

SENATE BILL NO. 270

INTRODUCED BY J. KEANE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING BUILDING CODES FOR ENERGY EFFICIENCY AND CONSERVATION; AND AMENDING SECTIONS 7-5-108, 7-5-4202, 7-15-4121, 50-60-101, 50-60-102, AND 50-60-203, MCA."

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

**Section 1.** Section 7-5-108, MCA, is amended to read:

**"7-5-108. Adoption and amendment of codes by reference.** (1) Any local government may adopt or repeal an ordinance ~~which that~~ incorporates by reference the provisions of any code or portions of any code or any amendment ~~thereof of a code~~, properly identified as to date and source, without setting forth the provisions of the code in full. Notice of the intent to adopt a code by reference ~~shall~~ must be published after first reading and prior to final adoption of the code. At least one copy of the code, portion, or amendment ~~which that~~ is incorporated or adopted by reference ~~shall~~ must be filed in the office of the clerk of the governing body and kept there, available for public use, inspection, and examination. The filing requirements prescribed in this section ~~shall~~ may not be considered to be complied with unless the required copies of the codes, portion, amendment, or public record are filed with the clerk of the governing body for a period of 30 days prior to final adoption of the ordinance ~~which that~~ incorporates the code, portion, or amendment by reference.

(2) The governing body may adopt or amend a code by reference by an emergency ordinance and without notice. The emergency ordinance is automatically repealed 90 days following its adoption and cannot be reenacted as an emergency ordinance.

(3) The process for repealing an ordinance ~~which that~~ adopted or amended a code by reference ~~shall~~ must be the same as for repealing any other ordinance.

(4) The filing requirement of subsection (1) ~~shall~~ must be complied with in adopting amendments to codes.

(5) Any ordinance adopting a code, portion, or amendment by reference ~~shall~~ must state the penalty for violating the code, portion, or amendment or any provision ~~thereof of the code~~ separately, and ~~no a~~ part of any penalty ~~shall~~ may not be incorporated by reference.



1 (6) For purposes of this section, "code" means any published compilation of rules ~~which that~~ has been  
 2 prepared by various technical trade associations, model code organizations, federal agencies, or this state or any  
 3 agency ~~thereof of the state~~ and ~~shall include~~ specifically includes but ~~shall is~~ not be limited to: traffic codes,  
 4 building codes, energy conservation and efficiency codes, plumbing codes, electrical wiring codes, health or  
 5 sanitation codes, fire prevention codes, and inflammable liquids codes, together with any other code ~~which that~~  
 6 embraces rules pertinent to a subject ~~which that~~ is a proper local government legislative matter."

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8 **Section 2.** Section 7-5-4202, MCA, is amended to read:

9 **"7-5-4202. Incorporation of technical codes by reference.** (1) The governing body of an incorporated  
 10 city or town may adopt technical building, zoning, health, electrical, fire, energy conservation and efficiency, and  
 11 plumbing codes in whole or in part by reference.

12 (2) The notice of intent to adopt a technical code in whole or in part by reference must be published as  
 13 provided in 7-1-4127. A copy of the code or part to be adopted must be filed with the clerk of the city or town for  
 14 inspection by the public.

15 (3) If a technical code or part of a code is adopted by reference, a record in "The Ordinance Book" may  
 16 be made by recording the ordinance without setting forth the provisions of the code or part of a code adopted."

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18 **Section 3.** Section 7-15-4121, MCA, is amended to read:

19 **"7-15-4121. Adoption of building, electrical, ~~and~~ plumbing, and energy conservation and**  
 20 **efficiency codes.** The governing body of an incorporated city or town may adopt technical building, electrical,  
 21 ~~and~~ plumbing, and energy conservation and efficiency codes, in whole or in part, by reference under the  
 22 procedure provided in 7-5-4202."

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24 **Section 4.** Section 50-60-101, MCA, is amended to read:

25 **"50-60-101. Definitions.** As used in parts 1 through 4 and 7 of this chapter, unless the context requires  
 26 otherwise, the following definitions apply:

27 (1) "Alteration" means any change, addition, or modification in construction or occupancy.

28 (2) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form a  
 29 structure and the related facilities for the use or occupancy by persons or property. The term must be construed  
 30 as though followed by the words "or part or parts of a building".

1 (3) (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general or  
2 special, or compilation of laws, rules, resolutions, regulations, ordinances, or codes enacted or adopted by the  
3 state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the state  
4 or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair, inspection,  
5 energy conservation and efficiency, or use of buildings and installation of equipment in buildings.

6 (b) The term does not include zoning ordinances.

7 (4) "City or town" means an incorporated city or town as provided for in Title 7, chapter 2, part 41.

8 (5) "Code enforcement program" means the plan for enforcement of the building regulations adopted  
9 by a municipality or county and includes the local building department and the staff associated with executing any  
10 aspect of the program's purposes or functions.

11 (6) "Construction" means the original construction and equipment of buildings and requirements or  
12 standards relating to or affecting materials used, including provisions for safety, ~~and~~ sanitary conditions, and  
13 energy conservation and efficiency.

14 (7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

15 (8) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating  
16 equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

17 (9) (a) "Factory-built building" means a factory-assembled structure or structures equipped with the  
18 necessary service connections but not made so as to be readily movable as a unit or units and designed to be  
19 used with a permanent foundation.

20 (b) The term does not include manufactured housing constructed after June 15, 1976, under the National  
21 Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.

22 (10) "Local building department" means the agency or agencies of a county, city, or town charged with  
23 the administration, supervision, or enforcement of building regulations, the approval of plans, the inspection of  
24 buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or required by state  
25 or local building regulations.

26 (11) "Local legislative body" means the council or commission charged with governing the county, city,  
27 or town.

28 (12) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in  
29 possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control  
30 of a building.

1 (13) (a) "Primary function area" means an area of a building or facility in which a major activity for which  
2 the building or facility is designed is carried out. Primary function areas include but are not limited to a customer  
3 service lobby of a savings institution, a cafeteria dining area, and meeting rooms of a conference center.

4 (b) Areas that are not primary function areas include but are not limited to boiler rooms, storage rooms,  
5 employee lounges, janitorial closets, entrances, corridors, and restrooms.

6 (14) "Public building" means a building or facility owned or operated by a governmental entity or a private  
7 sector building or facility that is open to members of the public.

8 (15) "Public sidewalk" means a sidewalk located in a public right-of-way.

9 (16) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters  
10 for recreational, camping, or travel use that either has its own mode of power or is mounted on or towed by  
11 another vehicle, including but not limited to a:

12 (a) travel trailer;

13 (b) camping trailer;

14 (c) truck camper; or

15 (d) motor home.

16 (17) "Site" means a parcel of land bounded by property lines or a designated portion of a public  
17 right-of-way.

18 (18) "State agency" means any state officer, department, board, bureau, commission, or other agency  
19 of this state.

20 (19) "State building code" means the state building code provided for in 50-60-203 or any portion of the  
21 code of limited application and any of its modifications or amendments."

22

23 **Section 5.** Section 50-60-102, MCA, is amended to read:

24 **"50-60-102. Applicability.** (1) Except as provided in subsection (5), the state building code, as defined  
25 in 50-60-203(3), does not apply to:

26 (a) residential buildings containing less than five dwelling units or their attached-to structures, any farm  
27 or ranch building of any size, and any private garage or private storage structure of any size used only for the  
28 owner's own use, located within a county, city, or town, unless the local legislative body by ordinance or resolution  
29 makes the state building code applicable to these structures;

30 (b) mines and buildings on mine property regulated under Title 82, chapter 4, and subject to inspection

1 under the Federal Mine Safety and Health Act;

2 (c) petroleum refineries and pulp and paper mills, except a structure classified under chapter 7, section  
3 701, group B, division 2, and chapter 9, section 901, group H, outside of process units, of the 1991 edition of the  
4 Uniform Building Code; or

5 (d) industrial process piping, vessels, and equipment and process-related structures located outside of  
6 another structure occupied on a regular basis by employees or the public.

7 (2) Except as provided in subsection (5), the state may not enforce the state building code under  
8 50-60-205 for the buildings referred to in subsection (1). A county, city, or town that has made the state building  
9 code applicable to the buildings referred to in subsection (1) may enforce within the area of its jurisdiction the  
10 state building code as adopted by the county, city, or town.

11 (3) When good and sufficient cause exists, a written request for limitation of the state building code may  
12 be filed with the department for filing as a permanent record.

13 (4) The department may limit the application of any rule or portion of the state building code to include  
14 or exclude:

15 (a) specified classes or types of buildings according to use or other distinctions as may make  
16 differentiation or separate classification or regulation necessary, proper, or desirable;

17 (b) specified areas of the state based on size, population density, special conditions prevailing in the  
18 area, or other factors that make differentiation or separate classification or regulation necessary, proper, or  
19 desirable.

20 (5) (a) For purposes of promoting the energy efficiency of home design and operation, the provisions  
21 of the state building code relating to energy conservation and efficiency adopted pursuant to 50-60-203(1) apply  
22 to residential buildings, except:

23 (i) farm and ranch buildings; and

24 (ii) any private garage or private storage structure attached to a residential building and used only for the  
25 owner's own use.

26 (b) The provisions of the state building code relating to energy conservation and efficiency in residential  
27 buildings are enforceable:

28 (i) by the department only for those residential buildings containing five or more dwelling units or  
29 otherwise subject to the state building code; and

30 (ii) through the builder self-certification program provided for in 50-60-802 for those residential buildings

1 containing less than five dwelling units and not otherwise subject to the state building code."

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3 **Section 6.** Section 50-60-203, MCA, is amended to read:

4 **"50-60-203. Department to adopt state building code by rule.** (1) (a) The department shall adopt rules  
5 relating to the construction of, the installation of equipment in, and standards for materials to be used in all  
6 buildings or classes of buildings, including provisions dealing with safety, accessibility to persons with disabilities,  
7 sanitation, and conservation and efficient use of energy. The adoption, amendment, or repeal of a rule is of  
8 significant public interest for purposes of 2-3-103.

9 (b) Rules concerning the conservation and efficient use of energy must conform to the policy established  
10 in 50-60-801 and to relevant policies developed under the provisions of Title 90, chapter 4, part 10.

11 (2) The department may adopt by reference nationally recognized building codes in whole or in part and  
12 may adopt rules more stringent than those contained in national codes.

13 (3) The rules, when adopted as provided in parts 1 through 4, constitute the "state building code" and  
14 are acceptable for the buildings to which they are applicable.

15 (4) The department shall adopt rules that permit the installation of below-grade liquefied petroleum  
16 gas-burning appliances.

17 (5) (a) The department shall, by rule, adopt by reference the most recently published edition of the  
18 national fire protection association's publication NFPA 99C for the installation of medical gas piping systems. The  
19 department may, by rule, issue plumbing permits for medical gas piping systems and require inspections of  
20 medical gas piping systems.

21 (b) A state, county, city, or town building code compliance officer shall, as part of any inspection, request  
22 proof of a medical gas piping installation endorsement from any person who is required to hold an endorsement  
23 or who, in the inspector's judgment, appears to be involved with onsite medical gas piping activity. The inspector  
24 shall report any instance of endorsement violation to the inspector's employing agency, and the employing agency  
25 shall report the violation to the board of plumbers."

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