AN ACT REVISING LAWS RELATING TO WILDFIRES AND UNMANNED AERIAL VEHICLE SYSTEMS; PROHIBITING INTERFERENCE WITH WILDFIRE SUPPRESSION EFFORTS INCLUDING BY THE USE OF UNMANNED AERIAL VEHICLE SYSTEMS; RESTRICTING GOVERNMENTAL ENTITIES WITH SELF-GOVERNING POWERS FROM ENACTING ORDINANCES GOVERNING THE PRIVATE USE OF AN UNMANNED AERIAL VEHICLE IN RELATION TO A WILDFIRE; PROVIDING PENALTIES; AND AMENDING SECTION 7-1-111, MCA.

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

Section 1. Obstruction of aerial wildfire suppression effort -- penalty -- exceptions. (1) A person may not obstruct, impede, prevent, or otherwise interfere with a lawful aerial wildfire suppression response by a state or local government effort by any means, including by the use of an unmanned aerial vehicle system.

(2) A person who violates subsection (1) is liable for a civil penalty to the state or local government for an amount equivalent to the reasonable costs of obstructing, impeding, preventing, or interfering with an aerial wildfire suppression response effort. The penalty may not exceed the actual flight costs of the aerial wildfire suppression response effort that was obstructed, impeded, prevented, or interfered with.

(3) Subsection (1) does not apply to the operation of an unmanned aerial vehicle system conducted by a unit or agency of the United States government or of a state, tribal, or local government, including any individual conducting an operation pursuant to a contract or other agreement entered into with the unit or agency, for the purpose of protecting the public safety and welfare, including firefighting, law enforcement, or emergency response.

(4) As used in this section, the following definitions apply:

(a) "Unmanned aerial vehicle" means an aircraft that is:

(i) capable of sustaining flight; and

(ii) operated with no possible direct human intervention from on or within the aircraft.

(b) "Unmanned aerial vehicle system" means the entire system used to operate an unmanned aerial

vehicle, including:

(i) the unmanned aerial vehicle;

(ii) communications equipment;

(iii) navigation equipment;

(iv) controllers;

(v) support equipment; and

(vi) autopilot functionality.

(c) "Wildfire" means an unplanned, unwanted fire burning uncontrolled and consuming vegetative fuels.

(d) "Wildfire suppression" means an effort to contain, extinguish, or suppress a wildfire.

Section 2. Section 7-1-111, MCA, is amended to read:

"7-1-111. Powers denied. A local government unit with self-government powers is prohibited from exercising the following:

(1) any power that applies to or affects any private or civil relationship, except as an incident to the exercise of an independent self-government power;

(2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject to those provisions, it may exercise any power of a public employer with regard to its employees;

(3) any power that applies to or affects the public school system, except that a local unit may impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and shall exercise any power that it is required by law to exercise regarding the public school system;

(4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of public convenience and necessity pursuant to Title 69, chapter 12;

(5) any power that establishes a rate or price otherwise determined by a state agency;

(6) any power that applies to or affects any determination of the department of environmental quality with regard to any mining plan, permit, or contract;

(7) any power that applies to or affects any determination by the department of environmental quality with regard to a certificate of compliance;

(8) any power that defines as an offense conduct made criminal by state statute, that defines an offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of $500, 6 months'

imprisonment, or both, except as specifically authorized by statute;

(9) any power that applies to or affects the right to keep or bear arms, except that a local government has the power to regulate the carrying of concealed weapons;

(10) any power that applies to or affects a public employee's pension or retirement rights as established by state law, except that a local government may establish additional pension or retirement systems;

(11) any power that applies to or affects the standards of professional or occupational competence established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

(12) except as provided in 7-3-1105, 7-3-1222, or 7-31-4110, any power that applies to or affects Title 75, chapter 7, part 1, or Title 87;

(13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require landlords to comply with ordinances or provisions that are applicable to all other businesses or residences within the local government's jurisdiction.

(14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

(15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage, distribution, use, or application of commercial fertilizers or soil amendments, except that a local government may enter into a cooperative agreement with the department of agriculture concerning the use and application of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local government from adopting or implementing zoning regulations or fire codes governing the physical location or siting of fertilizer manufacturing, storage, and sales facilities.

(16) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle, including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(17) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a person who holds an unrevoked and unexpired official amateur radio station license and operator's license, "technician" or higher class, issued by the federal communications commission of the United States;

(18) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles, load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a highway that is under the jurisdiction of an entity other than the local government unit;

(19) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in relation to a wildfire."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [section 1].

- END -

I hereby certify that the within bill,

HB 0644, originated in the House.

Speaker of the House

Signed this _____ day

of _____, 2017.

Chief Clerk of the House

President of the Senate

Signed this _____ day

of _____, 2017.

HOUSE BILL NO. 644

INTRODUCED BY W. CURDY

AN ACT REVISING LAWS RELATING TO WILDFIRES AND UNMANNED AERIAL VEHICLE SYSTEMS; PROHIBITING INTERFERENCE WITH WILDFIRE SUPPRESSION EFFORTS INCLUDING BY THE USE OF UNMANNED AERIAL VEHICLE SYSTEMS; RESTRICTING GOVERNMENTAL ENTITIES WITH SELF-GOVERNING POWERS FROM ENACTING ORDINANCES GOVERNING THE PRIVATE USE OF AN UNMANNED AERIAL VEHICLE IN RELATION TO A WILDFIRE; PROVIDING PENALTIES; AND AMENDING SECTION 7-1-111, MCA.