

SENATE BILL NO. 130

INTRODUCED BY B. STORY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

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5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO FIRES; REVISING  
6 LAWS GOVERNING THE DEPARTMENT OF JUSTICE'S FIRE PREVENTION AND INVESTIGATION SECTION  
7 AND LAWS REFERENCING AND GOVERNING LOCAL GOVERNMENTAL FIRE AGENCIES;  
8 STANDARDIZING USAGE OF THE TERM "GOVERNMENTAL FIRE AGENCY"; CLARIFYING THAT A CHIEF  
9 OF A GOVERNMENTAL FIRE AGENCY MAY RECEIVE CONFIDENTIAL CRIMINAL JUSTICE INFORMATION;  
10 ELIMINATING RESTRICTIONS ON PAY FOR SPECIAL FIRE INSPECTORS; ~~REQUIRING MUNICIPALITIES  
11 AND GOVERNMENTAL FIRE AGENCIES TO ADOPT THE SAME FIRE CODES AS THE CODES ADOPTED  
12 BY THE DEPARTMENT OF JUSTICE;~~ CLARIFYING THE PENALTY FOR SETTING OR LEAVING A FIRE THAT  
13 CAUSES DAMAGE AND INCREASING THE MINIMUM FINE; ELIMINATING DUPLICATE PROVISIONS  
14 PROHIBITING CERTAIN CAMPFIRES AND THROWING LIGHTED MATERIAL; REQUIRING FIRE INCIDENT  
15 REPORTS TO BE FILED WITH THE DEPARTMENT OF JUSTICE; AMENDING SECTIONS 2-7-501, 2-15-1519,  
16 2-15-2005, 7-6-204, 18-8-202, 25-13-613, 39-71-118, 40-6-402, 44-5-103, 44-5-303, 46-18-261, 50-3-101,  
17 50-3-102, 50-3-106, 50-5-215, 50-19-403, 50-37-107, 50-37-108, 50-37-109, 50-60-202, 50-61-102, 50-61-114,  
18 50-61-115, 50-61-121, 50-62-101, 50-62-102, 50-62-103, 50-62-112, 50-63-102, 50-63-103, 50-63-202,  
19 50-63-203, 50-63-401, 50-63-402, 50-63-404, 50-78-102, 52-2-733, 52-2-734, 52-4-205, 53-20-307, 61-8-102,  
20 61-8-364, 61-9-402, AND 75-10-725, MCA; AND PROVIDING AN EFFECTIVE DATE."

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22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
23

24 **Section 1.** Section 2-7-501, MCA, is amended to read:

25 **"2-7-501. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:

- 26 (1) "Audit" means a financial audit and includes financial statement and financial-related audits as  
27 defined by government auditing standards as established by the U.S. comptroller general.
- 28 (2) "Board" means the Montana board of public accountants provided for in 2-15-1756.
- 29 (3) "Department" means the department of administration.
- 30 (4) (a) "Financial assistance" means assistance provided by a federal, state, or local government entity



1 to a local government entity or subrecipient to carry out a program. Financial assistance may be in the form of  
2 grants, contracts, cooperative agreements, loans, loan guarantees, property, interest subsidies, insurance, direct  
3 appropriations, or other noncash assistance. Financial assistance includes awards received directly from federal  
4 and state agencies or indirectly when subrecipients receive funds identified as federal or state funds by recipients.  
5 The granting agency is responsible for identifying the source of funds awarded to recipients. The recipient is  
6 responsible for identifying the source of funds awarded to subrecipients.

7 (b) Financial assistance does not include direct federal, state, or local government cash assistance to  
8 individuals.

9 (5) "Financial report" means a presentation of financial statements, including applicable supplemental  
10 notes and supplemental schedules, that are prepared in a format published by the department using the  
11 Budgetary Accounting and Reporting System for Montana Cities, Towns, and Counties Manual and that reflect  
12 a current financial position and the operating results for the 1-year reporting period.

13 (6) "Independent auditor" means:

14 (a) a federal, state, or local government auditor who meets the standards specified in the government  
15 auditing standards; or

16 (b) a licensed accountant who meets the standards in subsection (6)(a).

17 (7) (a) "Local government entity" means a county, city, district, or public corporation that:

18 (i) has the power to raise revenue or receive, disburse, or expend local, state, or federal government  
19 revenue for the purpose of serving the general public;

20 (ii) is governed by a board, commission, or individual elected or appointed by the public or representatives  
21 of the public; and

22 (iii) receives local, state, or federal financial assistance.

23 (b) Local government entities include but are not limited to:

24 (i) airport authority districts;

25 (ii) cemetery districts;

26 (iii) counties;

27 (iv) county housing authorities;

28 (v) county road improvement districts;

29 (vi) county sewer districts;

30 (vii) county water districts;

- 1 (viii) county weed management districts;
- 2 (ix) drainage districts;
- 3 (x) fire ~~department relief associations~~ companies;
- 4 (xi) fire districts;
- 5 (xii) fire service areas;
- 6 ~~(xii)~~(xiii) hospital districts;
- 7 ~~(xiii)~~(xiv) incorporated cities or towns;
- 8 ~~(xiv)~~(xv) irrigation districts;
- 9 ~~(xv)~~(xvi) mosquito districts;
- 10 (xvii) municipal fire departments;
- 11 ~~(xvi)~~(xviii) municipal housing authority districts;
- 12 ~~(xvii)~~(xix) port authorities;
- 13 ~~(xviii)~~(xx) solid waste management districts;
- 14 ~~(xix)~~(xxi) rural improvement districts;
- 15 ~~(xx)~~(xxii) school districts, including a district's extracurricular funds;
- 16 ~~(xxi)~~(xxiii) soil conservation districts;
- 17 ~~(xxii)~~(xxiv) special education or other cooperatives;
- 18 ~~(xxiii)~~(xxv) television districts;
- 19 ~~(xxiv)~~(xxvi) urban transportation districts;
- 20 ~~(xxv)~~(xxvii) water conservancy districts; and
- 21 ~~(xxvi)~~(xxviii) other miscellaneous and special districts.
- 22 (8) "Revenues" means all receipts of a local government entity from any source excluding the proceeds
- 23 from bond issuances."
- 24

25 **Section 2.** Section 2-15-1519, MCA, is amended to read:

26 **"2-15-1519. Fire services training advisory council.** (1) The board of regents shall appoint a fire

27 services training advisory council to work with the director of the fire services training school. The membership

28 of the council ~~shall~~ must include the following:

- 29 (a) a fire chief;
- 30 (b) a volunteer firefighter;

- 1 (c) a paid firefighter;  
2 (d) a fire service instructor;  
3 (e) a person involved in fire prevention;  
4 (f) a representative of the insurance industry; and  
5 (g) a professional educator.

6 (2) The board shall solicit and consider the recommendations of appropriate organizations and  
7 associations of fire service personnel in making appointments under subsection (1).

8 (3) Members shall serve for 4-year terms and may be removed for cause. If a vacancy occurs, a member  
9 must be appointed to fill the unexpired term. A member may be reappointed.

10 (4) A representative of the state fire prevention and investigation ~~program~~ section of the department of  
11 justice, a fire control officer designated by the director of the department of natural resources and conservation,  
12 and the director of the fire services training school are ex officio members of the council."

13

14 **Section 3.** Section 2-15-2005, MCA, is amended to read:

15 **"2-15-2005. State fire prevention and investigation ~~program~~ section -- advisory council.** (1) There  
16 is a state fire prevention and investigation ~~program~~ section in the department of justice and under the supervision  
17 and control of the attorney general.

18 (2) A person appointed to administer the fire prevention and investigation ~~program~~ section shall  
19 represent the state of Montana as the state fire marshal and must be a person qualified by experience, training,  
20 and high professional competence in matters of fire service and safety.

21 (3) The attorney general shall create a fire prevention and investigation advisory council in accordance  
22 with procedures provided in 2-15-122."

23

24 **Section 4.** Section 7-6-204, MCA, is amended to read:

25 **"7-6-204. Crediting of interest -- exceptions.** (1) Interest paid and collected on deposits or investments  
26 must be credited to the general fund of the county, city, or town to whose credit the funds are deposited unless  
27 otherwise provided:

- 28 (a) by law;  
29 (b) by terms of a gift, grant, or donation; or  
30 (c) by subsections (2) and (3).

1           (2) Subject to subsection (1), interest paid and collected on the deposits or investments of the funds of  
 2 a volunteer fire district or department organized in an unincorporated area under Title 7, chapter 33, part 21 or  
 3 23, or of a fire service area or county fire department must be credited to the account of that fire district, service  
 4 area, or department.

5           (3) Subject to subsection (1), interest paid and collected on the deposits or investments of any fund  
 6 separately created and accounted for by a county, city, or town may be credited to the separately created fund  
 7 proportionately to each fund's participation in the deposit or investment."  
 8

9           **Section 5.** Section 18-8-202, MCA, is amended to read:

10           **"18-8-202. Definitions.** Unless the context clearly indicates otherwise, in this part, the following  
 11 definitions apply:

12           (1) "Agency" means a state agency, local agency, or special district.

13           (2) "Architectural, engineering, and land surveying" means services rendered by a person, other than  
 14 as an employee of an agency, contracting to perform activities within the scope of the general definition of  
 15 professional practice and licensed for the respective practice as an architect pursuant to Title 37, chapter 65, or  
 16 an engineer or land surveyor pursuant to Title 37, chapter 67.

17           (3) "Licensed professional" or "licensed architect, professional engineer, professional land surveyor"  
 18 means a person providing professional services who is not an employee of the agency for which the services are  
 19 provided.

20           (4) "Local agency" means a city, town, county, special district, municipal corporation, agency, port district  
 21 or authority, airport authority, political subdivision of any type, or any other entity or authority of local government,  
 22 in corporate form or otherwise.

23           (5) "Person" means an individual, organization, group, association, partnership, firm, joint venture, or  
 24 corporation.

25           (6) "Special district" means a unit of local government, other than a city, town, or county, authorized by  
 26 law to perform a single function or a limited number of functions, including but not limited to water districts,  
 27 irrigation districts, fire districts, fire service areas, school districts, community college districts, hospital districts,  
 28 sewer districts, and transportation districts.

29           (7) "State agency" means a department, agency, commission, bureau, office, or other entity or authority  
 30 of state government."

1

2 **Section 6.** Section 25-13-613, MCA, is amended to read:

3 **"25-13-613. Property necessary to carry out governmental functions.** (1) In addition to the property  
4 mentioned in 25-13-609(1), ~~there shall be~~ the following property is exempt to from all judgment debtors ~~the~~  
5 following property:

6 (a) ~~all fire engines, hooks, and ladders, with the cart, trucks, and carriages, hose, buckets, implements,~~  
7 ~~and apparatus thereto appertaining, and all furniture and uniforms of any fire company or department organized~~  
8 ~~under any laws of this state~~ necessary firefighting equipment and facilities of a governmental fire agency  
9 organized under Title 7, chapter 33;

10 (b) all arms, uniforms, and accouterments required by law to be kept by any person and one gun to be  
11 selected by the debtor;

12 (c) all courthouses, jails, public offices, and buildings, lots, grounds, and personal property; and the  
13 fixtures, furniture, books, papers, and appurtenances belonging and pertaining to the courthouse, jail, and public  
14 offices belonging to any county of this state; and

15 (d) all cemeteries, public squares, parks, and places, public buildings, town halls, public markets,  
16 buildings for the use of fire departments and military organizations, and the lots and grounds ~~thereto belonging~~  
17 ~~and appertaining~~ owned or held by any town or incorporated city or dedicated by ~~such a~~ a city or town to health,  
18 ornament, or public use or for the use of any fire or military company organized under the laws of the state.

19 (2) ~~No article, however, or species of~~ The property mentioned listed in this section is not exempt from  
20 execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage lien  
21 ~~thereon on the property, and no a person who is~~ not a bona fide resident of this state ~~shall have the benefit of is~~  
22 not entitled to these exemptions."  
23

23

24 **Section 7.** Section 39-71-118, MCA, is amended to read:

25 **"39-71-118. Employee, worker, volunteer, and volunteer firefighter defined.** (1) As used in this  
26 chapter, the term "employee" or "worker" means:

27 (a) each person in this state, including a contractor other than an independent contractor, who is in the  
28 service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied,  
29 oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the  
30 elected and appointed paid public officers and officers and members of boards of directors of quasi-public or

1 private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the  
2 corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not  
3 otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of  
4 the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic  
5 employment is excluded.

6 (b) any juvenile who is performing work under authorization of a district court judge in a delinquency  
7 prevention or rehabilitation program;

8 (c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training  
9 under a state or federal vocational training program, whether or not under an appointment or contract of hire with  
10 an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving  
11 payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational  
12 training programs, as outlined in this subsection, while they are on the premises of a public school or community  
13 college.

14 (d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

15 (e) a person, other than a juvenile as described in subsection (1)(b), who is performing community  
16 service for a nonprofit organization or association or for a federal, state, or local government entity under a court  
17 order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under  
18 appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment  
19 from a third party. For a person covered by the definition in this subsection (1)(e):

20 (i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment  
21 award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part  
22 4, for a full-time employee at the time of the injury; and

23 (ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the  
24 minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service  
25 required under the order from the court or hearings officer.

26 (f) an inmate working in a federally certified prison industries program authorized under 53-1-301;

27 (g) ~~a person who is an enrolled member of a volunteer fire department, as described in 7-33-4109,~~  
28 volunteer firefighter AS DESCRIBED IN 7-33-4109 or a person who provides ambulance services under Title 7,  
29 chapter 34, part 1; and

30 (h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is

1 considered an employee for workers' compensation purposes only. The department of public health and human  
2 services shall provide workers' compensation coverage for recipients of financial assistance, as defined in  
3 53-4-201, or for participants in the food stamp program, as defined in 53-2-902, who are placed at public or  
4 private worksites through an endorsement to the department of public health and human services' workers'  
5 compensation policy naming the public or private worksite entities as named insureds under the policy. The  
6 endorsement may cover only the entity's public assistance participants and may ~~only~~ be only for the duration of  
7 each participant's training while receiving financial assistance or while participating in the food stamp program  
8 under a written agreement between the department of public health and human services and each public or  
9 private entity. The department of public health and human services may not provide workers' compensation  
10 coverage for individuals who are covered for workers' compensation purposes by another state or federal  
11 employment training program. Premiums and benefits must be based upon the wage that a probationary  
12 employee is paid for work of a similar nature at the assigned worksite.

13 (2) The terms defined in subsection (1) do not include a person who is:

14 (a) participating in recreational activity and who at the time is relieved of and is not performing prescribed  
15 duties, regardless of whether the person is using, by discount or otherwise, a pass, ticket, permit, device, or other  
16 emolument of employment;

17 (b) performing voluntary service at a recreational facility and who receives no compensation for those  
18 services other than meals, lodging, or the use of the recreational facilities;

19 (c) performing services as a volunteer, except for a person who is otherwise entitled to coverage under  
20 the laws of this state. As used in this subsection (2)(c), "volunteer" means a person who performs services on  
21 behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

22 (d) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and  
23 providing care without wage compensation to no more than six foster children in the provider's own residence.  
24 The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure  
25 and recreational activities, and providing for other needs and activities arising in the provision of in-home foster  
26 care.

27 (3) With the approval of the insurer, an employer may elect to include as an employee under the  
28 provisions of this chapter any volunteer as defined in subsection (2)(c).

29 (4) (a) The term "volunteer firefighter" means a firefighter who is an enrolled and active member of a ~~fire~~  
30 ~~company organized and funded by a county, a rural fire district, or a fire service area~~ governmental fire agency

1 organized under Title 7, chapter 33, EXCEPT 7-33-4109.

2 (b) The term "volunteer hours" means all the time spent by a volunteer firefighter in the service of an  
3 employer, including but not limited to training time, response time, and time spent at the employer's premises.

4 (5) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed  
5 limited liability company, the employer may elect to include as an employee within the provisions of this chapter  
6 any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member  
7 of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or  
8 limited liability company business.

9 (b) In the event of an election, the employer shall serve upon the employer's insurer written notice  
10 naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage  
11 desired by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A partner,  
12 sole proprietor, or member is not considered an employee within this chapter until notice has been given.

13 (c) A change in elected wages must be in writing and is effective at the start of the next quarter following  
14 notification.

15 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to the  
16 minimum and maximum limitations of this subsection (5)(d). For premium ratemaking and for the determination  
17 of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than  
18 \$900 a month and not more than 1 1/2 times the state's average weekly wage.

19 (6) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability  
20 company, the employer may elect to include as an employee within the provisions of this chapter any corporate  
21 officer or manager exempted under 39-71-401(2).

22 (b) In the event of an election, the employer shall serve upon the employer's insurer written notice  
23 naming the corporate officer or manager to be covered and stating the level of compensation coverage desired  
24 by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer  
25 or manager is not considered an employee within this chapter until notice has been given.

26 (c) A change in elected wages must be in writing and is effective at the start of the next quarter following  
27 notification.

28 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to the  
29 minimum and maximum limitations of this subsection (6)(d). For premium ratemaking and for the determination  
30 of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than

1 \$200 a week and not more than 1 1/2 times the state's average weekly wage.

2 (7) (a) The trustees of a rural fire district, a county governing body providing rural fire protection, or the  
3 county commissioners or trustees for a fire service area may elect to include as an employee within the provisions  
4 of this chapter any volunteer firefighter. A volunteer firefighter who receives workers' compensation coverage  
5 under this section may not receive disability benefits under Title 19, chapter 17.

6 (b) In the event of an election, the employer shall report payroll for all volunteer firefighters for premium  
7 and weekly benefit purposes based on the number of volunteer hours of each firefighter times the average weekly  
8 wage divided by 40 hours, subject to a maximum of 1 1/2 times the state's average weekly wage.

9 (c) A self-employed sole proprietor or partner who has elected not to be covered under this chapter, but  
10 who is covered as a volunteer firefighter pursuant to subsection (7)(a) and when injured in the course and scope  
11 of employment as a volunteer firefighter, may in addition to the benefits described in subsection (7)(b) be eligible  
12 for benefits at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080  
13 hours a year. The trustees of a rural fire district, a county governing body providing rural fire protection, or the  
14 county commissioners or trustees for a fire service area may make an election for benefits. If an election is made,  
15 payrolls must be reported and premiums must be assessed on the assumed wage.

16 (8) Except as provided in chapter 8 of this title, an employee or worker in this state whose services are  
17 furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or  
18 corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to  
19 be under the control and employment of the employer. This presumption may be rebutted as provided in  
20 39-71-117(3).

21 (9) A student currently enrolled in an elementary, secondary, or postsecondary educational institution  
22 who is participating in work-based learning activities and who is paid wages by the educational institution or  
23 business partner is the employee of the entity that pays the student's wages for all purposes under this chapter.  
24 A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject  
25 to the provisions of this chapter.

26 (10) For purposes of this section, an "employee or worker in this state" means:

27 (a) a resident of Montana who is employed by an employer and whose employment duties are primarily  
28 carried out or controlled within this state;

29 (b) a nonresident of Montana whose principal employment duties are conducted within this state on a  
30 regular basis for an employer;

1 (c) a nonresident employee of an employer from another state engaged in the construction industry, as  
2 defined in 39-71-116, within this state; or

3 (d) a nonresident of Montana who does not meet the requirements of subsection (10)(b) and whose  
4 employer elects coverage with an insurer that allows an election for an employer whose:

5 (i) nonresident employees are hired in Montana;

6 (ii) nonresident employees' wages are paid in Montana;

7 (iii) nonresident employees are supervised in Montana; and

8 (iv) business records are maintained in Montana.

9 (11) An insurer may require coverage for all nonresident employees of a Montana employer who do not  
10 meet the requirements of subsection (10)(b) or (10)(d) as a condition of approving the election under subsection  
11 (10)(d)."

12

13 **Section 8.** Section 40-6-402, MCA, is amended to read:

14 **"40-6-402. Definitions.** As used in this part, the following definitions apply:

15 (1) "Child-placing agency" means an agency licensed under Title 52, chapter 8, part 1.

16 (2) "Court" means a court of record in a competent jurisdiction and, in Montana, means a district court  
17 or a tribal court.

18 (3) "Department" means the department of public health and human services provided for in 2-15-2201.

19 (4) "Emergency services provider" means:

20 (a) a uniformed or otherwise identifiable employee of a fire department, hospital, or law enforcement  
21 agency when the individual is on duty inside the premises of the fire department, hospital, or law enforcement  
22 agency; or

23 (b) any law enforcement officer, as defined in 7-32-201, who is in uniform or is otherwise identifiable.

24 (5) "Fire department" means a ~~fire department organized by a city, town, or city-county consolidated local~~  
25 government governmental fire agency organized under Title 7, chapter 33.

26 (6) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for  
27 whether an injury results.

28 (7) "Guardian ad litem" means a person appointed to represent a newborn under Title 41, chapter 3.

29 (8) "Hospital" has the meaning provided in 50-5-101.

30 (9) "Law enforcement agency" means a police department, a sheriff's office, a detention center as

1 defined in 7-32-2241, or a correctional institution as defined in 45-2-101.

2 (10) "Newborn" means an infant who a physician reasonably believes to be no more than 30 days old.

3 (11) "Surrender" means to leave a newborn with an emergency services provider without expressing an  
4 intent to return for the newborn."

5

6 **Section 9.** Section 44-5-103, MCA, is amended to read:

7 **"44-5-103. Definitions.** As used in this chapter, the following definitions apply:

8 (1) "Access" means the ability to read, change, copy, use, transfer, or disseminate criminal justice  
9 information maintained by criminal justice agencies.

10 (2) "Administration of criminal justice" means the performance of any of the following activities: detection,  
11 apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision,  
12 or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the  
13 collection, storage, and dissemination of criminal justice information.

14 (3) "Confidential criminal justice information" means:

15 (a) criminal investigative information;

16 (b) criminal intelligence information;

17 (c) fingerprints and photographs;

18 (d) criminal justice information or records made confidential by law; and

19 (e) any other criminal justice information not clearly defined as public criminal justice information.

20 (4) (a) "Criminal history record information" means information about individuals collected by criminal  
21 justice agencies consisting of identifiable descriptions and notations of arrests; detentions; the filing of complaints,  
22 indictments, or informations and dispositions arising ~~therefrom~~ from complaints, indictments, or informations;  
23 sentences; correctional status; and release. It includes identification information, such as fingerprint records or  
24 photographs, unless the information is obtained for purposes other than the administration of criminal justice.

25 (b) Criminal history record information does not include:

26 (i) records of traffic offenses maintained by the department of justice; or

27 (ii) court records.

28 (5) (a) "Criminal intelligence information" means information associated with an identifiable individual,  
29 group, organization, or event compiled by a criminal justice agency:

30 (i) in the course of conducting an investigation relating to a major criminal conspiracy, projecting potential

1 criminal operation, or producing an estimate of future major criminal activities; or

2 (ii) in relation to the reliability of information, including information derived from reports of informants or  
3 investigators or from any type of surveillance.

4 (b) Criminal intelligence information does not include information relating to political surveillance or  
5 criminal investigative information.

6 (6) (a) "Criminal investigative information" means information associated with an individual, group,  
7 organization, or event compiled by a criminal justice agency in the course of conducting an investigation of a  
8 crime or crimes. It includes information about a crime or crimes derived from reports of informants or investigators  
9 or from any type of surveillance.

10 (b) The term does not include criminal intelligence information.

11 (7) "Criminal justice agency" means:

12 (a) any court with criminal jurisdiction;

13 (b) any federal, state, or local government agency designated by statute or by a governor's executive  
14 order to perform as its principal function the administration of criminal justice, including a governmental fire  
15 agency organized under Title 7, chapter 33, or a fire marshal ~~that~~ who conducts criminal investigations of fires;

16 (c) any local government agency not included under subsection (7)(b) that performs as its principal  
17 function the administration of criminal justice pursuant to an ordinance or local executive order; or

18 (d) any agency of a foreign nation that has been designated by that nation's law or chief executive officer  
19 to perform as its principal function the administration of criminal justice and that has been approved for the receipt  
20 of criminal justice information by the Montana attorney general, who may consult with the United States  
21 department of justice.

22 (8) (a) "Criminal justice information" means information relating to criminal justice collected, processed,  
23 or preserved by a criminal justice agency.

24 (b) The term does not include the administrative records of a criminal justice agency.

25 (9) "Criminal justice information system" means a system, automated or manual, operated by foreign,  
26 federal, regional, state, or local governments or governmental organizations for collecting, processing, preserving,  
27 or disseminating criminal justice information. It includes equipment, facilities, procedures, and agreements.

28 (10) (a) "Disposition" means information disclosing that criminal proceedings against an individual have  
29 terminated and describing the nature of the termination or information relating to sentencing, correctional  
30 supervision, release from correctional supervision, the outcome of appellate or collateral review of criminal

1 proceedings, or executive clemency. Criminal proceedings have terminated if a decision has been made not to  
2 bring charges or if criminal proceedings have been concluded, abandoned, or indefinitely postponed.

3 (b) Particular dispositions include but are not limited to:

4 (i) conviction at trial or on a plea of guilty;

5 (ii) acquittal;

6 (iii) acquittal by reason of mental disease or defect;

7 (iv) acquittal by reason of mental incompetence;

8 (v) the sentence imposed, including all conditions attached to the sentence by the sentencing judge;

9 (vi) deferred imposition of sentence with any conditions of deferral;

10 (vii) nolle prosequi;

11 (viii) a nolo contendere plea;

12 (ix) deferred prosecution or diversion;

13 (x) bond forfeiture;

14 (xi) death;

15 (xii) release as a result of a successful collateral attack;

16 (xiii) dismissal of criminal proceedings by the court with or without the commencement of a civil action  
17 for determination of mental incompetence or mental illness;

18 (xiv) a finding of civil incompetence or mental illness;

19 (xv) exercise of executive clemency;

20 (xvi) correctional placement on probation or parole or release; or

21 (xvii) revocation of probation or parole.

22 (c) A single arrest of an individual may result in more than one disposition.

23 (11) "Dissemination" means the communication or transfer of criminal justice information to individuals  
24 or agencies other than the criminal justice agency that maintains the information. It includes confirmation of the  
25 existence or nonexistence of criminal justice information.

26 (12) "Fingerprints" means the recorded friction ridge skin of the fingers, palms, or soles of the feet.

27 (13) "Public criminal justice information" means:

28 (a) information made public by law;

29 (b) information of court records and proceedings;

30 (c) information of convictions, deferred sentences, and deferred prosecutions;

- 1 (d) information of postconviction proceedings and status;
- 2 (e) information originated by a criminal justice agency, including:
- 3 (i) initial offense reports;
- 4 (ii) initial arrest records;
- 5 (iii) bail records; and
- 6 (iv) daily jail occupancy rosters;
- 7 (f) information considered necessary by a criminal justice agency to secure public assistance in the
- 8 apprehension of a suspect; or
- 9 (g) statistical information.

10 (14) "State repository" means the recordkeeping systems maintained by the department of justice

11 pursuant to 44-2-201 in which criminal history record information is collected, processed, preserved, and

12 disseminated.

13 (15) "Statistical information" means data derived from records in which individuals are not identified or

14 identification is deleted and from which neither individual identity nor any other unique characteristic that could

15 identify an individual is ascertainable."

16

17 **Section 10.** Section 44-5-303, MCA, is amended to read:

18 **"44-5-303. Dissemination of confidential criminal justice information -- procedure for**

19 **dissemination through court.** (1) Except as provided in subsections (2) through (4), dissemination of

20 confidential criminal justice information is restricted to criminal justice agencies, to those authorized by law to

21 receive it, and to those authorized to receive it by a district court upon a written finding that the demands of

22 individual privacy do not clearly exceed the merits of public disclosure. Permissible dissemination of confidential

23 criminal justice information under this subsection includes receiving investigative information from and sharing

24 investigative information with a ~~fire service~~ chief of a governmental fire agency organized under Title 7, chapter

25 33, or fire marshal concerning the criminal investigation of a fire.

26 (2) If the prosecutor determines that dissemination of confidential criminal justice information would not

27 jeopardize a pending investigation or other criminal proceeding, the information may be disseminated to a victim

28 of the offense by the prosecutor or by the investigating law enforcement agency after consultation with the

29 prosecutor.

30 (3) Unless otherwise ordered by a court, a person or criminal justice agency that accepts confidential

1 criminal justice information assumes equal responsibility for the security of the information with the originating  
2 agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential.

3 (4) The county attorney or the county attorney's designee is authorized to receive confidential criminal  
4 justice information for the purpose of cooperating with local fetal, infant, and child mortality review teams. The  
5 county attorney or the county attorney's designee may, in that person's discretion, disclose information  
6 determined necessary to the goals of the review team. The review team and the county attorney or the designee  
7 shall maintain the confidentiality of the information.

8 (5) (a) If a prosecutor receives a written request for release of confidential criminal justice information  
9 relating to a criminal investigation that has been terminated by declination of prosecution or relating to a criminal  
10 prosecution that has been completed by entry of judgment, dismissal, or acquittal, the prosecutor may file a  
11 declaratory judgment action with the district court pursuant to the provisions of the Uniform Declaratory  
12 Judgments Act, Title 27, chapter 8, for release of the information. The prosecutor shall:

13 (i) file the action in the name of the city or county that the prosecutor represents and describe the city's  
14 or county's interest;

15 (ii) list as defendants anyone known to the prosecutor who has requested the confidential criminal justice  
16 information and anyone affected by release of the information;

17 (iii) request that the prosecutor be allowed to deposit the investigative file and any edited version of the  
18 file with the court pursuant to the provisions of Title 27, chapter 8;

19 (iv) request the court to:

20 (A) conduct an in camera review of the confidential criminal justice information to determine whether the  
21 demands of individual privacy do not clearly exceed the merits of public disclosure; and

22 (B) order the release to the requesting party defendant of whatever portion of the investigative  
23 information or edited version of the information the court determines appropriate.

24 (b) In making an order authorizing the release of information under subsection (5)(a), the court shall  
25 make a written finding that the demands of individual privacy do not clearly exceed the merits of public disclosure  
26 and authorize, upon payment of reasonable reproduction costs, the release of appropriate portions of the edited  
27 or complete confidential criminal justice information to persons who request the information.

28 (c) In an action filed for the court-ordered release of confidential criminal justice information under  
29 subsection (5)(a), the parties shall bear their respective costs and attorney fees.

30 (6) The procedures set forth in subsection (5) are not an exclusive remedy. A person or organization may

1 file any action for dissemination of information that the person or organization considers appropriate and  
2 permissible."

3

4 **Section 11.** Section 46-18-261, MCA, is amended to read:

5 **"46-18-261. Recovery of suppression and investigation expenses for fires caused by arson.** (1)

6 A person convicted of arson, negligent arson, or solicitation of or conspiracy to commit arson or negligent arson  
7 may be ordered, as part of the sentence, to reimburse law enforcement agencies, and firefighting governmental  
8 fire agencies organized under Title 7, chapter 33, and the state for the cost of suppressing and investigating a  
9 fire that occurred during the commission of the crime.

10 (2) The court may order a person doing a presentence investigation and report to include documentation  
11 of the costs of suppressing and investigating the fire and of the defendant's ability to pay and may receive  
12 evidence concerning the matters at the time of sentencing.

13 (3) The court shall specify the amount, method, and time of payment, which may include but is not limited  
14 to installment payments. The court may order a probation officer or other appropriate officer attached to or  
15 working closely with the court in the administration of justice to supervise payment and report any default to the  
16 court.

17 (4) Upon petition by the offender and after a hearing, the payment may be modified. Agencies receiving  
18 payment at that time must be notified of and allowed to participate in the hearing.

19 (5) This section does not limit the right of a law enforcement agency or firefighting governmental fire  
20 agency to recover from the offender in a civil action, but the findings in the sentencing hearing and the fact that  
21 payment of costs was part of the sentence are inadmissible in and have no legal effect on the merits of a civil  
22 action. Costs paid by the offender must be deducted from a recovery awarded in a civil action."

23

24 **Section 12.** Section 50-3-101, MCA, is amended to read:

25 **"50-3-101. Definitions.** In this chapter, "department" means the department of justice and "fire  
26 prevention and investigation program section" means the state fire prevention and investigation program section  
27 of the department of justice provided for in 2-15-2005."

28

29 **Section 13.** Section 50-3-102, MCA, is amended to read:

30 **"50-3-102. Powers and duties of department regarding state fire prevention and investigation --**

1 **rules.** (1) For the purpose of reducing the state's fire loss, the department shall:

2 (a) inspect each unit of the Montana university system and other state buildings, including state  
3 institutions, as often as duties allow, but no more frequently than once each year unless requested by the  
4 commissioner of higher education for buildings in the university system, by the department of corrections or the  
5 department of public health and human services for state institutions, or by the department of administration for  
6 all other state buildings. A copy of the inspection report for units of the university system must be given to the  
7 commissioner of higher education, a copy of the inspection report for state institutions must be given to the  
8 department of corrections and the department of public health and human services, and a copy of the inspection  
9 report for all other state buildings must be given to the department of administration. The department of justice  
10 shall advise the commissioner of higher education and the directors of the departments of corrections, public  
11 health and human services, and administration concerning fire prevention, fire protection, and public safety when  
12 it distributes the reports.

13 (b) inspect public, business, or industrial buildings, as provided in chapter 61, and require conformance  
14 to law and rules promulgated under the provisions of this chapter;

15 (c) assist local ~~fire and law enforcement authorities in arson~~ governmental fire agencies organized under  
16 Title 7, chapter 33, in fire investigations and may initiate or supervise these investigations when, in its judgment,  
17 the initiation or supervision is necessary;

18 (d) provide fire prevention and fire protection information to public officials and the general public;

19 (e) serve as the state entity primarily responsible for promoting fire safety at the state level;

20 (f) encourage coordination of all services and agencies in fire prevention matters to reduce duplication  
21 and fill voids in services; and

22 (g) establish rules concerning responsibilities and procedures to be followed when there is a threat of  
23 explosive material in a building housing state offices.

24 (2) The department may adopt rules necessary for safeguarding life and property from the hazards of  
25 fire and carrying into effect the fire prevention laws of this state if the rules do not conflict with building regulations  
26 adopted by the department of labor and industry.

27 (3) The department shall adopt rules based on nationally recognized standards necessary for  
28 safeguarding life and property from the hazards associated with the manufacture, transportation, storage, sale,  
29 and use of explosive materials.

30 (4) If necessary to safeguard life and property under rules promulgated pursuant to this section, the

1 department may maintain an action to enjoin the use of all or a portion of a an existing building or restrain a  
2 specific activity until there is compliance with the rules.

3 (5) Except for statements of witnesses given during an investigation, information that may be held in  
4 confidence under 50-63-403, and criminal justice information subject to restrictions on dissemination in  
5 accordance with Title 44, chapter 5, all records maintained by the department must be open at all times to public  
6 inspection."

7

8 **Section 14.** Section 50-3-106, MCA, is amended to read:

9 **"50-3-106. Appointment of special fire inspectors.** ~~(1)~~ Special fire inspectors may be appointed to  
10 perform any function inspection of the fire prevention and investigation program section.

11 ~~(2) When performing these duties or attending a training course approved by the department, special~~  
12 ~~fire inspectors may be paid at a rate not to exceed \$56 a day plus travel expenses as provided for in 2-18-501~~  
13 ~~through 2-18-503, as amended."~~

14

15 **Section 15.** Section 50-5-215, MCA, is amended to read:

16 **"50-5-215. Standards for adult foster care homes.** The department may adopt rules establishing  
17 standards for the licensing of adult foster care homes. The standards must provide for the safety and comfort of  
18 the residents and may be adopted by the department only after receiving the advice and recommendations of  
19 the state fire prevention and investigation program section of the department of justice in relation to fire and safety  
20 requirements for adult foster care homes."

21

22 **Section 16.** Section 50-19-403, MCA, is amended to read:

23 **"50-19-403. Local fetal, infant, and child mortality review team.** (1) A local fetal, infant, and child  
24 mortality review team must be approved by the department of public health and human services. Approval may  
25 be given if:

26 (a) the county health department, a tribal health department, if the tribal government agrees, or both are  
27 represented on the team and the plan provided for in subsection (1)(d) includes the roles of the county health  
28 department, tribal health department, or both;

29 (b) a lead person has been designated for the purposes of management of the review team;

30 (c) at least five of the individuals listed in subsection (2) have agreed to serve on the review team; and

- 1 (d) a plan has been developed by the team that includes, at a minimum, operating policies of the review  
2 team covering collection and destruction of information obtained pursuant to 44-5-303(4) or 50-19-402(2).
- 3 (2) If a local fetal, infant, and child mortality review team is established, the team must be  
4 multidisciplinary and may include only:
- 5 (a) the county attorney or a designee;
  - 6 (b) a law enforcement officer;
  - 7 (c) the medical examiner or coroner for the jurisdiction;
  - 8 (d) a physician;
  - 9 (e) a school district representative;
  - 10 (f) a representative of the local health department;
  - 11 (g) a representative from a tribal health department, appointed by the tribal government;
  - 12 (h) a representative from a neighboring county or tribal government if there is an agreement to review  
13 deaths for that county or tribe;
  - 14 (i) a representative of the department of public health and human services;
  - 15 (j) a forensic pathologist;
  - 16 (k) a pediatrician;
  - 17 (l) a family practice physician;
  - 18 (m) an obstetrician;
  - 19 (n) a nurse practitioner;
  - 20 (o) a public health nurse;
  - 21 (p) a mental health professional;
  - 22 (q) a local trauma coordinator;
  - 23 (r) a representative of the bureau of Indian affairs or the Indian health service, or both, who is located  
24 within the county; and
  - 25 (s) representatives of the following:
    - 26 (i) local emergency medical services;
    - 27 (ii) a local hospital;
    - 28 (iii) a local hospital medical records department;
    - 29 (iv) a local governmental fire department agency organized under Title 7, chapter 33; and
    - 30 (v) the local registrar.

1 (3) The designated lead person for the team shall submit membership lists to the department of public  
2 health and human services annually."

3

4 **Section 17.** Section 50-37-107, MCA, is amended to read:

5 **"50-37-107. Supervised public display of fireworks authorized.** (1) The state fire prevention and  
6 investigation ~~program~~ section of the department of justice or the governing body of a city, town, or county may,  
7 under reasonable rules adopted by them, grant permits for supervised public displays of fireworks to be held by  
8 municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

9 (2) Each display ~~shall~~ must:

10 (a) be handled by a competent operator, who must be approved by the state fire prevention and  
11 investigation ~~program~~ section or the governing body of the city, town, or county in which the display is to be held;  
12 and

13 (b) be located, discharged, or fired as, in the opinion of the state fire prevention and investigation  
14 ~~program~~ section or the chief of the ~~fire department~~ local governmental fire agency organized under Title 7,  
15 chapter 33, or other officer designated by the governing body of the city, town, or county after proper inspection,  
16 not to be hazardous to persons or property.

17 (3) Application for permits ~~shall~~ must be made in writing at least 15 days prior to the date of the display.

18 (4) After the privilege has been granted, sales, possession, use, and distribution of fireworks for the  
19 display are lawful for that purpose only.

20 (5) ~~No~~ A permit granted under this section is not transferable."

21

22 **Section 18.** Section 50-37-108, MCA, is amended to read:

23 **"50-37-108. General liability insurance required for public display.** The state fire prevention and  
24 investigation ~~program~~ section or the governing body of the city, town, or county shall require a person planning  
25 a public display of fireworks to provide proof of general liability insurance in a reasonable amount as determined  
26 by rules adopted by the department of justice."

27

28 **Section 19.** Section 50-37-109, MCA, is amended to read:

29 **"50-37-109. Confiscation.** A representative of the state fire prevention and investigation ~~program~~  
30 section or any sheriff, police officer, ~~or constable,~~ officer of a governmental fire agency organized under Title 7,

1 chapter 33, or firewarden shall seize, take, remove, or cause to be removed at the expense of the owner all  
 2 stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of this chapter."

3

4 **Section 20.** Section 50-60-202, MCA, is amended to read:

5 **"50-60-202. Department to be sole state agency to promulgate building regulations -- exception.**

6 ~~No~~ The department is the only state agency except the department that may promulgate building regulations as  
 7 defined in 50-60-101, except the department of justice may promulgate regulations relating to use of buildings  
 8 and installation of equipment. The state fire prevention and investigation ~~program~~ section of the department of  
 9 justice shall review building plans and regulations for conformity with rules promulgated by the department."

10

11 **Section 21.** Section 50-61-102, MCA, is amended to read:

12 **"50-61-102. Department of justice to administer chapter.** (1) The department of justice has general  
 13 charge and supervision of the enforcement of this chapter, and the officers enumerated in 50-61-114 shall act  
 14 under its general charge and supervision, shall assist the department in giving effect to this chapter, and are  
 15 subject to its direction and the rules adopted under 50-3-102 and 50-3-103 for the enforcement of 50-61-120, and  
 16 50-61-121, and this chapter.

17 (2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality, ~~district,~~  
 18 ~~or fire service area~~ or other governmental fire agency organized under Title 7, chapter 33, the department may  
 19 ~~certify~~ approve a municipal, ~~district, or fire service area~~ or governmental fire agency fire inspection program for  
 20 local enforcement.

21 ~~———— (3) (a) The fire code adopted by municipalities under 7-5-108 and 7-5-4202 and by governmental fire~~  
 22 ~~agencies must be the same fire code that is adopted by the department of justice under this chapter.~~

23 ~~———— (b) Fire codes adopted or modified by the entities in subsection (3)(a) are subject to the same limitations~~  
 24 ~~provided in 50-3-103(2) and in administrative rules promulgated in accordance with 50-3-103.~~

25 ~~———— (c) Whenever the department of justice adopts or modifies the fire codes, the department shall notify~~  
 26 ~~municipalities and other governmental fire agencies of the adoption or modification. Within 180 days of receipt~~  
 27 ~~of the notification, municipalities and governmental fire agencies shall adopt or modify their codes to conform with~~  
 28 ~~the department's codes."~~

29

30 **Section 22.** Section 50-61-114, MCA, is amended to read:

1           **"50-61-114. Fire chief and fire inspector to make inspections.** For the purpose of examining the  
 2 premises for violations of this chapter and rules adopted under 50-3-103 for the enforcement of this chapter, the  
 3 chief or fire inspector of the ~~fire department of each municipality, district, or fire service area~~ governmental fire  
 4 agency organized under Title 7, chapter 33, when a fire inspection program is established, or a fire inspector of  
 5 the department of justice, when a fire inspection program does not exist:

6           (1) shall enter into school buildings at least once each 18 months; and

7           (2) may enter into all other buildings and upon all other premises within the jurisdiction, according to  
 8 priority schedules established by the department for conducting inspections of buildings and premises."

9

10           **Section 23.** Section 50-61-115, MCA, is amended to read:

11           **"50-61-115. Notice of violations.** (1) When a building is found that is not in compliance with fire safety  
 12 rules promulgated by the department of justice, the person making the inspection or the department shall serve  
 13 a written notice upon the party whose duty it is to maintain the safety of the building.

14           (2) The notice must specify the time within which the defective conditions must be remedied, ~~which may~~  
 15 ~~not be more than 90 days.~~

16           (3) The notice is served if delivered to the person to be notified, if left with any adult person at the usual  
 17 residence or place of business of the person to be notified, or if deposited in the post office directed to the  
 18 last-known address of the person to be notified. Whenever buildings are managed and controlled by a board of  
 19 trustees, board of commissioners, or other governing body, the notice is served if delivered to the president,  
 20 secretary, or treasurer of the board of trustees, board of commissioners, or other governing body."

21

22           **Section 24.** Section 50-61-121, MCA, is amended to read:

23           **"50-61-121. Restrictions on storage of smokeless powder and small arms primers.** (1) A retail  
 24 establishment may stock up to 400 pounds of smokeless powder on the premises of a building with a sprinkler  
 25 system or 200 pounds on the premises of a building without a sprinkler system if storage of this stock conforms  
 26 to the following conditions:

27           (a) no more than 20 pounds are on display in a customer service area;

28           (b) the storage area is clearly posted as off limits to customers;

29           (c) the storage area is clearly posted prohibiting smoking or any open flame or sparks; and

30           (d) the storage area is a room designed and constructed to restrict smoke travel that is separate from

1 the customer service area, that has a self-closing entrance door, and that conforms to one of the following:

2 (i) It is constructed of material sufficient to achieve a 1-hour fire resistant-rated barrier between the  
3 storage area and the customer service area. The smokeless powder must be stored in cabinets made of wood  
4 or equivalent material that is at least 1 inch thick, and each cabinet must contain no more than 200 pounds of  
5 smokeless powder. Cabinets must be separated by 25 feet.

6 (ii) It is protected by a fire suppression sprinkler system approved by the state fire prevention and  
7 investigation ~~program section~~ of the department of justice or a ~~fire marshal of the local jurisdiction~~ chief of a  
8 governmental fire agency organized under Title 7, chapter 33, or the chief's designee, and the storage area has  
9 cabinets as provided for in subsection (1)(d)(i).

10 (iii) Smokeless powder stock is contained in a cabinet with casters and constructed of wood at least 1  
11 inch thick that is covered on all sides with 5/8-inch sheetrock.

12 (2) A retail establishment may stock up to 250,000 small arms primers if storage of this stock conforms  
13 to the following conditions:

14 (a) no more than 20,000 primers in a building with a sprinkler system or 10,000 primers in a building  
15 without a sprinkler system are on display in a customer service area;

16 (b) the storage area must conform to the conditions imposed in subsections (1)(a) through (1)(d), except  
17 that no more than 125,000 small arms primers may be stored in one cabinet, and the minimum required  
18 separation between cabinets is 15 feet; and

19 (c) small arms primers are retained in packaging approved by the U.S. department of transportation."  
20

21 **Section 25.** Section 50-62-101, MCA, is amended to read:

22 **"50-62-101. Entering of buildings for purpose of examination authorized.** ~~The officers~~ An officer of  
23 the state fire prevention and investigation ~~program section~~ of the department of justice or the chief or chief's  
24 designee of the fire department of each municipality or district a governmental fire agency organized under Title  
25 7, chapter 33, where a fire department agency is established at all reasonable hours may, as authorized by law,  
26 enter into all buildings and upon all premises within ~~his~~ the officer's, chief's, or designee's jurisdiction for the  
27 purpose of determining whether the building or premises conforms to laws and rules relating to fire hazards and  
28 fire safety."  
29

30 **Section 26.** Section 50-62-102, MCA, is amended to read:

1           **"50-62-102. Structures or conditions creating fire hazard a public nuisance -- order to remedy.**

2 (1) If any building or other structure ~~that for want of proper repair, by reason of age, dilapidated condition,~~  
 3 ~~defective or poorly installed wiring and equipment, defective chimneys, defective gas connections, defective~~  
 4 ~~heating apparatus, or the existence of any combustible materials, flammable conditions, or other fire hazards;~~  
 5 ~~or for any other cause or reason~~ is especially liable to fire for reasons including but not limited to lack of proper  
 6 repair, age, dilapidated condition, defective or poorly installed wiring and equipment, defective chimneys,  
 7 defective gas connections, defective heating apparatus, or the existence of any combustible materials, flammable  
 8 conditions, or other fire hazards and is dangerous to the safety of the building premises or to the public or is ~~so~~  
 9 situated ~~as to endanger~~ in a way that endangers other buildings and property in the vicinity, the state fire  
 10 prevention and investigation ~~program~~ section of the department of justice or other ~~officer~~ person identified in  
 11 50-62-101 may declare the building or other structure to be a public nuisance and proceed according to  
 12 50-62-103 or subsection (2) of this section.

13           (2) If the state fire prevention and investigation ~~program~~ section, an officer of the ~~program~~ section, or an  
 14 ~~officer mentioned~~ a person identified in 50-62-101 determines that a building or other structure constitutes a  
 15 public nuisance for any reason identified in subsection (1) of this section, the ~~department~~ section, ~~officer~~, or other  
 16 ~~officer~~ person shall order the hazardous condition or material to be removed or remedied. The order must be in  
 17 writing and directed generally to the owner, lessee, agent, or occupant of the building or structure.

18           (3) If the hazardous condition or material can be removed or remedied within a period of 24 hours, the  
 19 order must contain notice that the condition or material must be remedied or removed. The owner, lessee, agent,  
 20 or occupant upon whom the notice is served who fails to comply with the notice is liable for any expenses incurred  
 21 in the removal or remedying of the hazardous condition or material by the fire prevention and investigation  
 22 ~~program~~ section, ~~officer of the section~~, or other ~~officer mentioned~~ person identified in 50-62-101."  
 23

24           **Section 27.** Section 50-62-103, MCA, is amended to read:

25           **"50-62-103. Service of order to repair hazardous condition or demolish structure.** (1) If the fire  
 26 prevention and investigation ~~program~~ section of the department of justice, ~~an officer of the section~~, or any ~~officer~~  
 27 ~~mentioned~~ other person identified in 50-62-101, upon an examination or inspection, determines that a building  
 28 or other structure constitutes a public nuisance for any reason identified in 50-62-102 and the condition cannot  
 29 be removed or remedied within 24 hours, the ~~program~~ section, ~~or officer~~, or person shall order the hazardous  
 30 condition to be repaired or the structure to be torn down or demolished and all dangerous conditions remedied.

1           (2) The order ~~shall~~ must be in writing, ~~shall recite~~ must provide the grounds ~~therefor~~ for the order, and  
 2 ~~shall~~ must be filed in the office of the clerk of the district court of the county in which the building or structure  
 3 ordered to be altered, repaired, or demolished is ~~situated, and thereupon~~ located. ~~All~~ further proceedings for  
 4 the enforcement ~~thereof shall be had in that court~~ of the order must be held in the district court in which the order  
 5 is filed.

6           (3) A copy of the order filed as ~~aforsaid~~ provided in this section, together with a written notice that it has  
 7 been filed and will be put in force unless the owner, occupant, or tenant ~~shall file~~ files objections or an answer  
 8 to the order with the clerk of the court ~~his objections or answer thereto~~ within the time specified in 50-62-104, ~~shall~~  
 9 must be served upon the owner and any purchaser under contract for deed of the building or structure directed  
 10 to be altered, repaired, or demolished. If there is a tenant occupying the building, service ~~shall~~ must also be made  
 11 upon ~~him~~ the tenant. Service ~~shall~~ must be made personally upon the owner and occupant, if there is one;  
 12 ~~personally either within or without the state~~.

13           (4) If the ~~whereabouts~~ location of the owner or any purchaser under contract for deed is unknown and  
 14 cannot be ascertained by the department of justice by the exercise of reasonable diligence, then upon filing in  
 15 the office of the clerk of the district court an affidavit to this effect, service of the notice upon the owner or any  
 16 purchaser under contract for deed may be made by the clerk of the district court by publication of it once in each  
 17 week for 3 successive weeks in a newspaper printed and published in the county in which the building or structure  
 18 is located and by posting a copy ~~thereof of the notice~~ in a conspicuous place upon the building or structure, and  
 19 ~~the service so~~ Service made in this manner is complete upon the expiration of the publication period. Proof of  
 20 service of the notice ~~shall~~ must be filed in the office of the clerk of the district court within 5 days after the service  
 21 ~~thereof of the notice.~~"

22  
 23           **Section 28.** Section 50-62-112, MCA, is amended to read:  
 24           **"50-62-112. Notice of violations.** (1) When the storage of class I or class II liquids, as defined in the  
 25 ~~uniform~~ fire code adopted by the department of justice, in a tank on a farm or ranch is not in compliance with rules  
 26 promulgated by the department of justice, the person making the inspection or the department shall serve a  
 27 written warning notice upon the owner or operator of the tank.

28           (2) The notice must specify the violations found and the time within which the violations must be  
 29 corrected. A penalty may not be imposed if the violation is corrected within the time period allowed."  
 30

1           **Section 29.** Section 50-63-102, MCA, is amended to read:

2           **"50-63-102. Penalty Civil penalty for setting or leaving fire causing damage.** (1) Any A person who  
3 shall upon any land within this state ~~set or leave any~~ sets or leaves a fire that shall spread and damage or destroy  
4 spreads and damages or destroys property of any kind not his own shall upon conviction be punished by a fine  
5 belonging to the person is subject to a civil penalty of not less than \$10 \$50 or more than \$500. If such fire be set  
6 maliciously, whether on his own or on another's land, with intent to destroy property not his own, he shall be guilty  
7 of a felony and shall be punished by imprisonment in the state penitentiary for not less than 1 or more than 50  
8 years.

9           ~~———— (2) During the closed season, any person who shall kindle a campfire on land not his own in or~~  
10 ~~dangerously near any forest material and leave same unquenched or who shall be a party thereto or who shall~~  
11 ~~by throwing away any lighted cigar, cigarette, matches, or by the use of firearms or in any other manner start a~~  
12 ~~fire in forest material not his own and leave same unquenched shall, upon conviction, be fined not less than \$10~~  
13 ~~or more than \$100 or be imprisoned in the county jail not exceeding 60 days."~~

14

15           **Section 30.** Section 50-63-103, MCA, is amended to read:

16           **"50-63-103. Liability of offender for damages and costs.** Any A person who shall upon any land within  
17 this state, whether on his own or on another's land, ~~set~~ sets or leave any leaves a fire that shall spread and  
18 ~~damage or destroy~~ spreads and damages or destroys property of any kind not his own shall be not belonging to  
19 the person is liable for all damages caused ~~thereby~~ by the fire, and any an owner of property damaged or  
20 destroyed by ~~such~~ the fire may maintain a civil suit for the purpose of recovering ~~such~~ damages. Any A person  
21 who shall upon any land within this state, whether on his own or on another's land, ~~set~~ sets or leave any leaves  
22 a fire which ~~that~~ threatens to spread and damage or destroy property shall be is liable for all costs and expenses  
23 incurred, including but not limited to expenses incurred in investigation of the fire and administration of fire  
24 suppression, by the state of Montana, by any forestry association, or by any person extinguishing or preventing  
25 the spread of ~~such~~ the fire."

26

27           **Section 31.** Section 50-63-202, MCA, is amended to read:

28           **"50-63-202. Fire chief or sheriff to conduct investigation.** If the fire occurs within a municipality,  
29 organized fire district, or fire service area, the chief of the governmental fire ~~department~~ agency organized under  
30 Title 7, chapter 33, having jurisdiction or the chief's designee shall ~~make~~ conduct the investigation. If the fire

1 occurs outside a municipality, organized fire district, or fire service area, the county sheriff shall ~~make~~ conduct  
 2 the investigation or ensure that an investigation is conducted."

3

4 **Section 32.** Section 50-63-203, MCA, is amended to read:

5 **"50-63-203. Notification to department of justice -- reports to be filed.** (1) If it appears that a fire was  
 6 of suspicious origin, if there was a loss of human life, or if it is determined that a criminal investigation is  
 7 necessary, the official responsible for the investigation shall notify the department of justice and the appropriate  
 8 law enforcement agency within 24 hours and shall file with the department a written report of the cause within  
 9 10 days.

10 (2) If the property was insured, as soon as any adjustment has been made, a person representing the  
 11 insurance company shall notify the department of justice of the amount of adjustment and the apparent cause  
 12 and circumstances of the fire.

13 (3) Each official responsible for investigating fires shall file with the department of justice a fire incident  
 14 report on each fire. Reports must be made on forms provided by the department and must contain information  
 15 prescribed by the department. These reports must be sent to the department on a monthly basis or at intervals  
 16 determined by the department."

17

18 **Section 33.** Section 50-63-401, MCA, is amended to read:

19 **"50-63-401. Insurer to provide information regarding fire loss to certain agencies upon request.**

20 Each insurer engaged in issuing fire insurance policies in the state of Montana shall upon written request of any  
 21 appropriate law enforcement agency or governmental fire ~~protection~~ agency organized under Title 7, chapter 33,  
 22 release to the requesting agency all information in its possession relating to a fire loss of real or personal  
 23 property. The information may include but is not limited to:

24 (1) any insurance policy relevant to the fire loss under investigation and any application for ~~such a~~ the  
 25 policy;

26 (2) premium payment records;

27 (3) the history of previous claims made by the insured for fire loss; and

28 (4) material relating to the investigation of the loss, including statements of any person, proof of loss, and  
 29 other relevant evidence."

30

1           **Section 34.** Section 50-63-402, MCA, is amended to read:

2           **"50-63-402. Insurer to report suspicious fires.** ~~Whenever~~ When an insurer has reason to believe that  
3 a fire loss in which it has an interest may be of other than accidental cause, it shall notify an appropriate law  
4 enforcement agency or governmental fire protection agency organized under Title 7, chapter 33, and provide ~~such~~  
5 the agency with all material developed from its inquiry into the fire loss."

6

7           **Section 35.** Section 50-63-404, MCA, is amended to read:

8           **"50-63-404. Testimony of agency personnel in action to recover under insurance policy.** Law  
9 enforcement agency and governmental fire protection agency personnel may be required to testify as to any  
10 information in their possession regarding the fire loss of real or personal property in any civil action in which a  
11 person seeks recovery from an insurer under a policy for the fire loss."

12

13           **Section 36.** Section 50-78-102, MCA, is amended to read:

14           **"50-78-102. Definitions.** As used in this chapter, the following definitions apply:

15           (1) "Chemical manufacturer" means an employer in codes 31 through 33, as defined in the North  
16 American Industry Classification System Manual, with a workplace where chemicals are produced for use or  
17 distribution.

18           (2) "Chemical name" means the scientific designation of a chemical in accordance with the nomenclature  
19 system developed by the international union of pure and applied chemistry or the chemical abstracts service rules  
20 of nomenclature or a name that will clearly identify the chemical for the purpose of conducting a hazard  
21 evaluation.

22           (3) "Common name" means any designation or identification, such as code name, code number, trade  
23 name, brand name, or generic name, used to identify a chemical other than by its chemical name.

24           (4) "Department" means the department of environmental quality provided for in Title 2, chapter 15, part  
25 35.

26           (5) "Designated representative" means:

27           (a) the individual or organization to whom an employee gives written authorization to exercise the  
28 employee's rights under this chapter; or

29           (b) a recognized or certified collective bargaining agent who is automatically a designated representative  
30 without regard to written employee authorization.

1 (6) "Distributor" means a business, other than a chemical manufacturer, that supplies hazardous  
2 chemicals to other distributors or to employers.

3 (7) "Employee" means a person who may be exposed to hazardous chemicals in the workplace under  
4 normal operating conditions or possible emergencies.

5 (8) "Employer" means a person, firm, corporation, partnership, association, governmental agency, or  
6 other entity that is engaged in business or providing services and that employs workers.

7 (9) "Exposure" means ingestion, inhalation, absorption, or other contact in the workplace with a  
8 hazardous chemical and includes potential, accidental, or possible exposure.

9 (10) "Hazardous chemical" means, except as provided in 50-78-103:

10 (a) any element, chemical compound, or mixture of elements or compounds that is a physical hazard  
11 or health hazard, as defined by subsection (c) of the OSHA standard, and that has been identified as such by the  
12 federal occupational safety and health administration or the manufacturer and has been filed with the federal  
13 occupational safety and health administration;

14 (b) any hazardous chemical, as defined by subsection (d)(3) of the OSHA standard; or

15 (c) any emitter of ionizing radiation.

16 (11) "Label" means any written, printed, or graphic material displayed on or affixed to containers of  
17 hazardous chemicals.

18 (12) "Local fire chief" means:

19 ~~(a) the chief of the municipal fire department or the chief's agent, for any workplace located within a city~~  
20 ~~or town; or~~

21 ~~—— (b) the county rural fire chief or the district rural fire chief or the chief's agent, for any workplace not~~  
22 ~~located within a city or town~~ a governmental fire agency organized under Title 7, chapter 33, or the chief's  
23 designee.

24 (13) "Manufacturing employer" means an employer with a workplace classified in codes 31 through 33  
25 of the North American Industry Classification System who manufactures, uses, or stores a hazardous chemical.

26 (14) "Material safety data sheet" means a document prepared in accordance with the requirements of  
27 the OSHA standard and containing chemical hazard and safe handling information.

28 (15) "Nonmanufacturing employer" means an employer with a workplace classified in a North American  
29 Industry Classification System code other than 31 through 33.

30 (16) "OSHA standard" means the hazard communication standard issued by the federal occupational

1 safety and health administration, codified under 29 CFR 1910.1200, ~~as that statute reads on January 1, 1985.~~

2 (17) "Trade secret" means a confidential formula, pattern, process, device, or information, including  
3 chemical name or other unique chemical identifier, that is used in an employer's business and that gives the  
4 employer an opportunity to obtain an advantage over competitors.

5 (18) "Work area" means a room or defined space in a workplace where hazardous chemicals are  
6 produced, used, or stored and where employees are present.

7 (19) "Workplace" means an establishment at one geographical location containing one or more work  
8 areas.

9 (20) "Workplace chemical list" means the list of hazardous chemicals developed under ~~this chapter or~~  
10 ~~under~~ subsection (e)(1)(i) of the OSHA standard or under this chapter."

11

12 **Section 37.** Section 52-2-733, MCA, is amended to read:

13 **"52-2-733. Periodic visits to facilities by department -- investigations -- consultation with**  
14 **licensees and registrants.** (1) The department or its authorized representative shall make periodic visits to all  
15 licensed day-care centers to ensure that minimum standards are maintained.

16 (2) The department may investigate and inspect the conditions and qualifications of any day-care center,  
17 group day-care home, or family day-care home seeking or holding a license or registration certificate under the  
18 provisions of this part.

19 (3) The department shall visit and inspect at least 20% of all registered family day-care homes and group  
20 day-care homes in each of the governor's planning regions annually.

21 (4) The department shall make annual unannounced visits to day-care centers.

22 (5) Upon request of the department, the state fire prevention and investigation ~~program~~ section of the  
23 department of justice shall inspect any day-care facility for which a license or registration certificate is applied for  
24 or issued and shall report its findings to the department.

25 (6) Upon request, the department shall give consultation to every licensee and registrant who desires  
26 to upgrade the services of the licensee's or registrant's program.

27 (7) This section may not be construed to require the department to conduct an inspection of each  
28 day-care facility applying for a registration certificate under the provisions of this part."

29

30 **Section 38.** Section 52-2-734, MCA, is amended to read:

1           **"52-2-734. Fire safety -- certification required.** (1) The state fire prevention and investigation ~~program~~  
2 section of the department of justice shall adopt and enforce rules for the protection of children in day-care centers  
3 from fire hazards and arrange for ~~such~~ any inspections and investigations ~~as~~ it considers necessary.

4           (2) Before a license can be issued to operate a day-care center, each applicant shall submit to the  
5 department a certificate of approval from the state fire prevention and investigation ~~program~~ section of the  
6 department of justice indicating ~~that~~ compliance with fire safety rules ~~have been met.~~"

7

8           **Section 39.** Section 52-4-205, MCA, is amended to read:

9           **"52-4-205. Rulemaking.** (1) The department shall, for the purpose of licensing, adopt rules to govern  
10 administration, operation, and health and safety requirements for community homes for persons with severe  
11 disabilities in order to protect rights of residents. The department shall provide for temporary and provisional  
12 licensing.

13           (2) The state fire prevention and investigation ~~program~~ section of the department of justice shall provide  
14 advice and recommendations to the department concerning licensing requirements for health and safety."

15

16           **Section 40.** Section 53-20-307, MCA, is amended to read:

17           **"53-20-307. Health and safety standards for licensing.** (1) (a) After initial certification by the state fire  
18 prevention and investigation ~~program~~ section of the department of justice, community homes must be certified  
19 annually for fire and life safety by the department of justice.

20           (b) The department of justice shall notify the department of public health and human services when a  
21 community home has been certified.

22           (2) (a) Local health officers shall certify community homes for compliance with health and safety  
23 standards. If for any reason the local authority cannot complete the certification in a timely manner, the  
24 department of public health and human services is authorized to make the determination on certification.

25           (b) A reasonable fee may be charged to authorized parties, as defined in 53-20-303, for the health and  
26 safety certification."

27

28           **Section 41.** Section 61-8-102, MCA, is amended to read:

29           **"61-8-102. Uniformity of interpretation -- definitions.** (1) Interpretation of this chapter in this state must  
30 be as consistent as possible with the interpretation of similar laws in other states.

1 (2) As used in this chapter, unless the context requires otherwise, the following definitions apply:

2 (a) "Authorized emergency vehicle" means a vehicle of ~~the fire department or fire patrol~~ a governmental  
3 fire agency organized under Title 7, chapter 33, an ambulance, and an emergency vehicle designated or  
4 authorized by the department.

5 (b) "Bicycle" means:

6 (i) a vehicle propelled solely by human power upon which any person may ride and that has two tandem  
7 wheels and a seat height of more than 25 inches from the ground when the seat is raised to its highest position,  
8 except scooters and similar devices; or

9 (ii) a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, and an  
10 independent power source providing a maximum of 2 brake horsepower. If a combustion engine is used, the  
11 maximum piston or rotor displacement may not exceed 3.05 cubic inches, ~~(50 centimeters)~~, regardless of the  
12 number of chambers in the power source. The power source may not be capable of propelling the device,  
13 unassisted, at a speed exceeding 30 miles an hour, ~~(48.28 kilometers an hour)~~, on a level surface. The device  
14 must be equipped with a power drive system that functions directly or automatically only and does not require  
15 clutching or shifting by the operator after the drive system is engaged.

16 (c) "Business district" means the territory contiguous to and including a highway when within any 600  
17 feet along a highway there are buildings in use for business or industrial purposes, including but not limited to  
18 hotels, banks, office buildings, railroad stations, and public buildings that occupy at least 300 feet of frontage on  
19 one side or 300 feet collectively on both sides of the highway.

20 (d) "Controlled-access highway" means a highway, street, or roadway in respect to which owners or  
21 occupants of abutting lands and other persons have no legal right of access to or from the highway, street, or  
22 roadway except at the points and in the manner as determined by the public authority having jurisdiction over the  
23 highway, street, or roadway.

24 (e) "Crosswalk" means:

25 (i) that part of a roadway at an intersection included within the connections of the lateral lines of the  
26 sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges  
27 of the traversable roadway;

28 (ii) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrians crossing  
29 by lines or other markings on the surface.

30 (f) "Flag person" means a person who directs, controls, or alters the normal flow of vehicular traffic upon

1 a street or highway as a result of a vehicular traffic hazard then present on that street or highway. This person,  
2 except a uniformed traffic enforcement officer exercising the officer's duty as a result of a planned vehicular traffic  
3 hazard, must be equipped as required by the rules of the department of transportation.

4 (g) "Highway" has the meaning provided in 61-1-101, but includes ways that have been or are later  
5 dedicated to public use.

6 (h) "Ignition interlock device" means ignition equipment that:

7 (i) analyzes the breath to determine blood alcohol concentration;

8 (ii) is approved by the department pursuant to 61-8-441; and

9 (iii) is designed to prevent a motor vehicle from being operated by a person who has consumed a specific  
10 amount of an alcoholic beverage.

11 (i) (i) "Intersection" means the area embraced within the prolongation or connection of the lateral curb  
12 lines or if there are no curb lines then the lateral boundary lines of the roadways of two highways that join one  
13 another at or approximately at right angles or the area within which vehicles traveling upon different highways  
14 joining at any other angle may come in conflict.

15 (ii) When a highway includes two roadways 30 feet or more apart, then every crossing of each roadway  
16 of the divided highway by an intersecting highway must be regarded as a separate intersection. If the intersecting  
17 highways also include two roadways 30 feet or more apart, then every crossing of two roadways of the highways  
18 must be regarded as a separate intersection.

19 (j) "Local authorities" means every county, municipal, and other local board or body having authority to  
20 enact laws relating to traffic under the constitution and laws of this state.

21 (k) "Noncommercial motor vehicle" or "noncommercial vehicle" means any motor vehicle or combination  
22 of motor vehicles that is not included in the definition of commercial motor vehicle in 61-1-101 and includes but  
23 is not limited to the vehicles listed in 61-1-101(7)(b).

24 (l) "Official traffic control devices" means all signs, signals, markings, and devices not inconsistent with  
25 this title that are placed or erected by authority of a public body or official having jurisdiction for the purpose of  
26 regulating, warning, or guiding traffic.

27 (m) "Pedestrian" means any person on foot or any person in a manually or mechanically propelled  
28 wheelchair or other low-powered, mechanically propelled vehicle designed specifically for use by a physically  
29 disabled person.

30 (n) "Police vehicle" means a vehicle used in the service of any law enforcement agency.

1 (o) "Private road" or "driveway" means a way or place in private ownership and used for vehicular travel  
2 by the owner and those having express or implied permission from the owner, but not by other persons.

3 (p) "Residence district" means the territory contiguous to and including a highway not comprising a  
4 business district when the property on the highway for a distance of 300 feet or more is primarily improved with  
5 residences or residences and buildings in use for business.

6 (q) "Right-of-way" means the privilege of the immediate use of the roadway.

7 (r) "School bus" has the meaning provided in 20-10-101.

8 (s) "Sidewalk" means that portion of a street that is between the curb lines or the lateral lines of a  
9 roadway and the adjacent property lines and that is intended for use by pedestrians.

10 (t) "Traffic control signal" means a device, whether manually, electrically, or mechanically operated, by  
11 which traffic is alternately directed to stop and to proceed.

12 (u) "Urban district" means the territory contiguous to and including any street that is built up with  
13 structures devoted to business, industry, or dwelling houses situated at intervals of less than 100 feet for a  
14 distance of one-fourth mile or more."

15

16 **Section 42.** Section 61-8-364, MCA, is amended to read:

17 **"61-8-364. Crossing firehose.** A vehicle may not be operated over an unprotected hose of a  
18 governmental fire department agency organized under Title 7, chapter 33, when the hose is laid down on any  
19 roadway, private road, or private driveway, to be used at any fire or alarm of fire, without the consent of the ~~fire~~  
20 department agency official in command."

21

22 **Section 43.** Section 61-9-402, MCA, is amended to read:

23 **"61-9-402. Audible and visual signals on police, emergency vehicles, and on-scene command**  
24 **vehicles -- immunity.** (1) A police vehicle must be equipped with a siren capable of giving an audible signal and  
25 may be equipped with alternately flashing or rotating red or blue lights as specified in this section.

26 (2) An authorized emergency vehicle must be equipped:

27 (a) with a siren and an alternately flashing or rotating red light as specified in this section; and

28 (b) with signal lamps mounted as high and as widely spaced laterally as practicable that are capable of  
29 displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately  
30 flashing red lights located at the same level. These lights must have sufficient intensity to be visible at 500 feet

1 in normal sunlight.

2 (3) A bus used for the transportation of school children must be equipped with signal lamps mounted  
3 as high and as widely spaced laterally as practicable, displaying to the front two red and two amber alternating  
4 flashing lights and to the rear two red and two amber alternating flashing lights. These lights must have sufficient  
5 intensity to be visible at 500 feet in normal sunlight. The warning lights must be as prescribed by the board of  
6 public education and approved by the department.

7 (4) A police vehicle and an authorized emergency vehicle may, and an emergency service vehicle must,  
8 be equipped with alternately flashing or rotating amber lights as specified in this section.

9 (5) The use of signal equipment as described in this section imposes upon the operators of other  
10 vehicles the obligation to yield right-of-way or to stop and to proceed past the signal or light only with caution and  
11 at a speed that is no greater than is reasonable and proper under the conditions existing at the point of operation  
12 subject to the provisions of 61-8-209 and 61-8-303.

13 (6) An employee, agent, or representative of the state or a political subdivision of the state or of a  
14 governmental fire department agency organized under Title 7, chapter 33, who is operating a police vehicle, an  
15 authorized emergency vehicle, or an emergency service vehicle and using signal equipment in rendering  
16 assistance at a highway crash scene or in response to any other hazard on the roadway that presents an  
17 immediate hazard or an emergency or life-threatening situation is not liable, except for willful misconduct, bad  
18 faith, or gross negligence, for injuries, costs, damages, expenses, or other liabilities resulting from a motorist  
19 operating a vehicle in violation of subsection (5).

20 (7) Blue, red, and amber lights required in this section must be mounted as high as and as widely spaced  
21 laterally as practicable and be capable of displaying to the front two alternately flashing lights of the specified  
22 color located at the same level and to the rear two alternately flashing lights of the specified color located at the  
23 same level or one rotating light of the specified color, mounted as high as is practicable and visible from both the  
24 front and the rear. These lights must have sufficient intensity to be visible at 500 feet in normal sunlight. Except  
25 as provided in 61-9-204(6), only police vehicles, as defined in 61-8-102, may display blue lights, lenses, or  
26 globes.

27 (8) A police vehicle and authorized emergency vehicle may be equipped with a flashing signal lamp that  
28 is green in color, visible from 360 degrees, and attached to the exterior roof of the vehicle for purposes of  
29 designation as the on-scene command and control vehicle in an emergency or disaster. The green light must  
30 have sufficient intensity to be visible at 500 feet in normal sunlight. Only the on-scene command and control

1 vehicle may display green lights, lenses, or globes.

2 (9) Only a police vehicle or an authorized emergency vehicle may be equipped with the means to flash  
3 or alternate its headlamps or its backup lights.

4 (10) A violation of subsection (5) is considered reckless endangerment of a highway worker, as provided  
5 in 61-8-301(4), and is punishable as provided in 61-8-715."

6  
7 **Section 44.** Section 75-10-725, MCA, is amended to read:

8 **"75-10-725. Immunity of ~~volunteer fire company or department~~ fire agency and employees for**  
9 **hazardous or deleterious substance cleanup.** A ~~volunteer fire company or department~~ that is organized by a  
10 ~~municipality, county, rural fire district, fire service area, or other entity~~ governmental fire agency organized under  
11 Title 7, chapter 33, and the employees of the ~~company or department~~ agency are not liable for civil damages,  
12 except damages for gross negligence or willful or wanton misconduct, for their acts or omissions that are directly  
13 related to the hazardous material incident."

14  
15 **NEW SECTION. Section 45. Effective date.** [This act] is effective June 1, 2007.

16 - END -