

Amendment - 1st Reading/2nd House-blue - Requested by: Curtis Schomer - (S) Natural Resources

- 2025

69th Legislature 2025

Drafter: Toni Henneman, ****

HB0703.001.001

1 HOUSE BILL NO. 703
2 INTRODUCED BY C. SCHOMER, S. FITZPATRICK, B. MITCHELL
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING CERTAIN AGENCIES AND DEPARTMENTS FROM
5 AN ANALYSIS OF GREENHOUSE GAS EMISSIONS FROM APPLIANCES, VEHICLES, AND ENGINES; AND
6 PROVIDING RULEMAKING AUTHORITY.

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8 WHEREAS, the purpose of the Montana Environmental Policy Act (MEPA) is to ensure that
9 environmental attributes are fully considered by the Legislature in enacting laws to fulfill constitutional
10 obligations and that the public is informed of the anticipated impacts in Montana of potential state actions; and

11 WHEREAS, the U.S. Congress has enacted the Clean Air Act and other standards to establish national
12 regulations over greenhouse gas emissions and other energy related matters; and

13 WHEREAS, the federal Energy Policy and Conservation Act preempts state regulation of gas usage
14 related to covered appliances, as recently referenced in California Restaurant Association v. City of Berkeley,
15 89 F.4th 1094 (9th Cir. 2024); and

16 WHEREAS, the federal Clean Air Act preempts regulation of mobile sources by states under 42 U.S.C.
17 7543 and 42 U.S.C. 7507; and

18 WHEREAS, the federal Clean Air Act preempts state regulation of out-of-state greenhouse gases, as
19 recently referenced in City of New York v. Chevron Corp., 993 F.3d 81 (2d Cir. 2021).

20 THEREFORE, because the Legislature has no authority to enact laws related to these subjects and a
21 state cannot act contrary to these federal statutes, the purposes of MEPA cannot be fulfilled by analyzing
22 greenhouse gas emissions from these sources. Thus, it is appropriate to exclude these sources from MEPA
23 review.

24

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

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27 NEW SECTION. **Section 1. Exemption from environmental review.** The department and local

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building departments are exempt from the provisions of Title 75, chapter 1, parts 1 and 2, for an analysis of greenhouse gases from a covered product or appliance, as defined by 42 U.S.C. 6292, for the adoption or enforcement of the state building code or county, city, and town building codes.

NEW SECTION. Section 2. Exemptions from environmental review. The department is not required to perform an analysis of greenhouse gas emissions beyond the state's borders under the provisions of Title 75, chapters 1, parts 1 and 2, from:

(1) any source not subject to state enforcement pursuant to 42 U.S.C. 7543(a) for a new motor vehicle or a new motor vehicle engine and pursuant to 42 U.S.C. 7543(e)(1) for a new nonroad engine or nonroad vehicle; ~~or~~

~~(2) beyond the state's borders.~~

NEW SECTION. Section 3. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 50, chapter 60, part 1, and the provisions of Title 50, chapter 60, part 1, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 75, chapter 2, part 1, and the provisions of Title 75, chapter 2, part 1, apply to [section 2].

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