

HOUSE BILL NO. 314
INTRODUCED BY P. MORGAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE LICENSING AND REGULATION BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES OF BUSINESS ESTABLISHMENTS THAT ALLOW MEMBERS OF THE PUBLIC TO PARK OR SET UP THEIR RECREATIONAL VEHICLES ON THE BUSINESS ESTABLISHMENTS' PARKING FACILITIES ON AN OVERNIGHT BASIS; DEFINING "BUSINESS ESTABLISHMENT" AND "RECREATIONAL VEHICLE"; PROVIDING RULEMAKING AUTHORITY; PROVIDING FOR CIVIL PENALTIES AND OTHER REMEDIES; PROVIDING FOR INSPECTIONS BY HEALTH OFFICERS AND SANITARIANS; AND AMENDING SECTIONS 50-52-101, 50-52-102, 50-52-103, 50-52-107, 50-52-201, 50-52-202, 50-52-204, 50-52-208, 50-52-301, 50-52-302, AND 50-52-303, MCA."

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

Section 1. Section 50-52-101, MCA, is amended to read:

"50-52-101. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Business establishment" means a commercial enterprise that allows members of the public to park or set up their recreational vehicles on its parking lot facility on an overnight basis.

~~(1)(2)~~ "Campground" means a parcel of land available to and principally used by the public for camping, where persons can camp, secure tents or cabins, or park trailers and recreational vehicles for camping and sleeping purposes.

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

~~(3)(4)~~ "Establishment" means a campground, trailer court, work camp, or youth camp.

~~(4)(5)~~ "Parcel of land" means a unit of land all parts of which are contiguous, including contiguous lots, in the possession of, owned by, or managed by the same person.

~~(5)(6)~~ "Person" includes an individual, partnership, corporation, association, or other entity engaged in the business of operating, owning, or offering the services of a campground, trailer court, work camp, or youth camp.

~~(6)(7)~~ "Political subdivision" means any county, city, town, or other legally constituted unit of local

government in this state.

(8) "Recreational vehicle" means a vehicular type unit that either has its own motor power or is mounted on or drawn by another vehicle, primarily designed as temporary living quarters for recreational, camping, or travel use.

~~(7)~~(9) (a) "Trailer court" means a parcel of land upon which two or more spaces are available to the public and designated for occupancy by trailers or mobile homes for use as residences.

(b) The term does not include a parcel composed of platted lots, each lot of which:

(i) is filed with the county clerk and recorder;

(ii) contains only one trailer space; and

(iii) is served by a public water supply system and public sewage system that meet the requirements of rules for systems adopted pursuant to Title 75, chapter 6, part 1, and that are located within the boundaries of an incorporated city or town.

~~(8)~~(10) (a) "Work camp" means a parcel of land on which housing is provided by a person for two or more families or individuals living separately, for the exclusive use of the employees of the person and the families, if any, of the employees.

(b) (i) For purposes of this subsection, "housing" includes but is not limited to camping spaces; trailer parking spaces; mobile, modular, or permanent barracks or structures; and any appurtenant water supply and distribution system, sewage collection and disposal system, solid waste collection and disposal system, or food service and dining facilities.

(ii) Housing does not include shelter provided by an employer for persons who are employed to perform agricultural duties on a ranch or farm.

~~(9)~~(11) (a) "Youth camp" means a parcel of land on which permanent buildings, tents, or other structures are maintained as living quarters for 10 or more people and that is used primarily for educational or recreational use by minors. The term includes any appurtenant water supply and distribution system, sewage collection and disposal system, solid waste collection and disposal system, or food service and dining facilities.

(b) The term does not include any site used solely by the members and their families of a private organization that owns the site."

Section 2. Section 50-52-102, MCA, is amended to read:

"50-52-102. Department to adopt rules. The department may adopt rules for business establishments and for constructing and operating campgrounds, trailer courts, work camps, and youth camps to protect the

public health and safety. The rules may include rules to:

- (1) ensure that business establishments and establishments have safe and sanitary facilities and systems, including drinking water, sewage disposal, and solid waste disposal systems;
- (2) regulate service buildings or facilities associated with any activity regulated by this chapter, including laundry and food service facilities;
- (3) provide for review and approval of plans and specifications for business establishments and establishments;
- (4) address nuisances that could cause the spread of disease or illness;
- (5) implement staggered license expiration dates;
- (6) address licensing of business establishments and establishments under this chapter and operator requirements; and
- (7) provide for reimbursing local governments for inspections and enforcement of this chapter."

Section 3. Section 50-52-103, MCA, is amended to read:

"50-52-103. Duty to obtain license and permit inspections. A person operating a business establishment or an establishment shall:

- (1) possess a current license to do so from the department. However, a campground owned by the state or a political subdivision need not obtain a license but must comply with rules applicable to it adopted by the department.
- (2) permit inspections by state or local health officers, sanitarians, or other authorized persons at all reasonable times."

Section 4. Section 50-52-107, MCA, is amended to read:

"50-52-107. Civil penalties -- injunctions not barred. (1) ~~At~~ A business establishment or an establishment that violates this chapter or rules adopted by the department pursuant to this chapter is subject to a civil penalty not to exceed \$500.

(2) Civil action to impose penalties, as provided under this section, does not bar injunctions to enforce compliance with this chapter or to enforce compliance with a rule adopted by the department pursuant to this chapter."

Section 5. Section 50-52-201, MCA, is amended to read:

"50-52-201. Application for license. (1) Application for a license is made to the department on forms containing information required by the department.

(2) The department may not issue a license unless it has been validated by the local health officer; or, if there is no local health officer, the sanitarian; in the county where the business establishment or establishment is located."

Section 6. Section 50-52-202, MCA, is amended to read:

"50-52-202. License fee -- late fee. (1) Each application ~~shall~~ must be accompanied by a fee of \$40.

(2) The department shall deposit 85% of the fees collected under subsection (1) into the local board inspection fund account created in 50-2-108, 11.25% of the fees into the general fund, and 3.75% of the fees collected under subsection (1) into the account provided for in 50-52-210.

(3) In addition to the license fee required under subsection (1), the department shall collect a late fee from any licensee who has failed to submit a license renewal fee prior to the expiration of ~~his~~ the licensee's current license and who operates a business establishment or an establishment governed by this part in the next licensing year. The late fee is \$25 and must be deposited in the account provided for in 50-52-210."

Section 7. Section 50-52-204, MCA, is amended to read:

"50-52-204. Local board to report number of licensees to department. Before June 1 of each year, the local board of health shall submit to the department a list of the business establishments and establishments in each jurisdiction which are licensed under this part."

Section 8. Section 50-52-208, MCA, is amended to read:

"50-52-208. Notification of and validation by local health officer. (1) A license issued by the department under this chapter is not valid until signed by the local health officer in the county where the business establishment or establishment is located.

(2) The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated.

(3) Failure of the local health officer to validate the license within 15 days after its receipt is a refusal."

Section 9. Section 50-52-301, MCA, is amended to read:

"50-52-301. Health officers and sanitarians to make investigations and inspections. State and local

health officers, sanitarians-in-training, and registered sanitarians shall make investigations and inspections of business establishments and establishments and make reports to the department as required under rules adopted by the department."

Section 10. Section 50-52-302, MCA, is amended to read:

"50-52-302. Department to pay local board for inspection and enforcement. (1) Before June 30 of each year, the department shall pay to a local board of health, as established under 50-2-104, 50-2-106, or 50-2-107, an amount from the local board inspection fund account created in 50-2-108 that must be used only for the purpose of inspecting business establishments and establishments licensed under this chapter and enforcing the provisions of this chapter; ~~provided, however, that~~ In order to receive a payment, the following conditions must be met:

- (a) there is a functioning local board of health; and
- (b) the local board of health, local health officers, sanitarians-in-training, and registered sanitarians:
 - (i) assist in inspections and enforcement of the provisions of this chapter and the rules adopted under it; and
 - (ii) meet minimum program performance standards as established under rules adopted by the department.

(2) The funds received by the local board of health pursuant to subsection (1) must be deposited with the appropriate local fiscal authority and must be used to supplement, but not supplant, other funds received by the local board of health that in the absence of funding received under subsection (1) would be made available for the same purpose.

(3) Funds in the local board inspection fund account not paid to the local board of health as provided in subsection (1) may be used by the department, within any jurisdiction that does not qualify to receive payments from the local board inspection fund, to enforce the provisions of this chapter and the rules adopted under it."

Section 11. Section 50-52-303, MCA, is amended to read:

"50-52-303. Health officers and sanitarians to have access to business establishments and establishments. State and local health officers, sanitarians-in-training, and registered sanitarians must be provided free access to business establishments and establishments at all reasonable hours for the purpose of conducting investigations and inspections as required under this chapter."

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