

OFFICE OF THE GOVERNOR
STATE OF MONTANA

GREG GIANFORTE
GOVERNOR



KRISTEN JURAS
LT. GOVERNOR

May 8, 2025

The Honorable Brandon Ler
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable Matt Regier
President of the Senate
State Capitol
Helena, MT 59620

Dear Speaker Ler and President Regier:

As the Legislature knows, some Montana judges have manipulated the legal standards that courts use to temporarily enjoin constitutionally-challenged statutes, blocking laws they don't like and keeping in place laws they like. On March 25, 2025, I proudly signed into law House Bill 409, which continues the Legislature's commitment to rein in this judicial activism by forcing judges to apply the standards as the United States Supreme Court would.

First, House Bill 409 makes clear that only United States Supreme Court decisions may be followed in applying the preliminary injunction four-factor test.

Second, House Bill 409 expressly rejects the use of a "sliding scale" or other interpretative approaches the lower federal courts use when applying the Supreme Court's factors. The notoriously activist Ninth Circuit Court of Appeals, among other circuit courts, use the "sliding scale" test.


These two critical elements of House Bill 409 eliminate gamesmanship in applying the test and so will tend to limit judicial activism.

Unfortunately, House Bill 715 muddies the waters and undermines the critical aims of House Bill 409. In direct conflict with House Bill 409, House Bill 715 adopts the Ninth Circuit's analysis as the criteria for mandatory injunctions, opening the "sliding scale" door for mandatory injunctions that House Bill 409 shut.

Enacting House Bill 715 after enacting House Bill 409 will result in inconsistent, unnecessary, and confusing law surrounding preliminary injunction analysis. Therefore, House Bill 409 should remain as Montana's sole standard for such analysis.

Therefore, in accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto House Bill 715: "AN ACT REVISING INJUNCTION LAWS; PROVIDING A STANDARD FOR MANDATORY PRELIMINARY INJUNCTION ORDERS THAT MIRRORS THE FEDERAL STANDARD; REORGANIZING EXISTING STATUTORY LANGUAGE REGARDING INJUNCTIONS FOR IMPROVED READABILITY; CLARIFYING THE NATURE OF A PROHIBITORY INJUNCTION; AMENDING SECTIONS 27-19-201 AND 75-1-201, MCA; AND PROVIDING AN APPLICABILITY DATE."

Sincerely,

A handwritten signature in blue ink, appearing to read "Greg Gianforte", is written over a printed name and title.

Greg Gianforte
Governor

Enclosure

cc: Legislative Services Division
Christi Jacobsen, Secretary of State