

1 SENATE BILL NO. 79

2 INTRODUCED BY T. FACEY

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE MEANING OF THE TERM "FEES
 6 COMMENSURATE WITH COSTS" WITH RESPECT TO PROFESSIONAL AND OCCUPATIONAL LICENSING;
 7 ALLOWING FOR CONTINGENCIES WITHIN BOARD AND DEPARTMENT COSTS; PROVIDING RULEMAKING
 8 AUTHORITY; AMENDING SECTIONS 37-1-134, 37-72-202, 37-73-221, 50-74-320, 50-76-104, AND 81-1-102,
 9 MCA; AND PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
 13 **Section 1.** Section 37-1-134, MCA, is amended to read:
 14 **"37-1-134. Fees commensurate with costs -- definition.** (1) Each board allocated to the department
 15 shall set board fees related to the respective program area that are commensurate with costs for licensing,
 16 including fees for initial licensing, reciprocity, renewals, applications, inspections, and audits. A board may set
 17 an examination fee that must be commensurate with costs. A board that issues endorsements and licenses
 18 specialties shall set respective fees commensurate with costs. Unless otherwise provided by law, the department
 19 may establish standardized administrative fees, including commensurate with costs. These fees may include but
 20 are not limited to fees for ~~administrative~~ services such as license verification, duplicate licenses, late penalty
 21 renewals, licensee lists, and other administrative service fees determined by the department as applicable to all
 22 boards and department programs. The department shall collect administrative fees on behalf of each board or
 23 department program and deposit the fees in the state special revenue fund in the appropriate account for each
 24 board or department program. Administrative service costs not related to a specific board or program area may
 25 be equitably distributed to board or program areas as determined by the department. Each board and department
 26 program shall maintain records sufficient to support the fees charged for each program area.

27 (2) The department and the boards shall adopt rules regarding all fees. The rules also must identify
 28 conditions that are to be used for contingencies, as provided in this section.

29 (3) As used in this section, the term "fees commensurate with costs" means fees that reasonably
 30 approximate and reflect all costs necessary to defray the expenses of the respective board or program area or

1 of the department on behalf of the respective board or program area. The fees must provide for a reasonable
 2 contingency and may take into consideration any adjustments necessary or appropriate to account for deviations
 3 from anticipated revenues and expenses of the board or program area in previous years."

4

5 **Section 2.** Section 37-72-202, MCA, is amended to read:

6 **"37-72-202. General rulemaking power -- definition.** (1) The department shall adopt rules to:

7 (1)(a) implement the training and experience requirements of 37-72-302;

8 (2)(b) prescribe the amount of the fees provided for in 37-72-301, ~~37-72-304~~, and 37-72-305, which must

9 be nonrefundable; ~~in an amount commensurate with the cost of administering this chapter~~, and deposited in the

10 state special revenue fund for the use of the department; The department shall set fees commensurate with

11 costs.

12 (3)(c) regulate the use of explosives and grant variances under the provisions of 37-72-201, except that,

13 unless the department is making an investigation under 37-72-203(2), the department does not have the power

14 under this chapter to make inspections into construction blasting and may not adopt rules providing for

15 inspections related to construction blasting or for inspectors to carry out inspections related to construction

16 blasting;

17 (4)(d) provide for the form of the license and pocket card provided for in 37-72-307; and

18 (5)(e) provide for the conduct of the business of the department under this chapter and govern

19 department proceedings under 37-72-203.

20 (2) As used in this section, the term "fees commensurate with costs" has the meaning provided in

21 37-1-134."

22

23 **Section 3.** Section 37-73-221, MCA, is amended to read:

24 **"37-73-221. Reasonable fees -- deposit of fees and fines.** (1) ~~All fees established by the~~ The

25 ~~department under this chapter must be~~ shall set fees commensurate with the respective program costs costs,

26 as that term is defined in 37-1-134. Fees collected by the department under this chapter must be deposited in

27 an account in the state special revenue fund for the use of the program.

28 (2) Fines collected under this chapter must be deposited in the state general fund."

29

30 **Section 4.** Section 50-74-320, MCA, is amended to read:

1 **"50-74-320. Examinations -- fees -- third parties.** (1) The department shall administer the engineer
2 examinations at least once every 3 months at places within the state as determined by the department.

3 (2) The department shall determine the fees to be charged an applicant for each examination and
4 reexamination. The department shall set fees must be commensurate with costs, as that term is defined in
5 37-1-134.

6 (3) The department may use a third party to provide examination and grading services."
7

8 **Section 5.** Section 50-76-104, MCA, is amended to read:

9 **"50-76-104. Application, examination, and fee for license.** (1) Application for licenses must be made
10 to the department and submitted with the appropriate fee ~~that is set commensurate with the cost of administering~~
11 ~~this program~~, to be deposited in the state special revenue fund for use by the department.

12 (2) The department shall determine by rule the fees to be charged an applicant for each examination and
13 reexamination. The

14 (3) In setting fees must be under this section, the department shall set fees commensurate with costs,
15 as that term is defined in 37-1-134.

16 ~~(3)~~(4) The department may use a third party to perform examination and grading services."
17

18 **Section 6.** Section 81-1-102, MCA, is amended to read:

19 **"81-1-102. Duties and powers of department -- fees based on costs -- notice of rules and orders.**

20 (1) The department shall exercise general supervision over and, so far as possible, protect the livestock interests
21 of the state from theft and disease and recommend legislation that in the judgment of the department fosters the
22 livestock industry. The department may compel the attendance of witnesses, employ counsel to assist in the
23 prosecution of violations of laws made for the protection of livestock interests, and assist in the prosecution of
24 persons charged with illegal branding or theft of livestock or any other crime under the laws of this state for the
25 protection of stock owners. It may adopt rules governing the recording and use of livestock brands.

26 (2) Except as provided in 81-8-901, the department shall by rule establish all fees that it is authorized
27 to charge, commensurate with costs ~~as provided in 37-1-134.~~

28 (3) (a) In addition to the requirements of Title 2, chapter 4, the department shall provide notice of
29 adopted, amended, and repealed administrative rules and orders as provided in subsection (3)(b).

30 (b) Within 10 working days of the effective date of a rule or order, notice of the rule or order must be

1 published on the department's website and provided to each livestock market and brand office. The department
2 shall provide the notification by electronic means to each conservation district, veterinarian's office, and county
3 extension office in the state and to any person or to the office of any professional or trade organization or member
4 of those entities who has made a request to the department to be informed of the adoption, amendment, or repeal
5 of a rule or order by the department.

6 (c) The notice provided pursuant to this subsection (3) must include a brief summary of the contents of
7 the rule or order and instructions for accessing a complete copy of the rule or order electronically or by mail.

8 (4) The department shall perform the duties assigned to the department relating to the administration
9 and regulation of alternative livestock ranches."

10

11 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2015.

12

- END -