

HOUSE BILL NO. 269
INTRODUCED BY B. BERGREN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FLEXIBILITY IN INSPECTION AND INVESTIGATION SCHEDULES FOR THE FIRE INSPECTION AND INVESTIGATION PROGRAM; REMOVING CERTAIN REQUIREMENTS FOR KEEPING RECORDS; ALLOWING THE DEPARTMENT TO ADOPT RULES REGULATING FIREWORKS AND REMOVING CERTAIN OTHER SYSTEMS FROM THE DEPARTMENT'S REGULATION; REQUIRING GENERAL LIABILITY INSURANCE RATHER THAN A BOND FOR PUBLIC DISPLAYS OF FIREWORKS; REDEFINING OCCUPANCY FOR A BROAD RANGE OF PURPOSES; REMOVING CERTAIN REQUIREMENTS FOR REPORTS; ELIMINATING CERTAIN PROVISIONS RELATED TO FIRE PROTECTION FOR STATE-OWNED BUILDINGS AND REVIEW RESPONSIBILITIES FOR ARCHITECTURAL PLANS PRESENTED TO LOCAL GOVERNMENTS; AMENDING SECTIONS 50-3-102, 50-3-103, 50-37-108, 50-61-101, 50-61-103, 50-61-114, AND 50-63-203, MCA; AND REPEALING SECTIONS 2-17-112, 50-61-112, AND 50-61-113, MCA."

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

Section 1. Section 50-3-102, MCA, is amended to read:

"50-3-102. Powers and duties of department regarding state fire prevention and investigation -- rules. (1) For the purpose of reducing the state's fire loss, the department shall:

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

(b) inspect public, business, or industrial buildings, as provided in chapter 61, as often as its budget and other inspection and investigation duties allow, and require conformance to law and rules promulgated under the provisions of this chapter;

(c) assist local fire and law enforcement authorities in arson investigations and may initiate or supervise these investigations when, in its judgment, the initiation or supervision is necessary;

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

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

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

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

~~———— (h) keep a record of all fires occurring in the state, the origin of the fires, and all facts, statistics, and circumstances relating to the fires that have been determined by investigations under the provisions of chapter 63. Except for statements of witnesses given during an investigation, information that may be held in confidence under 50-63-403, and criminal justice information subject to restrictions on dissemination in accordance with Title 44, chapter 5, the record must be open at all times to public inspection.~~

(2) The department may adopt rules necessary for safeguarding life and property from the hazards of fire and carrying into effect the fire prevention laws of this state.

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

(4) If necessary to safeguard life and property under rules promulgated pursuant to this section, the department may maintain an action to enjoin the use of all or a portion of a building or restrain a specific activity until there is compliance with the rules.

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

Section 2. Section 50-3-103, MCA, is amended to read:

"50-3-103. Rules promulgated by department. (1) Rules promulgated by the department by authority

of 50-3-102 must be reasonable and calculated to effect the purposes of this chapter. The rules must include but are not limited to requirements for:

- (a) design, construction, installation, operation, storage, handling, maintenance, or use of structural requirements for various types of construction;
- (b) building restrictions within congested districts;
- (c) exit facilities from structures;
- (d) fire extinguishers, fire alarm systems, and fire extinguishing systems;
- (e) fire emergency drills;
- (f) ~~flue and chimney construction;~~ transportation, storage, sale, and use of fireworks;
- ~~(g) heating devices;~~
- ~~(h) electrical wiring and equipment;~~
- ~~(i) air conditioning, ventilating, and other duct systems;~~
- ~~(j) refrigeration systems;~~
- ~~(k)(g)~~ flammable liquids;
- ~~(h)(h)~~ oil and gas wells;
- ~~(m)(i)~~ application of flammable finishes;
- ~~(n)(j)~~ explosives, acetylene, liquefied petroleum gas, and similar products;
- ~~(o)(k)~~ calcium carbide and acetylene generators;
- ~~(p)(l)~~ flammable motion picture film;
- ~~(q)(m)~~ combustible fibers;
- ~~(r)(n)~~ hazardous chemicals or materials;
- ~~(s)(o)~~ rubbish;
- ~~(t)(p)~~ open-flame devices;
- ~~(u)(q)~~ parking of vehicles;
- ~~(v)(r)~~ dust explosions;
- ~~(w)(s)~~ lightning protection;
- ~~(x)(t)~~ storage of smokeless powder and small arms primers; and
- ~~(y)(u)~~ other special fire hazards.

(2) If rules relate to building and equipment standards covered by the state or a municipal building code, the rules are effective upon approval of the department of labor and industry and filing with the secretary of state.

(3) Federal or other nationally recognized standards for fire protection may be adopted in whole or in

part by reference.

(4) Rules must be adopted as prescribed in the Montana Administrative Procedure Act.

(5) Rules promulgated by the department may not prevent the installation of an aboveground storage tank in a community, city, or town with a population of 1,500 or less if the tank is installed in conformance with all other applicable laws and regulations.

(6) Rules promulgated by the department may not require diked areas or heat-actuated or other shutoff devices for storage tanks containing class I or class II liquids, as defined in the uniform fire code, intended only for private use on farms and ranches.

(7) A person violating any rule made under the provisions of this part is guilty of a misdemeanor."

Section 3. Section 50-37-108, MCA, is amended to read:

"50-37-108. ~~Damage indemnity bond~~ General liability insurance required for public display. The state fire prevention and investigation program or the governing body of the city, town, or county shall require a ~~bond considered adequate by the state fire prevention and investigation program or governing body from the licensee in a sum not less than \$500, conditioned for the payment of all damages which may be caused either to a person or persons or to property by reason of the licensed display and arising from any acts of the licensee, his agents, employees, or subcontractors~~ a person planning a public display of fireworks to provide proof of general liability insurance in a reasonable amount as determined by rules adopted by the department of justice."

Section 4. Section 50-61-101, MCA, is amended to read:

"50-61-101. Purpose of chapter. The purpose and intent of this chapter are to provide for the public safety in case of fire in those occupancies specified in 50-61-103 and to ~~provide~~ allow for inspection of the buildings and premises by specified officers."

Section 5. Section 50-61-103, MCA, is amended to read:

"50-61-103. Application of chapter -- definitions. This chapter applies to the occupancies defined below:

(1) "Assembly occupancy" means the occupancy or use of a building or a structure or any portion thereof of a building or a structure by a gathering of 50 or more persons for purposes such as civic, political, ~~travel,~~ religious, or social functions; recreation, education, or instruction; food or drink consumption; or awaiting transportation, ~~or recreational purposes, including among others:~~

- ~~—— (a) armories;~~
- ~~—— (b) assembly halls;~~
- ~~—— (c) auditoriums;~~
- ~~—— (d) bowling alleys;~~
- ~~—— (e) broadcasting studios;~~
- ~~—— (f) chapels;~~
- ~~—— (g) churches;~~
- ~~—— (h) club rooms;~~
- ~~—— (i) dance halls;~~
- ~~—— (j) exhibition rooms;~~
- ~~—— (k) gymnasiums;~~
- ~~—— (l) lecture halls;~~
- ~~—— (m) lodge rooms;~~
- ~~—— (n) motion picture theaters;~~
- ~~—— (o) museums;~~
- ~~—— (p) night clubs;~~
- ~~—— (q) opera houses;~~
- ~~—— (r) passenger stations;~~
- ~~—— (s) pool rooms;~~
- ~~—— (t) recreation areas;~~
- ~~—— (u) restaurants;~~
- ~~—— (v) skating rinks;~~
- ~~—— (w) television studios;~~
- ~~—— (x) theaters; and~~
- ~~—— (y) taverns.~~

(2) "Business occupancy" means the occupancy or use of a building or a structure or any portion thereof of a building or a structure for office, professional, or service transactions. A business occupancy includes the use of a structure for the storage of records and accounts or for an eating or drinking business establishment with an occupant load of less than 50 persons ~~the transaction of business or the rendering or receiving of professional services, including among others:~~

- ~~—— (a) banks;~~

- ~~_____ (b) barbershops;~~
- ~~_____ (c) beauty parlors;~~
- ~~_____ (d) office buildings;~~
- ~~_____ (e) radio stations;~~
- ~~_____ (f) telephone exchanges; and~~
- ~~_____ (g) television stations.~~

(3) "Educational occupancy" means the occupancy or use of a building or a structure or any portion thereof ~~of a building or a structure~~ by persons assembled for the purpose of learning or receiving educational instruction. An educational occupancy includes but is not limited to any building used for, including among others:

- (a) academies; educational purposes through the 12th grade for more than 12 hours a week or 4 hours in any 1 day; or
- (b) colleges; day-care purposes for more than 12 persons
- (c) libraries;
- ~~_____ (d) schools; and~~
- ~~_____ (e) universities.~~

(4) "Industrial occupancy" means the occupancy or use of a building or a structure or any portion thereof ~~thereof~~ of a building or a structure for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repairing, or processing operations; ~~including among others:~~

- ~~_____ (a) assembly plants;~~
- ~~_____ (b) creameries;~~
- ~~_____ (c) electric substations;~~
- ~~_____ (d) factories;~~
- ~~_____ (e) ice plants;~~
- ~~_____ (f) laboratories;~~
- ~~_____ (g) laundries;~~
- ~~_____ (h) manufacturing plants;~~
- ~~_____ (i) mills;~~
- ~~_____ (j) power plants;~~
- ~~_____ (k) processing plants;~~
- ~~_____ (l) pumping stations;~~
- ~~_____ (m) repair garages;~~

~~_____ (n) smokehouses; and~~

~~_____ (o) workshops.~~

(5) "Institutional occupancy" means the occupancy or use of a building or a structure or any portion thereof of a building or a structure by more than five persons harbored or detained to receive medical, charitable, or other care or treatment or by persons involuntarily detained. An institutional occupancy includes but is not limited to, including among others:

(a) ~~asylums;~~ nurseries for the full-time care of children under the age of 6;

(b) ~~homes for the aged;~~

~~_____ (c)(b) hospitals, sanitariums, or nursing homes; and~~

~~(d) houses of correction;~~ (c) mental hospitals, mental sanitariums, jails, prisons, reformatories, or buildings where personal liberties of those harbored or detained are similarly restrained.

~~(e) day-care facilities;~~

~~_____ (f) infirmaries;~~

~~_____ (g) jails;~~

~~_____ (h) nurseries;~~

~~_____ (i) orphanages;~~

~~_____ (j) nursing homes;~~

~~_____ (k) penal institutions;~~

~~_____ (l) reformatories;~~

~~_____ (m) sanitariums;~~

~~_____ (n) long-term care facilities; and~~

~~_____ (o) boarding homes.~~

(6) "Residential occupancy" means the occupancy or use of a building or a structure or any portion thereof of a building or a structure by persons for whom sleeping accommodations are provided and who are not harbored or detained to receive medical, charitable, or other care or treatment ~~or~~ and who are not involuntarily detained. A residential occupancy includes but is not limited to hotels, motels, apartment houses, dwellings, and lodging houses. A residential occupancy does not include a building used only for private residential purposes for a family, including among others (but not including single-family private houses):

~~_____ (a) apartments;~~

~~_____ (b) clubhouses;~~

~~_____ (c) convents;~~

- ~~_____ (d) dormitories;~~
- ~~_____ (e) dwellings;~~
- ~~_____ (f) hotels;~~
- ~~_____ (g) motels;~~
- ~~_____ (h) multifamily houses; and~~
- ~~_____ (i) lodging houses."~~

Section 6. Section 50-61-114, MCA, is amended to read:

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

- (1) shall enter into school buildings at least once each 12 months; and
- (2) may enter into all other buildings and upon all other premises within the jurisdiction, as budget considerations and other inspection and investigation duties allow and according to priority schedules established by the department for conducting inspections of buildings and premises."

Section 7. Section 50-63-203, MCA, is amended to read:

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

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

~~(3) Each official responsible for investigating fires shall file a fire incident report on each fire with the department. Reports shall be on forms and shall contain information prescribed by the department. These reports shall be sent to the department on a monthly basis or at intervals determined necessary by the department."~~

NEW SECTION. **Section 8. Repealer.** Sections 2-17-112, 50-61-112, and 50-61-113, MCA, are repealed.

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