

1 HOUSE BILL NO. 389

2 INTRODUCED BY B. LAWSON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CERTIFICATION OF MANUFACTURED HOME
5 INSTALLERS; REQUIRING THE POSTING OF A BOND OR OTHER SECURITY AND PROOF OF GENERAL
6 LIABILITY INSURANCE BY MANUFACTURED HOME INSTALLERS; ~~PROVIDING FOR SUSPENSION AND~~
7 ~~REVOCAION OF CERTIFICATES~~ ENFORCEMENT PROVISIONS; REQUIRING MANUFACTURED HOMES
8 TO BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS OR ALTERNATIVELY
9 ACCORDING TO A MANUFACTURED HOME STATE SETUP CODE; PROVIDING FOR INSTALLATION
10 PERMITS AND INSPECTIONS; REQUIRING A CERTIFIED MANUFACTURED HOME INSTALLER TO
11 OVERSEE THE INSTALLATION OF A MANUFACTURED HOME; ESTABLISHING PENALTIES FOR
12 INFRACTIONS PERTAINING TO THE INSTALLATION OF MANUFACTURED HOMES; PROVIDING FOR
13 INSPECTION OF INSTALLATION SITES; REQUIRING CITIES AND COUNTIES THAT HAVE ADOPTED THE
14 STATE BUILDING CODE TO ESTABLISH APPLICATION AND INSTALLATION PERMIT PROCEDURES FOR
15 THE INSTALLATION OF MANUFACTURED HOMES IN THEIR JURISDICTIONS; ~~AND~~ CREATING A
16 MANUFACTURED HOME STATE SETUP CODE; AND PROVIDING EFFECTIVE DATES."

17

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

19

20 NEW SECTION. **Section 1. Purpose -- certificate required.** The legislature finds that the regulation
21 and control of those persons engaged in the business of installing manufactured homes is necessary to
22 protect the health and safety of the citizens of this state. To that end, it is unlawful for any person to
23 engage in business as a manufactured home installer without being certified as provided in [sections 1
24 through 13].

25

26 NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 13], the following
27 definitions apply:

28 (1) "Department" means the department of commerce created in 2-15-1801.

29 (2) "Manufactured home" means a residential dwelling built in a factory in accordance with the
30 United States department of housing and urban development design and construction standards for

1 manufactured homes and the federal Manufactured Home Construction and Safety Standards.

2 (3) "Manufactured home installation" means all onsite work necessary for the installation of a
3 manufactured home, including but not limited to:

- 4 (a) foundation work prepared for manufactured homes;
- 5 (b) installation of support piers and earthquake resistant bracing systems;
- 6 (c) required connection to the foundation system and support piers; and
- 7 (d) skirting.

8 (4) "Manufactured home installer" means a person who is in the business of installing
9 manufactured homes and who has been issued a certificate by the department.

10 (5) "Training course" means an education program administered by the department or a
11 department-approved educational provider to provide education and training for certification as a
12 manufactured home installer and for local inspectors or others.

13

14 **NEW SECTION. Section 3. Administration -- rulemaking -- disclosure form.** (1) The department
15 shall administer the provisions of [sections 1 through 13]. The department shall develop a manufactured
16 home state setup code to be used when the manufacturer's installation instructions are not readily
17 available and shall adopt rules to implement and supplement the code. The rules may include adopting by
18 reference nationally recognized installation standards, in whole or in part.

19 (2) The department shall prescribe the form and content for a ~~new~~ manufactured home buyer's
20 information and disclosure form pertaining to the installation of manufactured homes. The form must be
21 presented by a manufactured home dealer to each person who purchases a ~~new~~ manufactured home from
22 the dealer, and the form must be signed by the dealer and the purchaser at the time the initial purchase
23 order is signed for the sale of a ~~new~~ manufactured home.

24

25 **NEW SECTION. Section 4. Application for installer certification -- rulemaking -- fees -- LIABILITY**
26 **INSURANCE -- bond.** (1) A person desiring certification as a manufactured home installer shall apply to the
27 department on a form provided by the department.

28 (2) Upon receipt of the application, the department shall make a determination as to whether the
29 applicant is eligible to take the training course and examination for certification as a manufactured home
30 installer. An applicant shall furnish written evidence of 6 months of experience under the ~~direct~~

1 supervision of a certified manufactured home installer or 6 months of other equivalent experience in order
2 to be eligible to take the training course and examination.

3 (3) The department shall establish rules for the training course and examinations to be given to
4 applicants for certification. Upon determining that the applicant is eligible to take the training course and
5 examination, the department shall notify the applicant, indicating the time and place for taking the training
6 course and examination. The requirement that an applicant must be under the ~~direct~~ supervision of a
7 certified manufactured home installer for 6 months applies only to applications made on or after July 1,
8 2002. For applications made before July 1, 2002, the department shall require evidence of experience
9 to satisfy this requirement. The department may allow other persons who are not seeking certification,
10 including local inspectors, to take the training course and examination on manufactured home installation.

11 (4) The department shall establish by rule certification and examination fees for persons seeking
12 certification as manufactured home installers and a fee for taking the training course. The fees must be
13 commensurate with the costs.

14 (5) THE DEPARTMENT MAY ISSUE A CERTIFICATE WITHOUT EXAMINATION TO A PERSON LICENSED IN ANOTHER
15 STATE IF THE DEPARTMENT DETERMINES THAT THE OTHER STATE'S LICENSE STANDARDS AT THE TIME THE APPLICATION
16 IS MADE TO THIS STATE ARE SUBSTANTIALLY EQUIVALENT TO OR GREATER THAN THE STANDARDS IN THIS STATE.

17 ~~(5)(6)~~ (a) An applicant for certification shall file with the department, along with the application;
18 (i) a surety bond in the amount of ~~\$25,000~~ \$10,000 or, in lieu of a bond, a certificate of deposit,
19 cash, or a government bond in the amount of ~~\$25,000~~ \$10,000. All bonds must be approved by the
20 department and renewed annually.

21 (ii) PROOF OF A GENERAL LIABILITY INSURANCE POLICY IN AN AMOUNT OF NO LESS THAN \$500,000. THE
22 POLICY MUST STATE THE NAME OF THE MANUFACTURED HOME INSTALLER OR THE INSTALLER'S COMPANY AND MUST BE
23 IN PLACE DURING THE ENTIRE PERIOD THAT THE INSTALLER IS CERTIFIED BY THE DEPARTMENT.

24 (b) A person obtaining a judgment for damages, attorney fees, or costs against a manufactured
25 home installer for a violation of a provision of [sections 1 through 13] or a rule adopted pursuant to
26 [sections 1 through 13] has the right to be reimbursed for those damages, attorney fees, or costs from
27 any bond or security posted with the department by a manufactured home installer pursuant to this
28 section.

29 (7) ALL FEES AND MONEY RECEIVED BY THE DEPARTMENT MUST BE DEPOSITED IN THE STATE SPECIAL REVENUE
30 FUND FOR USE BY THE DEPARTMENT IN ADMINISTERING THE PROVISIONS OF [SECTIONS 1 THROUGH 13].

1

2 **NEW SECTION. Section 5. Installer training course -- examination.** (1) The department shall
3 prepare a written training course and examination to be administered to applicants for manufactured home
4 installer certification. The examination must be constructed to determine whether the applicant:

5 (a) possesses general knowledge of the technical information and practical procedures that are
6 necessary for manufactured home installation;

7 (b) is familiar with the applicable federal and state codes and department rules pertaining to
8 manufactured homes; and

9 (c) is familiar with the local government regulations related to manufactured home installations.

10 (2) The department shall certify the results of the examination and shall notify the applicant in
11 writing whether the applicant has passed or failed the examination. An applicant who fails the examination
12 may retake the training course and examination. The department may not limit the number of times that
13 a person may take the training course and examination.

14 (3) The department shall adopt rules to establish and administer a process of approving
15 educational providers as an alternative to the department training course for manufactured home installers
16 and local inspectors.

17

18 **NEW SECTION. Section 6. Issuance of certificate -- renewal.** (1) The department shall issue a
19 certificate of manufactured home installation to an applicant who has taken the training course, passed
20 the examination, paid the fees, posted the required bond or other security, and in all other respects meets
21 the qualifications. The certificate must bear the date of issuance and a certification identification number
22 and is renewable every ~~3~~ 2 years upon application and completion of a continuing education program as
23 determined by the department. A renewal fee must be assessed for each certificate. If a person fails to
24 renew a certificate by the renewal date, the person is required to retake the examination and pay the
25 examination fee.

26 (2) The certificate of manufactured home installation provided for in [sections 1 through 13] grants
27 the holder the right to engage in manufactured home installation throughout the state without any other
28 installer certification.

29

30 ~~— **NEW SECTION. Section 7. Suspension or revocation of certificate.** (1) The department, subject~~

1 ~~to the contested case provisions of the Montana Administrative Procedure Act, may suspend or revoke~~
 2 ~~a certificate issued pursuant to [sections 1 through 13] if the certificate was obtained through error or~~
 3 ~~fraud or if the holder of the certificate is shown to be grossly incompetent or has willfully violated any~~
 4 ~~provision of [sections 1 through 13] or the rules adopted pursuant to [sections 1 through 13].~~

5 ~~—— (2) Any person whose certificate has been revoked may not apply for a new certificate until the~~
 6 ~~expiration of 1 year from the date of the revocation.~~

7

8 NEW SECTION. SECTION 7. ENFORCEMENT. THE PROVISIONS OF TITLE 37, CHAPTER 1, PART 4, APPLY TO
 9 [SECTIONS 1 THROUGH 13].

10

11 NEW SECTION. Section 8. Manufactured home installation. (1) ~~After October 1, 2002, all~~ ALL
 12 manufactured homes must be:

13 (a) installed in accordance with the manufacturer's instructions; or

14 (b) if the manufacturer's instructions are not readily available from the manufacturer, installed in
 15 accordance with the manufactured home state setup code and any rules adopted by the department to
 16 implement or supplement that code.

17 (2) All manufactured homes must be installed in accordance with all other applicable state laws
 18 pertaining to utility connection requirements.

19 (3) If the home is installed in accordance with the manufacturer's specifications, a copy of those
 20 specifications must be in the home at the time of setup and inspection. If the home is installed in
 21 accordance with the provisions of the manufactured home state setup code, a copy of the state setup
 22 requirements must be in the home at the time of setup and inspection.

23 (4) A home owner or the owner of a manufactured home park shall ensure that the ground on
 24 which a manufactured home is to be installed has been improved as necessary to provide a proper base
 25 for the unit and that the area beneath it has adequate drainage.

26

27 NEW SECTION. Section 9. Local government installation application and permit requirements.

28 (1) A city or county manufactured home installation application and permit, if applicable pursuant to
 29 [section 13], must state the certification identification number of the manufactured home installer
 30 supervising the installation of the manufactured home.

1 (2) A city or county may not issue final approval for the installation of a manufactured home
 2 unless the manufactured home installer or the installer's agent has posted the manufactured home
 3 installer's certification number at the setup site and has identified the work performed on the manufactured
 4 home installation on a form prescribed by the department.

5

6 **NEW SECTION. Section 10. Certified installer required to oversee installation -- infraction --**
 7 **exceptions.** (1) ~~After October 1, 2002, a~~ A manufactured home may not be installed without a
 8 manufactured home installer overseeing the installation work.

9 (2) The manufactured home installer is responsible for reading, understanding, and following the
 10 manufacturer's installation instructions or the state manufactured home setup code, whichever is
 11 applicable, and is responsible for the performance of noncertified workers engaged in the installation of
 12 the home.

13 (3) A manufactured home installer certification is not required for:

14 (a) site preparation;

15 (b) sewer and water connections outside of the building site;

16 (c) specialty trades that are responsible for constructing accessory structures, such as garages,
 17 carports, and decks;

18 (d) foundation work prepared for the manufactured home;

19 (e) painting and dry wall finishing;

20 (f) carpet installation;

21 (g) specialty work performed within the scope of the license by licensed plumbers or electricians.

22 This provision does not waive or lessen any state regulations related to licensing or permits required for
 23 plumbers or electricians.

24 (h) manufactured home owners performing installation work on their own homes;

25 (i) a manufacturer's manufactured home installation crew installing a manufactured home sold by
 26 the manufacturer; or

27 (j) service personnel providing warranty work that is not associated with installation.

28 (4) Violation of this section is an infraction.

29

30 **NEW SECTION. Section 11. Infraction notice -- inspections -- investigations.** (1) An authorized

1 representative of the department or of a city or county, if applicable, may issue a notice of infraction if
2 the person supervising the manufactured home installation work fails to produce evidence of having a
3 certificate issued by the department.

4 (2) A notice of infraction issued under this section must be personally served on or sent by
5 certified mail to the person named in the notice by the authorized representative.

6 (3) An authorized representative may investigate alleged or apparent violations of [section 10].
7 Upon presentation of credentials, an authorized representative may inspect sites at which manufactured
8 home installation work is undertaken to determine whether the work is being done under the supervision
9 of a manufactured home installer.

10 (4) Upon request of the authorized representative, a person performing manufactured home
11 installation work shall identify the person holding the installation certificate issued by the department.

12 (5) Each day in which a person engages in the installation of a manufactured home in violation of
13 [section 10] is a separate infraction. Each worksite at which a person engages in the trade of
14 manufactured home installation in violation of [section 10] is a separate infraction.

15

16 NEW SECTION. **Section 12. Contents of notice of infraction -- contested case proceedings --**
17 **penalty.** (1) The department shall prescribe the form of the notice of infraction issued under [section 11].

18 (2) The notice of infraction must include but is not limited to the following:

19 (a) (i) a statement that the notice represents a determination that an infraction has been
20 committed by the person named in the notice and that the determination is final unless contested as
21 provided in this section;

22 (ii) a statement that the determination of whether an infraction has in fact been committed is
23 subject to the contested case procedures of the Montana Administrative Procedures Act; and

24 (iii) a statement outlining the steps that the person named in the notice is required to take in order
25 to proceed under the contested case procedures of the Montana Administrative Procedures Act;

26 (b) a statement that the infraction is a noncriminal offense for which imprisonment may not be
27 imposed as a sanction;

28 (c) a statement of the specific infraction for which the notice was issued;

29 (d) a statement of the monetary penalty that has been established for the infraction;

30 (e) a statement of the options provided in this section for responding to the notice and the

1 procedures necessary to exercise these options; and

2 (f) a statement that, at a hearing to contest the determination, the state has the burden of proving
3 the infraction by a preponderance of the evidence.

4 (3) A person who is found to have violated a provision of [section 10] shall be assessed a penalty
5 of up to \$1,000 for each infraction.

6

7 NEW SECTION. Section 13. Installation permits and inspections. (1) ~~The owner of~~ EXCEPT AS
8 PROVIDED IN SUBSECTION (5), the installer of a manufactured home shall obtain an installation permit if
9 required by a city or county before installing a manufactured home that will be used as a residence on a
10 building site or in a manufactured home park. The manufactured home installer's certification must be in
11 effect at the time of the application for the installation permit.

12 (2) Cities and counties that have adopted the state building code shall establish a permit process
13 for all manufactured home installations within their respective jurisdictions and shall provide for inspection
14 of all work required by the manufacturer's installation instructions or the manufactured home state setup
15 code, whichever is applicable.

16 (3) Fees for installation permits and inspections must be established by a city or county having
17 jurisdiction, and the fees must be commensurate with costs.

18 (4) Immediately upon completion of the installation of a manufactured home, a manufactured
19 home installer shall perform an inspection of the completed installation to ensure compliance with the
20 manufacturer's specifications or the state manufactured home setup code. The inspection must be
21 recorded on an inspection record document approved by the department, and a copy must be provided to
22 the home owner upon completion of the inspection and to the city or county inspector, if applicable.

23 (5) A MANUFACTURED HOME OWNER PERFORMING INSTALLATION WORK ON THE HOME OWNER'S OWN HOME IS
24 NOT REQUIRED TO OBTAIN AN INSTALLATION PERMIT.

25

26 NEW SECTION. Section 14. Codification instruction. [Sections 1 through 13] are intended to be
27 codified as an integral part of Title 50, chapter 60, and the provisions of Title 50, chapter 60, apply to
28 [sections 1 through 13].

29

30 NEW SECTION. SECTION 15. EFFECTIVE DATES. (1) [SECTIONS 2 THROUGH 7 AND 14 AND THIS SECTION]

1 ARE EFFECTIVE OCTOBER 1, 2001.

2 (2) [SECTIONS 1 AND 8 THROUGH 13] ARE EFFECTIVE OCTOBER 1, 2002.

3 - END -