



AN ACT PROVIDING FOR THE PERMITTING OF VETERINARY RETAIL FACILITIES; PROVIDING FOR THE REGISTRATION OF VETERINARY DISPENSING TECHNICIANS; PROVIDING FOR CONTINUING EDUCATION REQUIREMENTS; PROVIDING DEFINITIONS; PROVIDING FOR AN APPLICATION AND PERMIT RENEWAL FEES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-7-103, 37-18-104, 50-32-401, AND 80-8-207, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Definitions. As used in [sections 1 through 8], unless the context requires otherwise, the following definitions apply:

(1) "Extralabel use" means the use of an approved drug in a manner that is not in accordance with the approved label directions.

(2) "Veterinary dispensing technician" means a nonpharmacist registered by the board of veterinary medicine to dispense veterinary prescription drugs in a veterinary retail facility.

(3) "Veterinary prescription drugs" means drugs that are to be used or prescribed by a veterinarian licensed pursuant to 37-18-301 to a client who is the owner or caretaker of the animal in need of treatment. Veterinary prescription drugs are those drugs restricted by federal law to use by or on the order of a licensed veterinarian.

(4) "Veterinary retail facility" means an establishment registered by the board of pharmacy employing a registered veterinary dispensing technician authorized to dispense veterinary prescription drugs pursuant to bona fide orders of licensed veterinarians.

Section 2. Exemptions. The provisions of [sections 1 through 8] do not apply to:

(1) a veterinarian, a veterinary technician, or a veterinarian's practice; or

- (2) a pharmacist, a pharmacy technician, or a pharmacy.

Section 3. Veterinary retail facility -- license required. (1) A person, partnership, association, corporation, or limited liability company may not open, establish, operate, maintain, or do business as a veterinary retail facility without first obtaining a license from the board of pharmacy.

- (2) The board of pharmacy shall prescribe the license application form.
- (3) An application or renewal application must be accompanied by a fee set by board rule.
- (4) A license must be renewed annually.
- (5) Separate applications and separate permits are required for each veterinary retail facility opened, established, operated, or maintained by the same owner and for a change of location, name, or ownership of an existing veterinary retail facility.
- (6) The board may adopt rules to implement this section.

Section 4. Standards of veterinary retail facilities. (1) Veterinary prescription drugs dispensed by a veterinary retail facility pursuant to a licensed veterinarian's prescription must be dispensed by a veterinary dispensing technician and are for use on livestock only, as defined in 81-2-702.

- (2) An employee of a veterinary retail facility, including a veterinary dispensing technician, may not:
 - (a) dispense controlled substances;
 - (b) compound veterinary prescription drugs for the dispensing of a prescription;
 - (c) repackage veterinary prescription drugs for the dispensing of a prescription, except that a veterinary dispensing technician may break down case lots of veterinary prescription drugs if the seals on the individual containers are not broken;
 - (d) open a container and count out or measure out any quantity of a veterinary prescription drug;or
 - (e) dispense medication for extralabel use.

Section 5. Veterinary dispensing technicians -- educational requirements. A veterinary retail facility may employ a veterinary dispensing technician who shall successfully complete:

- (1) an academic program approved by the board of veterinary medicine; or
- (2) a certification program approved by the board of veterinary medicine.

Section 6. Veterinary dispensing technicians -- registration requirements. (1) A veterinary dispensing technician shall register with the board of veterinary medicine on an annual basis.

(2) The current veterinary dispensing technician license must be conspicuously displayed and in the veterinary retail facility where the veterinary dispensing technician is employed.

(3) A veterinary dispensing technician shall wear a name badge while in the veterinary retail facility that clearly identifies the person as a veterinary dispensing technician.

(4) A veterinary dispensing technician shall inform the board of a change in address or place of employment within 15 days after the change. The board shall subsequently adjust the board's records.

(5) The board may adopt rules to implement this section.

Section 7. Penalties for violations. A person, partnership, association, corporation, or limited liability company violating the provisions of [sections 1 through 8] is guilty of a misdemeanor. On conviction for any violation of [sections 1 through 8], the board may revoke a permit or registration issued pursuant to [sections 1 through 8] or issue other disciplinary action pursuant to 37-1-136.

Section 8. Section 37-7-103, MCA, is amended to read:

"37-7-103. Exemptions. Subject ~~only~~ to 37-2-104, 37-7-401, and 37-7-402, and except as provided in [sections 1 through 8], this chapter does not:

(1) subject a medical practitioner, as defined in 37-2-101, or a person who is licensed in this state to practice veterinary medicine to inspection by the board, prevent the person from compounding or using drugs, medicines, chemicals, or poisons in the person's practice, or prevent a medical practitioner from furnishing to a patient drugs, medicines, chemicals, or poisons that the person considers proper in the treatment of the patient;

(2) prevent the sale of drugs, medicines, chemicals, or poisons at wholesale;

(3) prevent the sale of drugs, chemicals, or poisons at either wholesale or retail for use for

commercial purposes or in the arts;

(4) change any of the provisions of this code relating to the sale of insecticides and fungicides;

(5) prevent the sale of common household preparations and other drugs if the stores selling them are licensed under the terms of this chapter;

(6) apply to or interfere with manufacture, wholesaling, vending, or retailing of flavoring extracts, toilet articles, cosmetics, perfumes, spices, and other commonly used household articles of a chemical nature for use for nonmedicinal purposes;

(7) prevent a registered nurse employed by a family planning clinic under contract with the department of public health and human services from dispensing factory prepackaged contraceptives, other than mifepristone, if the dispensing is in accordance with a physician's written protocol specifying the circumstances under which dispensing is appropriate and is in accordance with the board's requirements for labeling, storage, and recordkeeping of drugs; or

(8) prevent a certified agency from possessing, or a certified euthanasia technician or support personnel under the supervision of the employing veterinarian from administering, any controlled substance authorized by the board of veterinary medicine for the purpose of euthanasia pursuant to Title 37, chapter 18, part 6."

Section 9. Section 37-18-104, MCA, is amended to read:

"37-18-104. (Temporary) Exemptions -- rules. (1) This chapter does not apply to:

(a) a veterinarian in the performance of the veterinarian's official duties, either civil or military, in the service of the United States unless the veterinarian is engaged in the practice of veterinary medicine in a private capacity;

(b) laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state or the United States and engaged in labors in laboratories under the direct supervision of the board of livestock, Montana state university-Bozeman, or the United States;

(c) a veterinarian practicing in another state or country and authorized under the laws of that state or country to practice veterinary medicine, whose practice in this state is limited to an occasional case as that term is defined in board rule;

(d) the employment of a veterinary medical student who has successfully completed 3 years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association, if the student is employed by and works under the immediate supervision of a veterinarian licensed and registered under this chapter; ~~or~~

(e) a person advising with respect to or performing acts that the board defines by rule as accepted livestock management practices; or

(f) a veterinary dispensing technician who is registered and subject to [sections 1 through 8].

(2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and swine are not the practice of veterinary medicine within the meaning of this chapter.

(3) Nonsurgical embryo transfers in bovines may be performed under the supervision of a veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo transfers in bovines must address:

- (a) minimum education requirements;
- (b) minimum requirements of practical experience;
- (c) continuing education requirements;
- (d) limitations on practices and procedures that may be performed by certified individuals;
- (e) the use of specific drugs necessary for safe and proper practice of certified procedures;
- (f) content and administration of the certification test, including written and practical testing;
- (g) application and reexamination procedures; and
- (h) conduct of certified individuals, including rules for suspension, revocation, and denial of certification.

(4) This chapter does not prohibit a person from caring for and treating the person's own farm animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the conduct of the person's business or by other persons whose services are rendered gratuitously in case of emergency.

(5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at the pharmacist's regular place of business.

(6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities

determined by board rule to be acceptable, when performed under the supervision of the employing veterinarian.

(7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this subsection include activities determined by board rule to be acceptable but do not include the performance of surgery or the rendering of diagnoses.

(8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia technician from administering, any controlled substance authorized by the board for the purpose of euthanasia pursuant to part 6 of this chapter.

37-18-104. (Effective January 1, 2023) Exemptions -- rules. (1) This chapter does not apply to:

(a) a veterinarian in the performance of the veterinarian's official duties, either civil or military, in the service of the United States unless the veterinarian is engaged in the practice of veterinary medicine in a private capacity;

(b) laboratory technicians and veterinary research workers, as distinguished from veterinarians, in the employ of this state or the United States and engaged in labors in laboratories under the direct supervision of the board of livestock, Montana state university-Bozeman, or the United States;

(c) a veterinarian practicing in another state or country and authorized under the laws of that state or country to practice veterinary medicine, whose practice in this state is limited to an occasional case as that term is defined in board rule. The board may, by rule, define conditions in which a veterinary technician licensed or registered in another state may engage in occasional veterinary technician tasks in this state, as provided in 37-18-702.

(d) the employment of a veterinary medical student who has successfully completed 3 years of the professional curriculum in veterinary medicine at a college having educational standards equal to those approved by the American veterinary medical association, if the student is employed by and works under the immediate supervision of a veterinarian licensed and registered under this chapter; ~~or~~

(e) a person advising with respect to or performing acts that the board defines by rule as accepted livestock management practices; or

(f) a veterinary dispensing technician who is registered and subject to [sections 1 through 8].

(2) The operations known and designated as castrating or dehorning of cattle, sheep, horses, and swine are not the practice of veterinary medicine within the meaning of this chapter.

(3) Nonsurgical embryo transfers in bovines may be performed under the indirect supervision of a veterinarian licensed and residing in Montana. At a minimum, board rules regarding nonsurgical embryo transfers in bovines must address:

- (a) minimum education requirements;
- (b) minimum requirements of practical experience;
- (c) continuing education requirements;
- (d) limitations on practices and procedures that may be performed by certified individuals;
- (e) the use of specific drugs necessary for safe and proper practice of certified procedures;
- (f) content and administration of the certification test, including written and practical testing;
- (g) application and reexamination procedures; and
- (h) conduct of certified individuals, including rules for suspension, revocation, and denial of certification.

(4) This chapter does not prohibit a person from caring for and treating the person's own farm animals or being assisted in this treatment by the person's full-time employees, as defined in 2-18-601, employed in the conduct of the person's business or by other persons whose services are rendered gratuitously in case of emergency.

(5) This chapter does not prohibit the selling of veterinary remedies and instruments by a registered pharmacist at the pharmacist's regular place of business.

(6) This chapter does not prohibit an employee of a licensed veterinarian from performing activities determined by board rule to be acceptable, when performed under the direct, immediate, or indirect supervision of the employing veterinarian. The board shall adopt rules regarding which veterinary practices may be performed under direct, immediate, or indirect supervision by a licensed veterinary technician.

(7) This chapter does not prohibit an employee of a licensed veterinarian from rendering care for that veterinarian's animal patients in cases of emergency. Permissible emergency employee activities under this subsection include activities determined by board rule to be acceptable but do not include the performance of surgery or the rendering of diagnoses.

(8) This chapter does not prohibit a certified agency from possessing, or a certified euthanasia technician from administering, any controlled substance authorized by the board for the purpose of euthanasia pursuant to part 6 of this chapter."

Section 10. Section 50-32-401, MCA, is amended to read:

"50-32-401. Report required for precursor to controlled substance. (1) A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to a person in this state shall submit a report to the department of justice detailing all transactions:

- (a) phenyl-2-propanone;
- (b) methylamine;
- (c) d-lysergic acid;
- (d) ergotamine tartrate;
- (e) diethyl malonate;
- (f) malonic acid;
- (g) ethyl malonate;
- (h) barbituric acid; and
- (i) piperidine.

(2) The department of justice may adopt, amend, or repeal rules in accordance with the Montana Administrative Procedure Act that add or delete substances on the list of regulated substances in subsection (1) if the substance is a precursor to a dangerous drug as defined in 50-32-101.

(3) This section does not apply to any of the following:

- (a) a pharmacist, veterinary dispensing technician, or other authorized person who sells or furnishes the substance upon the prescription of a physician, dentist, podiatrist, or veterinarian;
- (b) a physician, dentist, podiatrist, or veterinarian who administers or furnishes the substance to patients;
- (c) a manufacturer or wholesaler licensed by the board of pharmacy who sells, transfers, or otherwise furnishes the substance to a licensed pharmacist, physician, dentist, podiatrist, or veterinarian;
- (d) transfers of the substances listed in subsection (1) within any college or university to an

employee or student of the college or university for the purpose of teaching or research authorized by the college or university."

Section 11. Section 80-8-207, MCA, is amended to read:

"80-8-207. Dealers. (1) A person may not sell, offer for sale, deliver, or have delivered within the state a pesticide without first obtaining a license from the department for each calendar year or portion of a year. A separate dealer's license and fee is required for each location or outlet from which pesticides are distributed, sold, held for sale, or offered for sale. Pesticide field personnel or salespeople employed directly out of the same location or outlet and under a licensed dealer are not required to obtain a license. The dealer shall furnish the department with the names and addresses of the dealer's field personnel and salespeople selling pesticides within the state.

(2) The department shall require an applicant for a dealer's license to show, upon written examination, that the person possesses adequate knowledge related to the responsibilities of a pesticide dealer. Licensed dealers are not required to repeat an examination to renew their license provided they have earned the required recertification credits for renewal of that license.

(3) The application for a license must be accompanied by a fee of \$75. A dealer applying for renewal of a license shall apply on or before March 1 of the calendar year. A dealer applying for renewal of a license after March 1 must be assessed a \$25 late licensing fee.

(4) The dealer shall require the purchaser of a restricted pesticide to exhibit the purchaser's license or permit issued under authority of this chapter, or the dealer may verify, under procedures authorized by the department, the purchaser's license or permit through a department list or by electronic means before completing a sale. The department may adopt rules concerning dealer verification of licenses and permits.

(5) The department shall assess an additional annual license fee of \$10 on dealers to fund the waste pesticide and pesticide container collection, disposal, and recycling program. The department may by rule adjust the disposal fee to maintain adequate funding for the administration of the waste pesticide and pesticide container collection, disposal, and recycling program. The fee may not be less than \$10 a year or more than \$15 a year. Fees collected under this subsection must be deposited in an account in the state special revenue fund pursuant to 80-8-112.

(6) Pharmacists licensed as provided for in 37-7-302, veterinarians licensed as provided for in 37-18-302, veterinary dispensing technicians registered as provided in [section 6], and certified pharmacies licensed under 37-7-321 are not required to be licensed to sell pesticides if the certified pharmacies and veterinarians register with the department each year. However, the certified pharmacies and veterinarians must meet all other requirements concerning the commercial sale of pesticides. The department shall take into account the professional licensing requirements of pharmacists, certified pharmacies, and veterinarians when adopting rules."

Section 12. Codification instruction. [Sections 1 through 8] are intended to be codified as an integral part of Title 37, and the provisions of Title 37 apply to [sections 1 through 8].

Section 13. Effective date. [This act] is effective July 1, 2023.

- END -

I hereby certify that the within bill,
SB 561, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2023.

Speaker of the House

Signed this _____ day
of _____, 2023.

SENATE BILL NO. 561

INTRODUCED BY S. HINEBAUCH, B. LER

AN ACT PROVIDING FOR THE PERMITTING OF VETERINARY RETAIL FACILITIES; PROVIDING FOR THE REGISTRATION OF VETERINARY DISPENSING TECHNICIANS; PROVIDING FOR CONTINUING EDUCATION REQUIREMENTS; PROVIDING DEFINITIONS; PROVIDING FOR AN APPLICATION AND PERMIT RENEWAL FEES; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 37-7-103, 37-18-104, 50-32-401, AND 80-8-207, MCA; AND PROVIDING AN EFFECTIVE DATE.