.³

¹ Ch. 463, Laws of Montana (1975).

² I.b.i.d.

³ The Montana Strip and Underground Mine Reclamation Act and Montana water law define “perennial” streams, also, although neither definition is applicable.

State law allows conservation districts to adopt their own rules “setting minimum standards and guidelines” for the act.⁴ This results in slightly different interpretations of what is a “stream” between the districts.

Legislative Services Division Materials:

Water Policy Interim Committee, *Definition of Perennial Stream: Background for Discussion* (2013)

Other Materials:

Montana Department of Natural Resources and Conservation website on stream permitting: <http://dnrc.mt.gov/licenses-and-permits/stream-permitting>

Introduced Legislation

2019: [House Bill 383](#)—Chapter number assigned. EXTENDING THE TIME PERIOD TO APPEAL A CONSERVATION DISTRICT DECISION ON AN APPLICATION TO ALTER A STREAMBED UNDER THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975.

[HB399](#)—(H) Died in process. AN ACT CLARIFYING THE DEFINITION OF A STREAM FOR PROJECTS AUTHORIZED UNDER THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975.

2017: [House Bill 281](#) – (H) Died in standing committee. AN ACT PROHIBITING ELECTRIC TRANSMISSION LINES AND FOSSIL FUEL PIPELINES FROM BEING LOCATED UNDER WATER BODIES; PROVIDING RULEMAKING AUTHORITY; PROVIDING CONTINGENT APPLICABILITY; AMENDING SECTIONS 69-4-358, 69-13-103, 75-7-112, 75-20-301, AND 77-1-1111, MCA; AND PROVIDING AN APPLICABILITY DATE.

[HB 486](#) – (H) Died in standing committee. AN ACT PROHIBITING FOSSIL FUEL PIPELINES FROM BEING LOCATED UNDER NAVIGABLE LAKES AND STREAMS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 69-13-103, 75-7-112, 75-20-301, AND 77-1-1111, MCA; PROVIDING CONTINGENT APPLICABILITY; AND PROVIDING AN APPLICABILITY DATE.

2015: None.

2013:

[Senate Bill 334](#) – (S) Died in standing committee. AN ACT REVISING THE DEFINITION OF "STREAM" WITHIN THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975; AND AMENDING SECTION 75-7-103, MCA.

2011:

⁴ Section 75-7-117, MCA.

[SB238](#) – Chapter number assigned. AN ACT INCREASING JURISDICTIONAL LIMITS FOR JUSTICES' COURTS, CITY COURTS, AND SMALL CLAIMS COURTS; AMENDING SECTIONS 3-10-301, 3-10-1004, 3-11-103, 7-1-4151, 25-35-502, 25-35-503, 25-35-606, AND 75-7-123, MCA; AND PROVIDING AN EFFECTIVE DATE.

2009: None.

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