

HOUSE BILL NO. 646
INTRODUCED BY E. BUTCHER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT TESTS AND EXAMINATIONS REQUIRED TO BE PASSED BY APPLICANTS SEEKING CERTAIN PROFESSIONAL OR OCCUPATIONAL LICENSES OR PERMITS OR CERTAIN LICENSES OR PERMITS TO OPERATE A MOTOR VEHICLE MUST BE GIVEN TO AND RESPONDED TO BY THE APPLICANTS IN ENGLISH; REQUIRING THAT THE DEPARTMENT OF LABOR AND INDUSTRY, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, AND THE DEPARTMENT OF JUSTICE, ADOPT RULES THAT PROVIDE GUIDELINES THAT DEFINE WHAT CONSTITUTES PROOF THAT AN APPLICANT HAS SUCCESSFULLY COMPLETED THOSE TESTS OR EXAMINATIONS IN ENGLISH; AMENDING SECTIONS 37-1-101, 37-1-141, 37-1-304, 37-1-305, 37-1-307, 37-69-304, 37-69-306, 50-1-202, 50-6-323, 50-73-103, 50-73-401, 50-74-101, 50-74-203, 50-74-302, 50-76-104, 50-79-202, 61-5-106, 61-5-110, 61-5-111, 61-5-120, AND 61-5-125, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

Section 1. Section 37-1-101, MCA, is amended to read:

"37-1-101. Duties of department. In addition to the provisions of 2-15-121, the department of labor and industry shall:

(1) establish and provide all the administrative, legal, and clerical services needed by the boards within the department, including corresponding, receiving and processing routine applications for licenses as defined by a board, issuing and renewing routine licenses as defined by a board, disciplining licensees, setting administrative fees, preparing agendas and meeting notices, conducting mailings, taking minutes of board meetings and hearings, and filing;

(2) standardize policies and procedures and keep in Helena all official records of the boards;

(3) make arrangements and provide facilities in Helena for all meetings, hearings, and examinations of each board or elsewhere in the state if requested by the board;

(4) contract for or administer and grade examinations required by each board;

(5) investigate complaints received by the department of illegal or unethical conduct of a member of the profession or occupation under the jurisdiction of a board within the department;

(6) assess the costs of the department to the boards and programs on an equitable basis as determined by the department;

(7) adopt rules setting administrative fees and expiration, renewal, and termination dates for licenses;

(8) issue a notice to and pursue an action against a licensed individual, as a party, before the licensed individual's board after a finding of reasonable cause by a screening panel of the board pursuant to 37-1-307(1)(e);

(9) provide notice to the appropriate legislative interim committee when a board cannot operate in a cost-effective manner;

(10) monitor a board's cash balances to ensure that the balances do not exceed two times the board's annual appropriation level and adjust fees through administrative rules when necessary; ~~and~~

(11) establish procedures to ensure that each applicant for a license or permit or the renewal or extension of a license or permit required under Title 50, chapter 73, 74, or 76, or this title for which an examination or test is required has been given the examination or test in English and responded to the examination or test in English, regardless of the jurisdiction in which the applicant was examined or tested; and

~~(11)(12)~~ establish policies and procedures to set fees for administrative services, as provided in 37-1-134, commensurate with the cost of the services provided. Late penalty fees may be set without being commensurate with the cost of services provided."

Section 2. Section 37-1-141, MCA, is amended to read:

"37-1-141. License renewal -- lapse -- expiration -- termination. (1) The renewal date for a license must be set by department rule. The department shall provide notice prior to the renewal date.

(2) To renew a license, a licensee shall submit a completed renewal form, comply with all certification and continuing education requirements, ~~and~~ remit renewal fees before the end of the renewal period, and, if an examination or test is required for original licensure, comply with the provisions of subsection (11).

(3) A licensee may reactivate a lapsed license within 45 days after the renewal date by following the process in subsection (5) and complying with all certification and educational requirements and, if an examination or test is required for original licensure, complying with the provisions of subsection (11).

(4) A licensee may reactivate an expired license within 2 years after the renewal date by following the process in subsection (5), ~~and~~ complying with all certification and education requirements that have accrued since the license was last granted or renewed as prescribed by board or department rule, and, if an examination or test is required for original licensure, complying with the provisions of subsection (11).

(5) To reactivate a lapsed license or an expired license, in addition to the respective requirements in subsections (3) and (4), a licensee shall:

- (a) submit the completed renewal form;
- (b) pay the late penalty fee provided for in subsection (7); and
- (c) pay the current renewal fee as prescribed by the department or the board.

(6) (a) A licensee who practices with a lapsed license is not considered to be practicing without a license.

(b) A licensee who practices after a license has expired is considered to be practicing without a license.

(7) The department may assess a late penalty fee for each renewal period in which a license is not renewed. The late penalty fee need not be commensurate with the costs of assessing the fee.

(8) Unless otherwise provided by statute or rule, an occupational or professional license that is not renewed within 2 years of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained.

(9) The department or board responsible for licensing a licensee retains jurisdiction for disciplinary purposes over the licensee for a period of 2 years after the date on which the license lapsed.

(10) This section may not be interpreted to conflict with 37-1-138.

(11) For the purposes of subsections (2) through (4), the licensee shall prove that the licensee was given the examination or test in English and responded to the examination or test in English, regardless of the political jurisdiction in which the licensee was examined or tested."

Section 3. Section 37-1-304, MCA, is amended to read:

"37-1-304. Licensure of out-of-state applicants -- reciprocity. (1) A board may issue a license to practice without examination to a person licensed in another state if the board determines that:

(a) the other state's license standards at the time of application to this state are substantially equivalent to or greater than the standards in this state; and

(b) there is no reason to deny the license under the laws of this state governing the profession or occupation.

(2) The license may not be issued until the board receives verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment and the board determines that the applicant was given any examination or test for licensure in English and responded to the examination or test in English, regardless of the political jurisdiction in which the applicant was examined or tested.

(3) This section does not prevent a board from entering into a reciprocity agreement with the licensing authority of another state or jurisdiction. The agreement may not permit out-of-state licensees to obtain a license by reciprocity within this state if the license applicant has not met standards that are substantially equivalent to or greater than the standards required in this state, including proof of having been examined or tested in English and responding in English as required in subsection (2), as determined by the board on a case-by-case basis."

Section 4. Section 37-1-305, MCA, is amended to read:

"37-1-305. Temporary practice permits. (1) A board may issue a temporary practice permit to a person licensed in another state that has licensing standards substantially equivalent to those of this state, including proof of having been examined or tested in English as required in 37-1-304(2), if the board determines that there is no reason to deny the license under the laws of this state governing the profession or occupation. The person may practice under the permit until a license is granted or until a notice of proposal to deny a license is issued. The permit may not be issued until the board receives verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment.

(2) A board may issue a temporary practice permit to a person seeking licensure in this state who has met all licensure requirements, including proof of having been examined or tested in English as required in 37-1-304(2), other than passage of the licensing examination. Except as provided in 37-68-311 and 37-69-306, a permit is valid until the person either fails the first license examination for which the person is eligible following issuance of the permit or passes the examination and is granted a license."

Section 5. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority -- duty. (1) A board may:

- (a) hold hearings as provided in this part;
- (b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must be relevant to the complaint and must be signed by a member of the board. Subpoenas may be enforced as provided in 2-4-104.
- (c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;
- (d) establish a screening panel to determine whether there is reasonable cause to believe that a licensee

has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

(e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information regarding the board's licensees and license applicants and regarding possible unlicensed practice.

(3) (a) Each board that requires an applicant for a license or permit required by Title 50, chapter 73, 74, or 76, or this title to successfully complete an examination or test as a condition for licensure or permitting shall ensure that the examination or test is given to and responded to by the applicant in English.

(b) Each board shall ensure that a person who seeks licensure or permitting under the reciprocity provisions of 37-1-304 or Title 50, chapter 73, 74, or 76, or the renewal or extension of a license or permit subject to the provisions of Title 50, chapter 73, 74, or 76, or this title for which an examination or test must be successfully completed as a condition for licensure, has proved, prior to being granted the permit or license or the renewal or extension of the permit or license, that the person was given the examination or test in English and responded to the examination or test in English.

~~(3)~~(4) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 6. Section 37-69-304, MCA, is amended to read:

"37-69-304. Qualifications of applicants for journeyman plumber's license -- restriction on authority. (1) The following requirements must be met by applicants for a journeyman plumber's license:

(a) a specific record of 5 years of legally obtained experience in the field of plumbing. This experience requirement may be fulfilled by working 5 years in a major phase of the plumbing business, verified by time or

pay records, or by completing an apprenticeship program meeting the standards set by the department or the United States department of labor, bureau of apprenticeship, or credit towards this experience requirement may be given for time spent attending an accredited trade or other school specializing in training of value in the field of plumbing and approved by the board.

(b) satisfactory completion of an examination prescribed by the board conducted by the department, subject to 37-1-101(4) and (11) or 37-1-307(3), testing the applicant's knowledge of techniques and methods employed in the field of plumbing and establishing by practical demonstration competence in the special skills required in the field of plumbing.

(2) A licensed journeyman plumber may perform work only in the employment of a licensed master plumber unless otherwise permitted by rule of the board."

Section 7. Section 37-69-306, MCA, is amended to read:

"37-69-306. Examination -- issuance of license. (1) An applicant for a license to work in the field of plumbing must be examined as to the applicant's qualifications by the department, subject to 37-1-101(4) and (11) or 37-1-307(3). The department shall examine each applicant for a license to determine the applicant's skill and qualifications as a master plumber or journeyman plumber.

(2) The applicant must, upon successfully passing an examination prescribed by the board, be issued a license authorizing the applicant to engage in the field of plumbing as a master plumber or journeyman plumber in the state of Montana.

(3) In the case of a firm or corporation, the examination and issuance of a license to an individual of the firm or to a principal of the firm or corporation satisfies the requirements of this chapter as to master plumbers but not as to journeyman plumbers. An individual, firm, or corporation may not do the work of a master plumber unless licensed under this chapter.

(4) In addition to the temporary permits authorized in 37-1-305, the board may, on a case-by-case basis at the board's discretion in accordance with criteria determined by the board, renew a temporary practice permit for a person who fails the first license examination for which the person is eligible."

Section 8. Section 50-1-202, MCA, is amended to read:

"50-1-202. General powers and duties. The department:

(1) shall study conditions affecting the citizens of the state by making use of birth, death, and sickness records;

(2) shall make investigations, disseminate information, and make recommendations for control of diseases and improvement of public health to persons, groups, or the public;

(3) at the request of the governor, shall administer any federal health program for which responsibilities are delegated to states;

(4) shall inspect and work in conjunction with custodial institutions and Montana university system units periodically as necessary and at other times on request of the governor;

(5) after each inspection made under subsection (4), shall submit a written report on sanitary conditions to the governor and to the director of the department of corrections or the commissioner of higher education and include recommendations for improvement in conditions if necessary;

(6) shall advise state agencies on location, drainage, water supply, disposal of excreta, heating, plumbing, sewer systems, and ventilation of public buildings;

(7) shall develop and administer activities for the protection and improvement of dental health and supervise dentists employed by the state, local boards of health, or schools;

(8) shall develop, adopt, and administer rules setting standards for participation in and operation of programs to protect the health of mothers and children, which rules may include programs for nutrition, family planning services, improved pregnancy outcome, and those authorized by Title X of the federal Public Health Service Act and Title V of the federal Social Security Act;

(9) shall conduct health education programs;

(10) shall provide consultation to school and local community health nurses in the performance of their duties;

(11) shall consult with the superintendent of public instruction on health measures for schools;

(12) shall develop, adopt, and administer rules setting standards for a program to provide services to children with disabilities, including standards for:

(a) diagnosis;

(b) medical, surgical, and corrective treatment;

(c) aftercare and related services; and

(d) eligibility;

(13) shall provide consultation to local boards of health;

(14) shall bring actions in court for the enforcement of the health laws and defend actions brought against the board or department;

(15) shall accept and expend federal funds available for public health services;

(16) must have the power to use personnel of local departments of health to assist in the administration of laws relating to public health;

(17) shall adopt rules imposing fees for the tests and services performed by the department's laboratory. Fees should reflect the actual costs of the tests or services provided. The department may not establish fees exceeding the costs incurred in performing tests and services. All fees must be deposited in the state special revenue fund for the use of the department in performing tests and services.

(18) shall adopt and enforce rules regarding the reporting and control of communicable diseases;

(19) shall adopt and enforce rules regarding the transportation of dead human bodies;

(20) shall adopt and enforce rules and standards concerning the issuance of licenses to laboratories that conduct analysis of public water supply systems; ~~and~~

(21) shall enact or take measures to prevent and alleviate injury from the release of biological, chemical, or radiological agents capable of causing imminent infection, disability, or death; and

(22) shall establish procedures to ensure that each applicant for a license or permit or the renewal or extension of a license or permit required under chapter 6 or 79 of this title has been given the examination or test required for licensure or permitting in English and successfully completed the examination or test in English, regardless of the jurisdiction in which the applicant was examined or tested."

Section 9. Section 50-6-323, MCA, is amended to read:

"50-6-323. Powers and duties of department. (1) The department has general authority to supervise and regulate emergency medical services in Montana.

(2) The department shall receive and investigate complaints relating to the operation of any emergency medical service, including complaints concerning:

- (a) patient care provided by an emergency medical service;
- (b) the condition of any vehicle or aircraft used as an ambulance; or
- (c) individual performance by an emergency medical service provider.

(3) Upon completion of an investigation as provided in subsection (2), the department shall take appropriate action, including the institution of necessary legal proceedings, as authorized under this part.

(4) In order to carry out the provisions of this part, the department shall prescribe and enforce rules for emergency medical services. Rules of the department may include but are not limited to the following:

- (a) the classification and identification of specific types and levels of prehospital and interhospital medical transportation or treatment services;

(b) procedures for issuing, denying, renewing, and canceling licenses;

(c) minimum licensing standards for each type and level of service, including requirements for personnel, medical control, maintenance, equipment, reporting, recordkeeping, sanitation, and minimum insurance coverage as determined appropriate by the department; and

(d) other requirements necessary and appropriate to assure the quality, safety, and proper operation and administration of emergency medical services.

(5) The licensing standards adopted pursuant to subsection (4)(c) that address the requirements for personnel must include provisions that ensure that the applicant for a license or the renewal or extension of a license required under this chapter and each employee of the applicant who provides emergency medical services has successfully completed an examination in English on the standards of care and practice expected in emergency medical services governed by this chapter given in English, regardless of the jurisdiction in which the applicant was examined or tested.

~~(5)~~(6) A rule under this section is not effective until:

(a) a public hearing has been held for review of the rule; and

(b) notice of the public hearing and a copy of the proposed rules have been sent to all persons licensed under 50-6-306 to conduct or operate an emergency medical service. Notice must be sent at least 30 days prior to the date of the public hearing."

Section 10. Section 50-73-103, MCA, is amended to read:

"50-73-103. Department authorized to adopt rules. The department:

(1) shall establish procedures to ensure that each coal mine inspector employed by the department has been given an examination of the inspector's knowledge of mine safety in English and has successfully responded to the examination in English, regardless of the jurisdiction in which the applicant was examined; and

(2) may adopt rules to carry out the provisions of this chapter and safety standards for all coal mines in this state."

Section 11. Section 50-73-401, MCA, is amended to read:

"50-73-401. Coal mine inspector. (1) The department shall employ an adequate number of qualified coal mine inspectors for the enforcement of this chapter and shall prescribe their duties.

(2) A person is not eligible to be a state coal mine inspector unless ~~he~~ the person is a citizen of the United States; and a resident of this state, ~~and~~ has been ~~actually~~ employed in coal mining for at least 5 years

before ~~his~~ appointment as a state coal mine inspector, and has met the examination requirements provided for in 50-73-103(1).

(3) A state coal mine inspector may not act as agent for a corporation, superintendent, or manager of a mine and ~~shall in no manner be in the employ of mining companies, nor shall he be interested in any way in~~ may not be employed by any mining company or have an interest in any coal mining operations, either as owner, lessee, or otherwise."

Section 12. Section 50-74-101, MCA, is amended to read:

"50-74-101. Definition -- department to formulate rules. (1) As used in this chapter, the term "department" means the department of labor and industry.

(2) The department shall adopt definitions and rules for the safe construction, installation, operation, inspection, and repair of equipment covered by this chapter. The definitions and rules must follow generally accepted nationwide engineering standards as published by the American society of mechanical engineers. The department shall establish procedures to ensure that each inspector of boilers and steam engines employed by the department has been given an examination of the inspector's knowledge of boiler and steam engine safety in English and has successfully responded to the examination in English, regardless of the jurisdiction in which the applicant was examined."

Section 13. Section 50-74-203, MCA, is amended to read:

"50-74-203. Qualifications of boiler inspectors. ~~No person is eligible to~~ To hold the office of inspector of boilers and steam engines ~~who has not had~~ a person must:

(1) ~~have had~~ at least 10 years of actual experience in the operation of steam engines, steam boilers, and steam machinery;

(2) prove that the person has successfully completed a safety examination as provided for in 50-74-101;
and

(3) (a) ~~and who has not~~ have held for at least 3 years immediately preceding ~~his~~ appointment a first-class stationary engineer's license of the state of Montana; or

(b) ~~who is~~ be directly or indirectly interested in the manufacture or sale of boilers or steam machinery or any patented article required to be sold relating ~~thereto~~ to boilers or steam machinery."

Section 14. Section 50-74-302, MCA, is amended to read:

"50-74-302. General requirements for licensure. ~~(1) No person may~~ To be granted a license to operate steam or water boilers and steam machinery under the provisions of this chapter, who has not met a person must meet the qualifications for licensing and ~~been~~ must be found to be competent by examination to perform the duties of an engineer.

(2) The examination required under subsection (1) must be given to and responded to by the applicant in English as provided for in 50-74-101."

Section 15. Section 50-76-104, MCA, is amended to read:

"50-76-104. Application, examination, and fee for license. (1) Application for licenses must be made to the department and submitted with the appropriate fee that is set commensurate with the cost of administering this program, to be deposited in the state special revenue fund for use by the department.

(2) The department shall determine by rule the fees to be charged an applicant for each examination and reexamination. The fees must be commensurate with costs.

(3) The department may use a third party to perform examination and grading services.

(4) Each examination and reexamination required for licensure under this chapter must be given to and responded to by the applicant in English."

Section 16. Section 50-79-202, MCA, is amended to read:

"50-79-202. Licensing and registration. (1) The department may ~~provide by rule~~ adopt rules for the general or specific licensing of persons to receive, possess, or transfer radioactive materials and devices or equipment ~~utilizing such~~ using those materials. The rules ~~shall~~ must provide for amendment, suspension, or revocation of licenses pursuant to 50-79-401 and 50-79-403.

(2) Each application for a specific license ~~shall~~ must be in writing and ~~shall~~ state ~~such~~ the information ~~as that~~ the department by rule ~~may determine~~ considers to be necessary to decide the technical, insurance, and financial qualifications or any other qualification of the applicant as the department considers reasonable and necessary to protect the occupational and public health and safety. The department may, at any time after the filing of the application and before the expiration of the license, require further written statements and may make ~~such inspections as that~~ the department considers necessary ~~in order to determine whether if~~ the license should be granted, denied, modified, suspended, or revoked. ~~All applications~~ Each application and ~~statements shall~~ all statements made by the applicant or licensee must be signed by the applicant or licensee. The department may require an application or statement to be made under oath or affirmation. The department shall require that all

documents required for licensure, including examinations or tests, are written in English and, if a response is required, responded to by the applicant in English.

(3) Each license ~~shall~~ must be in ~~such the~~ form and contain ~~such the~~ terms and conditions ~~as that~~ the department adopts ~~may~~ by rule prescribe.

(4) ~~No~~ A license issued pursuant to the provisions of this chapter and ~~no~~ the right to possess or utilize use sources of ionizing radiation granted by any license may not be assigned or ~~in any manner~~ disposed of.

(5) The terms and conditions of ~~all licenses shall be~~ each license is subject to amendment, revision, or modification by rules or orders issued in accordance with the provisions of this chapter.

(6) The department may require registration and inspection of persons dealing with sources of ionizing radiation ~~which that~~ do not require a specific license and may require compliance with specific safety standards to be stated in rules promulgated by the department.

(7) The department ~~is authorized to~~ may exempt certain users from the licensing or registration requirements set forth in this section ~~when~~ whenever the department makes a finding that the exemption of the users ~~will~~ does not constitute a significant risk to the health and safety of the public.

(8) Rules promulgated pursuant to this chapter may provide for recognition of ~~such~~ other state or federal licenses ~~as that~~ the department considers desirable, subject to ~~such the~~ provisions of this section and all registration requirements ~~as that~~ the department prescribes."

Section 17. Section 61-5-106, MCA, is amended to read:

"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary licenses. (1) (a) The department may issue an instruction permit, which is valid for 1 year from the date of issuance, to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has successfully passed the knowledge test and the vision examination, as provided in 61-5-110. Except as provided in subsections (1)(b) and (1)(c), an instruction permit entitles the permitholder, while in immediate possession of the permit and accompanied by a licensed driver seated beside the permitholder, to drive a motor vehicle other than a motorcycle upon the public highways.

(b) If the permitholder is under 18 years of age, the driver supervising the permitholder must be a parent or a legal guardian of the permitholder or, with the permission of the permitholder's parent or legal guardian, a licensed driver 18 years of age or older. Each occupant of a motor vehicle driven by a permitholder who is under 18 years of age shall wear a properly adjusted and fastened seatbelt or, if 61-9-420 applies, must be properly restrained in a child safety restraint.

(c) A person holding an instruction permit for a motorcycle may drive a motorcycle upon a public highway if the person is not carrying a passenger, has immediate possession of the permit, and is under the immediate and proximate visual supervision of one of the following persons, who must be at least 18 years of age if the permitholder is under 18 years of age:

(i) a motorcycle-endorsed licensed driver who is riding with the permitholder and who is operating a separate motorcycle or other motor vehicle; or

(ii) a licensed driver who is operating a separate motor vehicle if the permitholder has successfully completed a motorcycle safety training course through a cooperative driver testing program certified under 61-5-110.

(2) The department may issue a traffic education learner license, which is valid for 1 year from the date of issuance, to any person who has demonstrated reasonable fluency in English and is at least 14 1/2 years of age and who has successfully completed or is successfully participating in a traffic education course approved by the department and the superintendent of public instruction and that is available to all who meet the age requirements specified in 20-7-503 and reside within the geographical boundaries of or attend a school in the school district that offers the course. A traffic education learner license entitles the licensee to operate a motor vehicle only when accompanied by an approved instructor or licensed parent or guardian and may be restricted to specific times or areas.

(3) (a) An instructor of a traffic education program approved by the department and by the superintendent of public instruction may issue a traffic education permit that is effective for a school year or more restricted period to an applicant who is enrolled in a traffic education program approved by the department and who demonstrates reasonable fluency in English and meets the age requirements specified in 20-7-503.

(b) When in immediate possession of the traffic education permit, the permittee may operate on a designated highway or within a designated area:

(i) a motor vehicle when an approved instructor is seated beside the permittee; or

(ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor.

(4) The department may ~~in its discretion~~ issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license, including the applicant's reasonable fluency in English. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause

has been refused.

(5) The department may ~~in its discretion~~ issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license, including the applicant's reasonable fluency in English. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

(6) The department may ~~in its discretion~~ issue a temporary medical assessment and rehabilitation driving permit, as provided in 61-5-120."

Section 18. Section 61-5-110, MCA, is amended to read:

"61-5-110. Records check of applicants -- examination of applicants -- cooperative driver testing programs. (1) Prior to examining an applicant for a driver's license, the department shall conduct a check of the applicant's driving record by querying the national driver register, established under 49 U.S.C. 30302, and the commercial driver's license information system, established under 49 U.S.C. 31309.

(2) (a) The department shall examine each applicant for a driver's license or motorcycle endorsement, except as otherwise provided in this section. The examination must include a test of the applicant's eyesight, a knowledge test examining the applicant's ability to read and understand highway signs and the applicant's knowledge of the traffic laws of this state, and, except as provided in 61-5-118, a road test or a skills test demonstrating the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle or motorcycle. The road test or skills test must be performed by the applicant in a motor vehicle that the applicant certifies is representative of the class and type of motor vehicle for which the applicant is seeking a license or endorsement.

(b) Each of the tests and examinations required by this section must be given to and responded to by the applicant in English.

~~(b)~~(c) The knowledge test, road test, or skills test may be waived by the department upon certification of the applicant's successful completion of the test by a certified cooperative driver testing program, as provided in subsection (3) or by a certified third-party commercial driver testing program as provided in 61-5-118.

(3) The department is authorized to certify as a cooperative driver testing program any state-approved high school traffic education course offered by or in cooperation with a school district that employs an approved instructor who has current endorsement from the superintendent of public instruction as a teacher of traffic

education or any motorcycle safety training course approved by the board of regents and that employs an approved instructor of motorcycle safety training and who agrees to:

(a) administer standardized knowledge and road tests or skills tests required by the department to students participating in the district's high school traffic education courses or motorcycle safety training courses approved by the board of regents;

(b) certify the test results to the department; and

(c) comply with regulations of the department, the superintendent of public instruction, and the board of regents.

(4) (a) Except as otherwise provided by law, a resident who has a valid driver's license issued by another jurisdiction may surrender that license for a Montana license of the same class, type, and endorsement upon payment of the required fees, ~~and successful completion of a vision examination, and proof that the applicant has successfully completed a driving knowledge test given to and responded to by the applicant in English.~~ In addition, a resident surrendering a commercial driver's license issued by another jurisdiction shall successfully complete any examination required by federal regulations before being issued a commercial driver's license by the department.

(b) The department may require an applicant who surrenders a valid driver's license issued by another jurisdiction to submit to a knowledge and road or skills test if:

~~(i) the applicant cannot prove to the department that the applicant has successfully completed a driving knowledge test given to and responded to by the applicant in English;~~

~~(ii)~~(ii) the applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

~~(iii)~~(iii) the surrendered license does not include readily discernible adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

~~(iv)~~(iv) the applicant wants to remove or modify a restriction imposed on the surrendered license.

(c) When a license from another jurisdiction is surrendered, the department shall notify the issuing agency from the other jurisdiction that the applicant has surrendered the license. If the applicant wants to retain the license from another jurisdiction for identification or other nondriving purposes, the department shall place a distinctive mark on the license, indicating that the license may be used for nondriving purposes only, and return the marked license to the applicant."

Section 19. Section 61-5-111, MCA, is amended to read:

"61-5-111. Contents of driver's license, renewal, renewal by mail, license expirations, grace period, and fees for licenses, permits, and endorsements -- notice of expiration. (1)(a) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's license receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(b) The department may enter into an authorized agent agreement with the county treasurer of any county in which the department no longer maintains a driver examination station for the purpose of providing driver's license renewal services.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

- (i) a full-face photograph of the licensee in the size and form prescribed by the department;
- (ii) a distinguishing number issued to the licensee;
- (iii) the full legal name, date of birth, Montana mailing address, and a brief description of the licensee;

and

(iv) either the licensee's customary signature or a digital reproduction of the licensee's customary signature.

(b) The department may not use the licensee's social security number as the distinguishing number unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

(3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records check in accordance with 61-5-110(1) to determine the applicant's eligibility status, ~~and~~ shall test the applicant's eyesight, and shall obtain proof that the applicant has successfully completed a driving knowledge test given to and responded to by the applicant in English. The department may also require the applicant to submit to a knowledge and road or skills test if:

(i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway; and

(ii) the expired or expiring license does not include adaptive equipment or operational restrictions appropriate to the applicant's functional abilities; or

(iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

(b) In the case of a commercial driver's license, the department:

(i) shall, if the information was not provided in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately preceding the date of the renewal application and provide proof that the applicant has successfully completed a driving knowledge test given to and responded to by the applicant in English; and

(ii) may also require that the applicant successfully complete a written examination as required by federal regulations.

(c) A person is considered to have applied for renewal of a Montana driver's license if the application is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's examination station.

(d) (i) Except as provided in subsections (3)(d)(iv) through (3)(d)(vi), a person may renew a driver's license by mail if the person certifies that the person is temporarily out of state and will not be returning to the state prior to the expiration of the license. A person may not renew by mail for a subsequent license term after a mail renewal, except that a spouse or dependent of a person stationed outside Montana on active military duty may renew a driver's license by mail for one additional consecutive term following a mail renewal.

(ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

(iii) If the department does not have a digitized photograph or signature record of the renewal applicant from the expiring license, then the department may require the renewal applicant to submit a personal photograph and signature that meets the requirements prescribed by the department.

(iv) Except as provided in subsections (4)(b) and (4)(c), the term of a license renewed by mail is 8 years.

(v) The department may not renew a license by mail if:

(A) the records check conducted in accordance with 61-5-110(1) shows an ineligible license status for the applicant; ~~or~~

(B) the applicant holds a commercial driver's license with a hazardous materials endorsement, the retention of which requires additional testing and a security threat assessment under 49 CFR, part 1572; or

(C) the applicant cannot provide proof that the applicant has successfully completed a driving knowledge test given to and responded to by the applicant in English.

(vi) If a license was issued to a foreign national whose presence in the United States is temporarily

authorized under federal law, the license may not be renewed by mail.

(e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than 30 days prior to the expiration date of a driver's license. Except as provided in 61-3-119 and 61-5-115, the department shall mail the notice to the Montana mailing address shown on the driver's license.

(4) (a) Except as provided in subsections (4)(b) through (4)(e), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(d) (i) Except as provided in subsection (4)(d)(ii), a commercial driver's license expires on the anniversary of the licensee's birthday 5 years or less after the date of issue.

(ii) When a person obtains a Montana commercial driver's license with a hazardous materials endorsement after surrendering a comparable commercial driver's license with a hazardous materials endorsement from another licensing jurisdiction, the license expires on the anniversary of the licensee's birthday 5 years or less after the date of the issue of the surrendered license if, as reported in the commercial driver's license information system, a security threat assessment was performed on the person as a condition of issuance of the surrendered license.

(e) A license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law expires, as determined by the department, no later than the expiration date of the official document issued to the person by the bureau of citizenship and immigration services of the department of homeland security authorizing the person's presence in the United States.

(5) When the department issues a driver's license to a person under 18 years of age, the license must be clearly marked with a notation that conveys the restrictions imposed under 61-5-133.

(6) (a) Upon application for a driver's license or commercial driver's license and any combination of the specified endorsements, the following fees must be paid:

(i) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(ii) motorcycle endorsement -- 50 cents a year or fraction of a year;

(iii) commercial driver's license:

(A) interstate -- \$10 a year or fraction of a year; or

(B) intrastate -- \$8.50 a year or fraction of a year.

(b) A renewal notice for either a driver's license or a commercial driver's license is 50 cents."

Section 20. Section 61-5-120, MCA, is amended to read:

"61-5-120. Medical assessment and rehabilitation driving permit. (1) Upon the written request of a licensed physician on a form prescribed by the department, the department may authorize a driver rehabilitation specialist to issue a temporary medical assessment and rehabilitation driving permit to a person who is not licensed to drive or whose license has expired under the provisions of this chapter for the purpose of driver assessment, rehabilitation, and training.

(2) The temporary permit may be issued only to a person who is 16 years of age or older and has proved that the applicant has successfully completed a driving knowledge test given to and responded to by the applicant in English.

(3) The permit is valid for up to 6 weeks, beginning with the date of the first evaluation of the permit holder by the driver rehabilitation specialist. The driver rehabilitation specialist shall sign and date the permit at the time of the first evaluation.

(4) The permit is valid only when the permit holder is operating a motor vehicle under the immediate supervision of the driver rehabilitation specialist during the permit holder's participation in an actual in-vehicle evaluation process.

(5) The department may extend the duration of a medical assessment and rehabilitation permit for an additional 6-week period if the driver rehabilitation specialist or the licensed physician certifies that the permit holder needs additional time to complete the driver assessment, rehabilitation, and training process."

Section 21. Section 61-5-125, MCA, is amended to read:

"61-5-125. Authority of department -- rulemaking authority. (1) The department shall administer and enforce the provisions of this chapter.

(2) The department shall adopt rules setting standards to govern driver's license examinations and reexaminations. The rules:

(a) must specifically address the functional abilities and skills required for a person to exercise ordinary and reasonable control in the safe operation of a motor vehicle on a highway;

(b) must include minimum uncorrected or corrected visual acuity requirements for both unrestricted and restricted licensure and may include minimum field of vision and depth perception requirements and hearing requirements for unrestricted and restricted licensure;

(c) may direct the design of one or more types of skills tests to assess an applicant's or licensee's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway. A skills test may consist of:

(i) a comprehensive assessment of a person's functional abilities by means of an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle; or

(ii) a more limited assessment of a person's functional abilities, conducted at the discretion of the department, as related to a specific physical or mental condition or conditions or a request for reexamination;

(d) must include operational restrictions based upon the visual acuity of an applicant or licensee;

(e) may take into consideration any nationally recognized standards or recommended practices for assessment of a person's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle on the highway;

(f) must include appropriate licensing criteria relating to the use of adaptive equipment or operational limits that can be readily discerned by law enforcement or a licensing agency in another jurisdiction;

(g) may be derived from medical guidelines and information compiled by driver licensing medical advisory or review boards from other jurisdictions, as well as information received from advocacy groups for persons with disabilities and senior citizens; ~~and~~

(h) except as provided in 61-5-105, may not use a person's age or physical or mental disability, limitation, or condition as a justification for denial of a license; and

(i) must include guidelines of what constitutes proof that an applicant for a license or permit for which successful completion of a driving knowledge examination given to and responded to by the applicant in English, as required under this chapter, has successfully completed the test.

(3) The department may adopt additional rules governing:

(a) acceptable methods of proof of identification that must be supplied by a person upon application for or renewal of a driver's license;

(b) issuance of a hardship license to an underage applicant;

(c) the cancellation of a driver's license upon receipt of an insufficient funds check in payment of license fees;

(d) circumstances under which the department may issue a probationary license to a person whose license has been suspended or revoked or a person whose license is subject to a discretionary suspension or revocation;

(e) restrictions to be imposed upon a probationary license;

- (f) renewal of a driver's license by a person in the military assigned to active duty who had a valid Montana driver's license at the time of entering active duty;
- (g) issuance of a replacement driver's license; and
- (h) a determination of the driver's license expiration date, minimum and maximum license terms, and license renewal requirements for a driver's license issued to a person who is a foreign national whose presence in the United States is temporarily authorized under federal law."

NEW SECTION. **Section 22. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 23. Applicability.** [This act] applies to professional and occupational licenses and permits governed by Title 37 or Title 50, chapters 6, 73, 74, 76, and 79, and to licenses and permits governed by Title 61, chapter 5, that require successful completion of a knowledge examination given to and responded to by the applicant in English and for which original application or application for renewal or extension is made on or after [the effective date of this act].

- END -

