

HOUSE BILL NO. 761

INTRODUCED BY B. MERCER

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3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PROFESSIONAL
5 AND OCCUPATIONAL LICENSING; REPEALING LAWS RELATING TO THE BOARDS OF RADIOLOGIC
6 TECHNOLOGISTS, HEARING AID DISPENSERS, RESPIRATORY CARE PRACTITIONERS, CLINICAL
7 LABORATORY SCIENCE PRACTITIONERS, ATHLETIC TRAINERS, AND SANITARIANS; TRANSFERRING
8 OVERSIGHT AND RULEMAKING AUTHORITY OF THE BOARDS OF FUNERAL SERVICE, BARBERS AND
9 COSMETOLOGISTS, AND PRIVATE SECURITY TO THE DEPARTMENT OF LABOR AND INDUSTRY;
10 ELIMINATING CERTAIN FEES; AMENDING SECTIONS 2-6-1017, 15-6-217, 25-1-1101, 25-1-1104, 25-1-1111,
11 25-1-1112, 35-21-812, 37-1-401, 37-15-103, 37-19-101, 37-19-202, 37-19-301, 37-19-302, 37-19-303, 37-19-304,
12 37-19-307, 37-19-315, 37-19-401, 37-19-402, 37-19-403, 37-19-702, 37-19-703, 37-19-705, 37-19-708,
13 37-19-807, 37-19-808, 37-19-814, 37-19-815, 37-19-816, 37-19-822, 37-19-823, 37-19-831, 37-31-101,
14 37-31-203, 37-31-204, 37-31-303, 37-31-304, 37-31-305, 37-31-309, 37-31-311, 37-31-312, 37-31-323,
15 37-31-324, 37-31-331, 37-31-333, 37-31-334, 37-60-101, 37-60-105, 37-60-202, 37-60-301, 37-60-302,
16 37-60-303, 37-60-304, 37-60-309, 37-60-314, 37-60-320, 37-60-403, 37-60-404, 37-60-405, 37-60-407,
17 37-60-411, 76-4-102, AND 87-5-709, MCA; REPEALING SECTIONS 2-15-1738, 2-15-1740, 2-15-1743,
18 2-15-1747, 2-15-1750, 2-15-1751, 2-15-1753, 2-15-1771, 2-15-1781, 37-14-101, 37-14-102, 37-14-201,
19 37-14-202, 37-14-301, 37-14-302, 37-14-305, 37-14-306, 37-14-307, 37-14-308, 37-14-311, 37-14-313,
20 37-14-322, 37-14-323, 37-16-101, 37-16-102, 37-16-103, 37-16-201, 37-16-202, 37-16-203, 37-16-301,
21 37-16-302, 37-16-303, 37-16-304, 37-16-401, 37-16-402, 37-16-405, 37-16-406, 37-16-408, 37-16-411,
22 37-16-412, 37-16-413, 37-19-201, 37-28-101, 37-28-102, 37-28-103, 37-28-104, 37-28-201, 37-28-202,
23 37-28-302, 37-28-305, 37-31-201, 37-31-202, 37-34-101, 37-34-102, 37-34-103, 37-34-201, 37-34-301,
24 37-34-302, 37-34-303, 37-34-305, 37-34-307, 37-36-101, 37-36-102, 37-36-201, 37-36-202, 37-36-203,
25 37-36-204, 37-36-205, 37-40-101, 37-40-102, 37-40-201, 37-40-202, 37-40-203, 37-40-301, 37-40-302,
26 37-40-312, 37-60-201, AND 37-60-211, MCA; AND PROVIDING EFFECTIVE DATES."

27

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

29

30 **Section 1.** Section 2-6-1017, MCA, is amended to read:

1 **"2-6-1017. Prohibition on dissemination or use of distribution lists -- exceptions -- penalties. (1)**

2 Except as provided in subsections (3) through (10), to protect the privacy of those who deal with state and local
3 government:

4 (a) a public agency may not distribute or sell a distribution list without first securing the permission of
5 those on the list; and

6 (b) a list of persons prepared by a public agency may not be used as a distribution list without first
7 securing the permission of those on the list except by that agency.

8 (2) As used in this section, "distribution list" means any list of personal contact information collected by
9 a public agency and used to facilitate unsolicited contact with individuals on the distribution list.

10 (3) This section does not prevent an individual from compiling a distribution list by examination of records
11 that are otherwise open to public inspection.

12 (4) This section does not apply to the lists of:

13 (a) registered electors and the new voter lists provided for in 13-2-115;

14 (b) the names of employees governed by Title 39, chapter 31;

15 (c) persons holding driver's licenses or Montana identification cards provided for under 61-5-127;

16 (d) persons holding professional or occupational licenses governed by ~~Title 23, chapter 3~~; Title 25,
17 chapter 1, part 11; Title 37, ~~chapters 1 through 4, 6 through 20, 22 through 29, 31, 34 through 36, 40, 47, 48, 50,~~
18 ~~51, 53, 54, 60, 65 through 69, 72, and 73~~ except chapters 42, 43, and 61; and Title 50, chapters 39, 72, 74, and
19 76; or

20 (e) persons certified as claims examiners under 39-71-320.

21 (5) This section does not prevent an agency from providing a list to persons providing prelicensing or
22 continuing education courses subject to state law or subject to Title 33, chapter 17.

23 (6) This section does not apply to the right of access by Montana law enforcement agencies.

24 (7) This section does not apply to the secretary of state's electronic filing system developed pursuant
25 to 2-15-404 and containing corporate and uniform commercial code information.

26 (8) This section does not apply to the use by the public employees' retirement board of a list of
27 board-administered retirement system participants to send materials on behalf of a retiree organization formed
28 for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the
29 Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the list is not
30 released to the organization.

1 (9) This section does not apply to lists of individuals who sign attendance sheets or sign-in sheets at a
2 hearing or meeting of a public agency.

3 (10) This section does not apply to a public school providing lists of graduating students to
4 representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.

5 (11) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor."
6

7 **Section 2.** Section 15-6-217, MCA, is amended to read:

8 **"15-6-217. Exemption for vehicle of certain health care professionals.** A motor vehicle that is
9 brought, driven, or coming into this state is exempt from the registration fees imposed in 15-24-301 if the motor
10 vehicle is registered in another state or country by a nonresident person who is a licensed health care
11 professional, as provided in Title 37, chapter 3, 8, 11, ~~14~~, 20, or 25, 28, or 34, and who is employed in Montana
12 by a rural health care facility that is located in an area that has been:

13 (1) designated by the secretary of the federal department of health and human services as a health
14 professional shortage area, as provided in 42 U.S.C. 254(e); or

15 (2) determined to have a critical shortage of nurses, as provided in 42 U.S.C. 297n(a)(3)."
16

17 **Section 3.** Section 25-1-1101, MCA, is amended to read:

18 **"25-1-1101. Registered process server -- levying officer -- use of title reserved.** (1) Except as
19 provided in subsection (2), a person who makes more than 10 services of process, as defined in 25-3-101, within
20 this state during 1 calendar year must be registered under Title 37, chapter 60. A process server who holds a
21 valid certificate of registration from a clerk of court in this state as of July 1, 2007, shall present the registration
22 certificate to the ~~board~~ department of labor and industry, and the ~~board~~ department shall exchange that
23 registration certificate for a new certificate that expires on March 31, 2009.

24 (2) This part does not apply to:

25 (a) a sheriff, constable, coroner, elisor, or other government employee who is acting in the course of
26 employment; or

27 (b) a licensed attorney.

28 (3) A registered process server may act as a levying officer under Title 25, chapter 13.

29 (4) A registered process server may make service of process in any county in this state.

30 (5) A person may not use the title of process server unless the person is registered as a process server

1 under Title 37, chapter 60."

2

3 **Section 4.** Section 25-1-1104, MCA, is amended to read:

4 **"25-1-1104. Handbook for process servers.** (1) The department of labor and industry shall publish a
5 handbook for process servers and levying officers.

6 (2) The ~~board of private security, established in 2-15-1781,~~ department of labor and industry shall
7 develop and administer an examination for applicants for registration as a process server based on the handbook.

8 (3) The department of labor and industry may charge a reasonable examination fee to cover the costs
9 of publishing the handbook and administering the examination provided for in this section."

10

11 **Section 5.** Section 25-1-1111, MCA, is amended to read:

12 **"25-1-1111. Bond required -- levy limited.** (1) After completing the requirements in Title 37, chapter
13 60, for registration, a process server shall provide the ~~board of private security~~ department of labor and industry
14 with proof of a surety bond of \$10,000 for an individual or \$100,000 for a firm, conditioned upon compliance with
15 this part, all laws governing service of process in this state, and the requirements of Title 37, chapter 60. ~~A clerk~~
16 ~~of court holding a surety bond for a process server under this section as of June 30, 2007, shall transfer the~~
17 ~~original bond and any supporting documentation to the board on July 1, 2007.~~

18 (2) A levying officer may not levy on a judgment that exceeds the value of the bond."

19

20 **Section 6.** Section 25-1-1112, MCA, is amended to read:

21 **"25-1-1112. Action on bond.** (1) Any person who recovers damages for an injury caused by a service
22 of process, made by a registered process server, that did not comply with the law governing service of process
23 in this state may recover the amount of damages from the bond required under 25-1-1111.

24 (2) If there has been recovery against a registered process server's bond, the registered process server
25 shall file a new bond within 30 days or reinstate the bond. If the bond has not been reinstated or filed within 30
26 days, the ~~board of private security patrol officers and investigators~~ department of labor and industry shall revoke
27 the process server's registration within a timeframe established by rule."

28

29 **Section 7.** Section 35-21-812, MCA, is amended to read:

30 **"35-21-812. Removal of remains -- when removal excepted.** (1) The remains of a deceased person

1 may be removed from a plot in a mausoleum or columbarium with the consent of the mausoleum-columbarium
2 authority and the written consent of one of the following in the order named:

3 (a) a spouse;

4 (b) a majority of adult children;

5 (c) a parent;

6 (d) the surviving brothers or sisters of the decedent;

7 (e) a close relative of the decedent; or

8 (f) in the absence of a person listed in subsections (1)(a) through (1)(e), a personal representative, a
9 public administrator, the decedent through a preneed authorization, or others designated by the board of funeral
10 service by rule.

11 (2) If the required consent cannot be obtained, permission by the district court in the county where the
12 mausoleum or columbarium is situated is sufficient if the permission does not violate the terms of a written
13 contract or rules of the mausoleum-columbarium authority.

14 (3) Notice of application to the court for the permission provided for in subsection (2) must be given at
15 least 15 days prior to a hearing on the application to the mausoleum-columbarium authority and to persons listed
16 in subsections (1)(a) through (1)(e) not consenting and to other persons on whom service of notice may be
17 required by the court."

18

19 **Section 8.** Section 37-1-401, MCA, is amended to read:

20 **"37-1-401. Uniform regulation for licensing programs without boards -- definitions.** As used in this
21 part, the following definitions apply:

22 (1) "Complaint" means a written allegation filed with the department that, if true, warrants an injunction,
23 disciplinary action against a licensee, or denial of an application submitted by a license applicant.

24 (2) "Department" means the department of labor and industry provided for in 2-15-1701.

25 (3) "Investigation" means the inquiry, analysis, audit, or other pursuit of information by the department,
26 with respect to a complaint or other information before the department, that is carried out for the purpose of
27 determining:

28 (a) whether a person has violated a provision of law justifying discipline against the person;

29 (b) the status of compliance with a stipulation or order of the department;

30 (c) whether a license should be granted, denied, or conditionally issued; or

1 (d) whether the department should seek an injunction.

2 (4) "License" means permission in the form of a license, permit, endorsement, certificate, recognition,
3 or registration granted by the state of Montana to engage in a business activity or practice at a specific level in
4 a profession or occupation governed by:

5 (a) Title 37, chapter ~~35~~, 19, 31, 60, 72, or 73; ~~or~~

6 (b) Title 25, chapter 1, part 11; or

7 (c) Title 50, chapter 39, 74, or 76.

8 ~~(5) "Profession" or "occupation" means a profession or occupation regulated by the department under~~
9 ~~the provisions of:~~

10 ~~—— (a) Title 37, chapter 35, 72, or 73; or~~

11 ~~—— (b) Title 50, chapter 39, 74, or 76."~~

12

13 **Section 9.** Section 37-15-103, MCA, is amended to read:

14 **"37-15-103. Exemptions -- rulemaking.** (1) This chapter does not prevent a person licensed in this
15 state under any other law from engaging in the profession or business for which that person is licensed.

16 (2) This chapter does not restrict or prevent activities of a speech-language pathology or audiology
17 nature or the use of the official title of the position for which the activities were performed on the part of a
18 speech-language pathologist or audiologist employed by federal agencies.

19 (3) Those persons performing activities described in subsection (2) who are not licensed under this
20 chapter may perform those activities only within the confines of or under the jurisdiction of the organization in
21 which they are employed and may not offer speech-language pathology or audiology services to the public for
22 compensation over and above the salary they receive for performance of their official duties with organizations
23 by which they are employed. However, without obtaining a license under this chapter, these persons may consult
24 or disseminate their research findings and scientific information to other accredited academic institutions or
25 governmental agencies. They also may offer lectures to the public for a fee without being licensed under this
26 chapter.

27 (4) This chapter does not restrict the activities and services of a student in speech-language pathology
28 or audiology from pursuing a course of study in speech-language pathology or audiology at an accredited or
29 approved college or university or an approved clinical training facility. However, these activities and services must
30 constitute a part of a supervised course of study, and a fee may not accrue directly or indirectly to the student.

1 These students must be designated by the title "speech-language pathology or audiology intern",
 2 "speech-language pathology or audiology trainee", or a title clearly indicating the training status appropriate to
 3 the level of training.

4 (5) This chapter does not restrict a person from another state from offering speech-language pathology
 5 or audiology services in this state if the services are performed for not more than 5 days in any calendar year and
 6 if the services are performed in cooperation with a speech-language pathologist or audiologist licensed under this
 7 chapter. However, by securing a temporary license from the board subject to limitations that the board may
 8 impose, a person not a resident of this state who is not licensed under this chapter but who is licensed under the
 9 law of another state that has established licensure requirements at least equivalent to those established by this
 10 chapter may offer speech-language pathology or audiology services in this state for not more than 30 days in any
 11 calendar year if the services are performed in cooperation with a speech-language pathologist or audiologist
 12 licensed under this chapter.

13 (6) This chapter does not restrict a person holding a class A certificate issued by the conference of
 14 executives of American schools of the deaf from performing the functions for which the person qualifies.

15 ~~(7) This chapter does not restrict a person who is licensed in this state as a hearing aid dispenser from~~
 16 ~~performing the functions for which the person qualifies and that are described in Title 37, chapter 16.~~

17 ~~(8) (a) An audiologist who sells, dispenses, or fits hearing aids is exempt from the licensing requirements~~
 18 ~~or other provisions of Title 37, chapter 16, except for the provisions of 37-16-304.~~

19 ~~———— (b) The board may adopt rules pertaining to the selling, dispensing, and fitting of hearing aids and~~
 20 ~~hearing aid parts, attachments, and accessories."~~

21

22 **Section 10.** Section 37-19-101, MCA, is amended to read:

23 **"37-19-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
 24 apply:

25 (1) "Arrangements" includes:

26 (a) planning the details of funeral service, including time of service, type of service, and, if requested,
 27 acquiring the services of clergy;

28 (b) obtaining the necessary information for filing death certificates;

29 (c) comparing or discussing prices, including merchandise prices and financial arrangements; and

30 (d) providing for onsite direction and coordination of participants and onsite direction, coordination, and

1 facilitation at funeral, graveside, or memorial services or rites.

2 (2) "At-need" arrangements means arrangements made by an authorized person on behalf of a
3 deceased.

4 (3) "Authorizing agent" means a person legally entitled to order the final disposition of human remains,
5 including burial, cremation, entombment, donation to medical science, or other means. The order of preference
6 for an authorizing agent is subject to the priority of rights of disposition established in 37-19-904.

7 ~~(4) "Board" means the board of funeral service provided for in 2-15-1743.~~

8 ~~(5)~~(4) "Branch establishment" means a separate facility that may or may not have a suitable visitation
9 room or preparation room and that is owned by, a subsidiary of, or otherwise financially connected to or controlled
10 by a licensed mortuary.

11 ~~(6)~~(5) "Cemetery" means any land or structure in this state dedicated to and used or intended to be used
12 for interment of cremated remains or human remains. It may be any one or a combination of a burial park for earth
13 interments, a mausoleum for crypt or niche interments, or a columbarium.

14 ~~(7)~~(6) "Cemetery company" means an individual, partnership, corporation, or association that:

15 (a) owns or controls cemetery lands or property and conducts the business of a cemetery; or

16 (b) applies to the ~~board~~ department to own or control cemetery lands or property and conduct the
17 business of a cemetery.

18 ~~(8)~~(7) "Closed container" means a container in which cremated remains can be placed and enclosed
19 in a manner that prevents leakage or spillage of cremated remains or entrance of foreign material.

20 ~~(9)~~(8) "Columbarium" means a room or space in a building or structure used or intended to be used for
21 the interment of cremated remains.

22 ~~(10)~~(9) "Cremated remains" means all human remains recovered after the completion of the cremation,
23 including pulverization that leaves only bone fragments reduced to unidentifiable dimensions.

24 ~~(11)~~(10) "Cremation" means the technical process, using heat, that reduces human remains to bone
25 fragments. The reduction takes place through heat and evaporation.

26 ~~(12)~~(11) "Cremation chamber" means the enclosed space within which the cremation process takes
27 place. Cremation chambers of crematoriums licensed by this chapter must be used exclusively for the cremation
28 of human remains.

29 ~~(13)~~(12) "Cremation container" means the container in which the human remains are placed in the
30 cremation chamber for a cremation. A cremation container must meet substantially all of the following standards:

- 1 (a) be composed of readily combustible materials suitable for cremation;
- 2 (b) be able to be closed ~~in order~~ to provide a complete covering for the human remains;
- 3 (c) be resistant to leakage and spillage;
- 4 (d) be rigid enough for handling with ease; and
- 5 (e) be able to provide protection for the health, safety, and integrity of crematory personnel.
- 6 ~~(14)~~(13) "Crematory" means the building or portion of a building that houses the cremation chamber and
- 7 the holding facility.
- 8 ~~(15)~~(14) "Crematory operator" means the person in charge of the licensed crematory facility.
- 9 ~~(16)~~(15) "Crematory technician" means an employee of a crematory facility who is trained to perform
- 10 cremations and is licensed by the ~~board~~ department.
- 11 ~~(17)~~(16) "Crypt" means a chamber of sufficient size to inter the remains of a deceased person.
- 12 ~~(18)~~(17) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part
- 13 17.
- 14 ~~(19)~~(18) "Embalming" means:
- 15 (a) obtaining burial or removal permits or assuming other duties incidental to the practice of embalming;
- 16 (b) disinfecting and preserving or attempting to preserve dead human bodies in their entirety or in parts
- 17 by the use of chemical substances, fluids, or gases ordinarily intended for that use by introducing the chemical
- 18 substances, fluids, or gases into the body by vascular or hypodermic injection or by direct introduction into the
- 19 organs or cavities; and
- 20 (c) restorative art.
- 21 ~~(20)~~(19) "Funeral directing" includes:
- 22 (a) supervising funerals;
- 23 (b) the making of preneed or at-need contractual arrangements for funerals;
- 24 (c) preparing dead bodies for burial, other than by embalming;
- 25 (d) maintaining a mortuary for the preparation, disposition, or care of dead human bodies; and
- 26 (e) representing to the public that one is a funeral director.
- 27 ~~(21)~~(20) "Holding facility" means an area within or adjacent to the crematory facility designated for the
- 28 retention of human remains prior to cremation that must:
- 29 (a) comply with any applicable public health law;
- 30 (b) preserve the dignity of the human remains;

1 (c) recognize the health, safety, and integrity of the crematory operator and crematory personnel; and

2 (d) be secure from access by anyone other than authorized personnel.

3 ~~(22)~~(21) "Human remains" means the body of a deceased person or part of a body or limb that has been
4 removed from a living person, including the body, part of a body, or limb in any stage of decomposition.

5 ~~(23)~~(22) "Interment" means any lawful disposition of cremated remains or human remains.

6 ~~(24)~~(23) (a) "Intern" means a person who has met the educational and testing requirements for a license
7 to practice mortuary science in Montana, has been licensed by the ~~board~~ department as an intern, and is
8 engaged in the practice of mortuary science under the supervision of a licensed mortician.

9 (b) For the purposes of this subsection ~~(24)~~ (23), "supervision" means the extent of oversight that a
10 mortician believes an intern requires based upon the training, experience, judgment, and professional
11 development of the intern.

12 ~~(25)~~(24) "Lot" or "grave space" means a space in a cemetery used or intended to be used for interment.

13 ~~(26)~~(25) "Mausoleum" means a community-type room or space in a building or structure used or intended
14 to be used for the interment of human remains in crypts or niches.

15 ~~(27)~~(26) "Mortician" means a person licensed under this chapter to practice mortuary science.

16 ~~(28)~~(27) (a) "Mortuary" means a place of business licensed by the ~~board~~ department, located in a building
17 or portion of a building having a specific street address or location, containing but not limited to a suitable room
18 for viewing or visitation and a preparation room, and devoted exclusively to activities that are related to the
19 preparation and arrangements for funerals, transportation, burial, or other disposition of dead human bodies.

20 (b) The term includes conducting activities from the place of business referred to in subsection ~~(28)~~(a)
21 (27)(a) that are incidental, convenient, or related to the preparation of funeral or memorial services or rites or the
22 transportation, burial, cremation, or other disposition of dead human bodies in any area where those activities
23 may be conducted.

24 ~~(29)~~(28) "Mortuary science" means the profession or practice of funeral directing and embalming.

25 ~~(30)~~(29) "Niche" means a space in a columbarium or mausoleum used or intended to be used for the
26 interment of the cremated remains or human remains of one or more deceased persons.

27 ~~(31)~~(30) "Perpetual care and maintenance" means continual and proper maintenance of cemetery
28 buildings, grounds, and lots or grave spaces.

29 ~~(32)~~(31) "Preneed arrangements" means arrangements made with a licensed funeral director or licensed
30 mortician by a person on the person's own behalf or by an authorized individual on the person's behalf prior to

1 the death of the person.

2 ~~(33)~~(32) "Temporary container" means a receptacle for cremated remains that is usually made of
3 cardboard, plastic film, or similar material designed to hold the cremated remains until an urn or other permanent
4 container is acquired.

5 ~~(34)~~(33) "Urn" means a receptacle designed to permanently encase the cremated remains."
6

7 **Section 11.** Section 37-19-202, MCA, is amended to read:

8 **"37-19-202. Meetings -- rulemaking power Rulemaking.** ~~The board shall hold meetings as may be~~
9 ~~necessary.~~ The ~~board~~ department may adopt and enforce rules to carry out the purposes of this chapter."
10

11 **Section 12.** Section 37-19-301, MCA, is amended to read:

12 **"37-19-301. Funeral director's license -- renewal -- fee.** The practice of funeral directing by anyone
13 who does not hold a funeral director's license or a mortician's license issued by the department is prohibited. A
14 person licensed to practice funeral directing is entitled to the renewal of the license on payment of a renewal fee
15 to the department on or before the date set by department rule. The amount of the renewal license fee must be
16 set by the ~~board~~ department."
17

18 **Section 13.** Section 37-19-302, MCA, is amended to read:

19 **"37-19-302. License required for practice of mortuary science -- qualifications of applicants. (1)**
20 The practice of embalming or mortuary science by anyone who does not hold a mortician's license issued by the
21 ~~board~~ department is prohibited. A person 18 years of age or older wishing to practice mortuary science in this
22 state must apply ~~to the board~~ on the form and in the manner prescribed by the ~~board~~ department.

23 (2) To qualify for a mortician's license, a person must:

24 (a) be of good moral character;

25 (b) have graduated from an accredited college or university with an associate degree in mortuary
26 science;

27 (c) have earned in subjects prescribed by the ~~board~~ department an additional 30 semester or 45 quarter
28 credits from an accredited college or university that have not been applied toward the requirements in subsection

29 (2)(b);

30 (d) pass an examination prescribed by the ~~board~~ department; and

1 (e) serve a 1-year internship under the supervision of a licensed mortician in a licensed mortuary after
2 passing the examination provided for in subsection (2)(d).

3 (3) A person who fails the examination required in subsection (2)(d) may retake it under conditions
4 prescribed by rule of the ~~board~~ department."

5

6 **Section 14.** Section 37-19-303, MCA, is amended to read:

7 **"37-19-303. Mortician's license -- application fee.** A person possessing the necessary qualifications
8 may apply to the department for a license and on payment of an application fee, as set by the ~~board~~ department,
9 may take the examination prescribed by the ~~board~~ department."

10

11 **Section 15.** Section 37-19-304, MCA, is amended to read:

12 **"37-19-304. Issuance of intern's license -- license fee -- issuance of mortician's license on**
13 **completion of internship.** An applicant who passes the examination provided for in 37-19-302 shall, upon
14 payment of a license fee prescribed by the ~~board~~ department, be granted an intern mortician's license to practice
15 mortuary science under the supervision of a licensed mortician in a licensed mortuary in Montana and, upon
16 completion of 1 year's internship and payment of the license fee, may apply for and receive a mortician's license."

17

18 **Section 16.** Section 37-19-307, MCA, is amended to read:

19 **"37-19-307. Deposit of money received.** Money collected by the department under this chapter shall
20 be deposited for the use of the ~~board~~ department, subject to 37-1-101(6)."

21

22 **Section 17.** Section 37-19-315, MCA, is amended to read:

23 **"37-19-315. Funeral costs -- rules on disclosure.** The ~~board~~ department shall adopt rules requiring
24 mortuaries to disclose in writing to all customers a complete itemized list of all funeral costs and complete
25 information regarding the need for embalming."

26

27 **Section 18.** Section 37-19-401, MCA, is amended to read:

28 **"37-19-401. License required -- display of license.** An operating mortuary must be licensed by the
29 ~~board~~ department. The license must be displayed in a conspicuous place."

30

1 **Section 19.** Section 37-19-402, MCA, is amended to read:

2 **"37-19-402. Operator's license requirements -- facility inspections -- transfer of license to new**
3 **facility.** (1) The operation of a mortuary is prohibited by anyone not holding a mortician's or funeral director's
4 license.

5 (2) A license to operate a new mortuary facility in Montana may be issued only if the proposed mortuary
6 facility meets standards for operating mortuaries adopted by the ~~board~~ department.

7 (3) (a) An applicant for a license to operate a new mortuary shall send to the department a written and
8 verified application on a form prescribed by the ~~board~~ department. The application must be accompanied by an
9 initial inspection fee.

10 (b) The department shall inspect the proposed new mortuary ~~and report its findings to the board.~~

11 (4) The ~~board~~ department shall grant a license if the department determines that the proposed new
12 facility meets ~~the standards adopted by the board~~ department standards and will be operated by a person who
13 has been issued a mortician's or a funeral director's license.

14 (5) The ~~board~~ department may grant a temporary license to a mortuary until the initial inspection is
15 completed.

16 (6) A mortuary license may be transferred from one facility to another only when the proprietor of a
17 licensed facility terminates services at the licensed facility and commences services at a new facility. The new
18 facility must be inspected and must meet standards for operating mortuaries.

19 (7) A mortuary may be inspected by ~~members of the board or their representatives~~ the department during
20 business hours."

21

22 **Section 20.** Section 37-19-403, MCA, is amended to read:

23 **"37-19-403. Power of ~~board~~ department to set facility standards -- inspection -- fees.** (1) The ~~board~~
24 department may adopt rules prescribing reasonable standards for operating mortuaries, including minimum
25 requirements for drainage, ventilation, and instruments. The ~~board~~ department may inspect the premises of a
26 mortuary establishment without notice to determine if rules are complied with. ~~Inspections are at the discretion~~
27 ~~of the board and may be without notice.~~ An initial inspection is mandatory.

28 (2) The ~~board~~ department may charge the operator an inspection fee, including an initial inspection fee,
29 to be set at the discretion of the ~~board~~ department. Fees must be commensurate with costs."

30

1 **Section 21.** Section 37-19-702, MCA, is amended to read:

2 **"37-19-702. Licenses required -- display of licenses -- renewal -- penalty for late renewal.** (1) A
3 person doing business in this state or a cemetery, mortuary, corporation, partnership, joint venture, voluntary
4 organization, or other entity that erects, maintains, or provides the necessary appliances and facilities for the
5 cremation of human remains and that conducts cremations must be licensed by the ~~board~~ department. The
6 license must be displayed in a conspicuous place in the crematory facility.

7 (2) A crematory license expires on the date set by department rule and may be renewed upon payment
8 of a fee set by the ~~board~~ department. The fee must include the cost of annual inspection. If a crematory facility
9 is attached to a licensed mortuary, only one inspection fee may be charged for inspection of both a mortuary
10 facility under 37-19-403 and a crematory facility.

11 (3) A person in charge of a licensed crematory facility must be licensed as a crematory operator by the
12 ~~board~~ department. A person employed by a licensed crematory facility must be licensed as a crematory
13 technician by the ~~board~~ department. The license must be displayed in a conspicuous place in the crematory
14 facility.

15 (4) Crematory operator and crematory technician licenses expire on the date set by department rule and
16 may be renewed upon payment of a fee set by the ~~board~~ department. On-the-job training must be provided to
17 a crematory technician at the time of employment."
18

19 **Section 22.** Section 37-19-703, MCA, is amended to read:

20 **"37-19-703. Application -- power of ~~board~~ department to set standards -- inspection -- fees.** (1)
21 Application for a crematory, crematory operator, or crematory technician license must be on forms prescribed by
22 the ~~board~~ department and must include the name of the applicant, name of the crematory facility, location of the
23 crematory facility and its mailing address, and any further information the ~~board~~ department requires. To be
24 eligible for licensure:

25 (a) as a crematory facility, an application must include a description of the type of structure and
26 equipment to be used in the operation of the crematory facility;

27 (b) as a crematory operator, an applicant must be at least 18 years of age, must be a high school
28 graduate or have an equivalent degree, and must be of good moral character.

29 (2) The application must be accompanied by an application fee set by the ~~board~~ department.

30 (3) The ~~board~~ department must be notified of any change of ownership of a crematory within 30 days

1 of the change.

2 (4) A license to operate a crematory in Montana may be issued only upon inspection of the crematory
3 facility and upon a finding of compliance with standards for operation set by the ~~board~~ department.

4 (5) A temporary permit may be issued to operate a crematory facility, as prescribed by ~~board~~ department
5 rule, that is effective until the initial inspection is completed to the ~~board's~~ department's satisfaction.

6 (6) A crematory facility may be inspected by a ~~board member or the board's designated representative~~
7 the department during business hours.

8 (7) The ~~board~~ department shall adopt rules governing the cremation of human remains, the
9 transportation of human remains, sanitation, equipment, fire protection, building construction, and recordkeeping.

10 (8) A crematory facility shall comply with all local building codes, environmental standards, and
11 applicable state and local regulations.

12 (9) A new crematory facility shall pay an initial inspection fee, set by the ~~board~~ department, that must
13 accompany the application."

14

15 **Section 23.** Section 37-19-705, MCA, is amended to read:

16 **"37-19-705. Cremation procedures -- cremation containers.** (1) Human remains may not be cremated
17 except in a licensed crematory.

18 (2) Human remains may not be cremated within 24 hours after the time of death.

19 (3) A body may not be cremated with a pacemaker or other potentially hazardous implant, as defined
20 by the ~~board~~ department, including any toxic or explosive-type sealed implants, in place. The authorizing agent
21 is responsible for disclosing the existence of any pacemakers or other hazardous implants.

22 (4) A crematory shall hold human remains, prior to their cremation, under the following conditions:

23 (a) In the event the crematory is unable to perform cremation upon receipt of the human remains, it shall
24 place the human remains in a holding facility.

25 (b) If the human remains are not embalmed, they may not be held longer than 48 hours after the time
26 of death outside of a refrigerated facility.

27 (5) Human remains delivered to a crematory may not be removed from the cremation container, and the
28 cremation container must be cremated with the human remains.

29 (6) Unauthorized persons may not be permitted in the retort area while any human remains are awaiting
30 cremation, being cremated, or being removed from the cremation chamber.

1 (7) The unauthorized, simultaneous cremation of human remains of more than one person within the
2 same cremation chamber is prohibited unless the crematory has received express written authorization from all
3 appropriate authorizing agents for the human remains to be cremated simultaneously. A written authorization
4 exempts the crematory from liability for commingling of the product of the cremation process provided the
5 authorization is complied with.

6 (8) The identification of the human remains, as indicated on the cremation container, must be verified
7 by the crematory operator or crematory technician immediately prior to the cremation container being placed
8 within the cremation chamber. The identification must be removed from the cremation container and be placed
9 near the cremation chamber control panel where it must remain until the cremation process is complete.

10 (9) Upon completion of the cremation process, all recoverable residue must be removed from the
11 cremation chamber. All residue of the cremation process must be separated from material other than bone
12 fragments, which must be processed so as to reduce the bone fragments to unidentifiable particles.

13 (10) Cremated remains, with proper identification, must be packed and placed in a temporary container
14 or urn ordered by the authorizing agent.

15 (11) If the cremated remains will not fit within the dimensions of the temporary container or urn, the
16 remainder of the cremated remains must be returned to the authorizing agent in a separate container.

17 (12) If the cremated remains are to be shipped, the temporary container or designated receptacle ordered
18 by the authorizing agent must be packed securely in a suitable, sturdy, pressure resistant, and properly sealed
19 container.

20 (13) Cremated remains may be shipped only by a method that has an internal tracing system available
21 and that provides a receipt signed by the person accepting delivery."
22

23 **Section 24.** Section 37-19-708, MCA, is amended to read:

24 **"37-19-708. Preneed cremation authorizations.** (1) Preneed cremation authorizations may be made
25 with a cemetery, funeral establishment, crematory, or any other party. Preneed authorizations must specify the
26 ultimate disposition of the cremated remains, be signed by the authorizing agent, and meet other requirements
27 established by ~~board~~ department rule.

28 (2) A crematory operator or crematory technician shall comply with the terms of the preneed
29 authorization in releasing or disposing of the cremated remains at the time of death.

30 (3) Upon payment for cremation and disposition, a crematory, crematory operator, or crematory

1 technician in possession of a cremation authorization form and the deceased's human remains is not liable for
 2 the actual cremation and the disposition of the cremated remains if the terms of the preneed authorization have
 3 been complied with."

4

5 **Section 25.** Section 37-19-807, MCA, is amended to read:

6 **"37-19-807. Powers and duties of board department.** The board department is charged with
 7 administering this part. The board department may:

8 (1) conduct reasonable periodic, special, or other examinations of a cemetery or cemetery company,
 9 including but not limited to an examination of the physical condition or appearance of the cemetery, an audit of
 10 the financial condition of the cemetery company and any trust funds maintained by the cemetery company, and
 11 any other examinations the board department considers necessary or appropriate in the public interest. The board
 12 department may also order examinations in response to public complaints. The examinations must be made by
 13 members or representatives of the board department that may include a certified or registered public accountant
 14 or any other person designated by the board department.

15 (2) issue or amend permits to operate a cemetery in accordance with the provisions of this part;

16 (3) adopt rules to enforce the provisions of this part;

17 (4) require a cemetery company to observe minimum accounting principles and practices and to keep
 18 books and records in accordance with the principles and practices for a period that the board department may
 19 by rule prescribe; and

20 (5) require a cemetery company to provide additional contributions to the perpetual care and
 21 maintenance fund of the cemetery as provided for in this part, including but not limited to contributions not to
 22 exceed \$1,000 whenever a cemetery company fails to properly care for, maintain, or preserve a cemetery."

23

24 **Section 26.** Section 37-19-808, MCA, is amended to read:

25 **"37-19-808. Authority to inspect cemeteries and audit cemetery companies.** (1) The board
 26 department may order an inspection of a cemetery or may audit a cemetery company. For each cemetery
 27 examined or cemetery company audited in accordance with this part, the cemetery company shall pay to the
 28 board department a fee for each examination or audit as ~~the board prescribes~~ prescribed by rule. When an
 29 examination is ordered by the board department, the cemetery company shall pay, at the state per diem rate,
 30 travel expenses, meals, and lodging for each day that ~~a member of the board~~ or an authorized examiner spends

1 in examining the physical condition or appearance of a cemetery. Once audited, a cemetery company may not
2 be required to submit to an audit at the request of the board department for a period of 5 years unless complaints
3 have resulted in a formal notice of disciplinary action by the department against the cemetery company.

4 (2) (a) In lieu of any financial examination that the board department is authorized to make, the board
5 department may accept the audit of an independent certified or registered public accountant if the board
6 department has notified the cemetery company that the audit would be acceptable and the cemetery company
7 has notified the board department in writing that the audit will be prepared.

8 (b) The costs of the audit provided for in subsection (2)(a) must be borne by the cemetery company, and
9 the scope of the audit must be at least equal to the scope of the examination required by the board department."

10

11 **Section 27.** Section 37-19-814, MCA, is amended to read:

12 **"37-19-814. Permit -- application.** (1) By January 1, 1998, a person operating a cemetery or a cemetery
13 company governed by this part must have a permit issued by the board department. The permit must be
14 displayed in a conspicuous place at the cemetery.

15 (2) A cemetery permit expires on the date set by board department rule and may be renewed for a 5-year
16 period upon payment of a fee set by the board department. An application for a permit or renewal of a permit must
17 designate a responsible person, including that person's address and telephone number, who is available to act
18 on behalf of the cemetery company with regard to the requirements of this part. A cemetery company may
19 designate a different person with board department approval. An application for renewal of a permit must contain:

20 (a) the name of the cemetery company, the location of the cemetery, the name of the person in charge
21 of the records of the cemetery company, and the telephone number of the cemetery company;

22 (b) the number and dollar amount of sales of cemetery lots, grave spaces, mausoleums, crypts, niches,
23 and burial rights for which payment has been made in full and the number of certificates or deeds of conveyance
24 issued during the preceding 5 calendar years;

25 (c) an accounting of the amounts paid into the perpetual care and maintenance fund and the income
26 received from the fund during the preceding 5 calendar or fiscal years, including the total amount due to the fund
27 whether paid in or not, the amount due to the fund at the date of the report, and the amount expended for
28 maintenance of the cemetery;

29 (d) the names and addresses of the owners of the cemetery company or the officers and directors of the
30 cemetery company, any change in control of the cemetery company that has occurred during the past 5 calendar

1 or fiscal years, the date of incorporation, if applicable, and the resident agent and address of the registered
2 agent's office if the cemetery company is a corporation; and

3 (e) any other information that the ~~board~~ department requires by rule.

4 (3) The ~~board~~ department may set a penalty fee for late renewal of a permit."
5

6 **Section 28.** Section 37-19-815, MCA, is amended to read:

7 **"37-19-815. Permit -- amendment.** (1) Whenever a cemetery company that is subject to the provisions
8 of this part proposes to amend its present permit for construction of a mausoleum, reduction or increase in
9 percentage of gross sales proceeds to be placed in the perpetual care and maintenance fund, expansion of a
10 cemetery, or other changes in its operation, the cemetery company shall file an application for amendment of the
11 permit with the ~~board~~ department.

12 (2) The application must be accompanied by a fee and other information that the ~~board~~ department
13 requires by rule."
14

15 **Section 29.** Section 37-19-816, MCA, is amended to read:

16 **"37-19-816. Permit -- transfer of ownership.** (1) If a cemetery company that is subject to the provisions
17 of this part is to be sold, if the ownership is to be otherwise transferred, or if a controlling interest in the company
18 is to be sold or otherwise transferred, the proposed purchaser or transferee shall file an application for the
19 issuance of a new permit with the ~~board~~ department.

20 (2) The application must be accompanied by a fee and other information that the ~~board~~ department
21 requires by rule."
22

23 **Section 30.** Section 37-19-822, MCA, is amended to read:

24 **"37-19-822. Perpetual care and maintenance fund.** (1) A perpetual care and maintenance fund
25 established pursuant to the provisions of this part for the purpose of administration, care, and maintenance of a
26 cemetery, including lots, grave spaces, crypts, niches, burial rights, or other land or buildings, is a trust fund.

27 (2) The net income from the fund must be used by the owners, managers, or officers and directors of
28 a cemetery company exclusively for the care and maintenance of the cemetery and may not be used for any other
29 purpose.

30 (3) The principal of a perpetual care and maintenance fund must in all cases remain intact and inviolate

1 and must be administered with the same care, skill, prudence, and diligence, under the circumstances then
2 prevailing, that a prudent person would use to accomplish the purpose of the trust as required by this section and
3 reflected in the trust document.

4 (4) Each cemetery company shall maintain at a minimum the following:

5 (a) a general ledger and general journal or comparable books of entry showing all receipts,
6 disbursements, assets, liabilities, and income of the perpetual care and maintenance fund;

7 (b) documents supporting and verifying each asset of the fund; and

8 (c) a trust agreement.

9 (5) The board department may require a cemetery company to provide an accounting or audit of its
10 perpetual care and maintenance fund.

11 (6) Each cemetery company shall deposit not less than 15% of the gross proceeds of each sale of a lot,
12 grave space, crypt, niche, or burial right, as determined by the board department, into the perpetual care and
13 maintenance fund.

14 (7) In establishing a perpetual care and maintenance fund, a cemetery company may from time to time
15 adopt plans for the general care and maintenance of its cemetery.

16 (8) A perpetual care and maintenance fund may receive, take, and hold any real or personal property
17 that is bequeathed, devised, granted, given, or otherwise contributed to it."

18

19 **Section 31.** Section 37-19-823, MCA, is amended to read:

20 **"37-19-823. Records required.** (1) A cemetery company shall make and keep accounts and records
21 confirming that it has made the required contributions to its perpetual care and maintenance fund. The burden
22 is upon the cemetery company to maintain the accounts and records.

23 (2) All sales contracts and deeds, unless otherwise authorized by the board department, issued by a
24 cemetery company must be numbered prior to their execution by the cemetery company and must contain those
25 items the board department prescribes by rule."

26

27 **Section 32.** Section 37-19-831, MCA, is amended to read:

28 **"37-19-831. Penalty -- injunction.** (1) A person who violates a provision of this part is guilty of a
29 misdemeanor and upon conviction shall be fined not more than \$500 or imprisoned for not more than 90 days,
30 or both.

1 (2) The ~~board~~ department may enforce any provision of this part by injunction or any other appropriate
2 proceeding."

3

4 **Section 33.** Section 37-31-101, MCA, is amended to read:

5 **"37-31-101. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions
6 apply:

7 ~~(1) "Board" means the board of barbers and cosmetologists provided for in 2-15-1747.~~

8 ~~(2)~~(1) "Booth" means any part of a salon or shop that is rented or leased for the performance of
9 barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring services, as specified in
10 39-51-204.

11 ~~(3)~~(2) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part
12 17.

13 ~~(4)~~(3) (a) "Electrology" means the study of and the professional practice of permanently removing
14 superfluous hair by destroying the hair roots through passage of an electric current with an electrified needle.
15 Electrology includes electrolysis and thermolysis. Electrology may include the use of waxes for epilation and the
16 use of chemical depilatories.

17 (b) Electrology does not include pilethermology, which is the study and professional practice of removing
18 superfluous hair by passage of radio frequency energy with electronic tweezers and similar devices.

19 ~~(5)~~(4) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

20 ~~(6)~~(5) "Esthetics" means skin care of the body, including but not limited to hot compresses or the use
21 of approved electrical appliances or chemical compounds formulated for professional application only and the
22 temporary removal of superfluous hair by means of lotions, creams, or mechanical or electrical apparatus or
23 appliances on another person.

24 ~~(7)~~(6) "Manicuring" includes care of the nails, the hands, the lower arms, the feet, and the lower legs and
25 the application and maintenance of artificial nails.

26 ~~(8)~~(7) "Place of residence" means a home and the following residences defined under 50-5-101:

27 (a) an assisted living facility;

28 (b) an intermediate care facility for the developmentally disabled;

29 (c) a hospice;

30 (d) a critical access hospital;

1 (e) a long-term care facility; or

2 (f) a residential treatment facility.

3 ~~(9)~~(8) "Practice or teaching of barbering" means any of the following practices performed for payment,
4 either directly or indirectly, upon the human body for tonsorial purposes and not performed for the treatment of
5 disease or physical or mental ailments:

6 (a) shaving or trimming a beard;

7 (b) cutting, styling, coloring, or waving hair;

8 (c) straightening hair by the use of chemicals;

9 (d) giving facial or scalp massages, including treatment with oils, creams, lotions, or other preparations
10 applied by hand or mechanical appliance;

11 (e) shampooing hair, applying hair tonic, or bleaching or highlighting hair; or

12 (f) applying cosmetic preparations, antiseptics, powders, oils, lotions, or gels to the scalp, face, hands,
13 or neck.

14 ~~(10)~~(9) "Practice or teaching of barbering nonchemical" means the practice or teaching of barbering as
15 provided in subsection ~~(9)~~ (8) but excludes the use of chemicals to wave, straighten, color, bleach, or highlight
16 hair.

17 ~~(11)~~(10) (a) "Practice or teaching of cosmetology" means work included in the terms "hairdressing",
18 "manicuring", "esthetics", and "beauty culture" and performed in salons or shops, in booths, or by itinerant
19 cosmetologists when the work is done for the embellishment, cleanliness, and beautification of the hair and body.

20 (b) The practice and teaching of cosmetology may not be construed to include itinerant cosmetologists
21 who perform their services without compensation for demonstration purposes in any regularly established store
22 or place of business holding a license from the state of Montana as a store or place of business.

23 ~~(12)~~(11) (a) "Salon or shop" means the physical location in which a person licensed under this chapter
24 practices barbering or barbering nonchemical, cosmetology, electrology, esthetics, or manicuring.

25 (b) The term does not include a room provided in a place of residence that is used for the purposes of
26 barbering or barbering nonchemical, cosmetology, electrology, esthetics, or manicuring unless the owner,
27 manager, or operator allows the room to be used for the practice of barbering or barbering nonchemical or the
28 practice of cosmetology to serve nonresidents for compensation, in which case the room must be licensed as a
29 salon or a shop.

30 ~~(13)~~(12) "School" means a program and location approved by the ~~board~~ department with respect to its

1 course of instruction for training persons in barbering, barbering nonchemical, cosmetology, electrology, esthetics,
2 or manicuring and that meets any other criteria established by the ~~board~~ department."

3

4 **Section 34.** Section 37-31-203, MCA, is amended to read:

5 **"37-31-203. Rulemaking powers.** The ~~board~~ department shall prescribe rules for:

6 ~~(1) the conduct of board business;~~

7 ~~(2)(1)~~ the qualification and licensure of applicants to practice barbering, barbering nonchemical,
8 cosmetology, electrology, esthetics, or manicuring or to teach barbering, barbering nonchemical, cosmetology,
9 electrology, esthetics, or manicuring;

10 ~~(3)(2)~~ the regulation and instruction of apprentices and students;

11 ~~(4)(3)~~ the conduct of schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics,
12 and manicuring for apprentices and students;

13 ~~(5)(4)~~ the qualification and licensure of applicants for booth rental licenses; and

14 ~~(6)(5)~~ generally the conduct of the persons, firms, or corporations affected by this chapter."

15

16 **Section 35.** Section 37-31-204, MCA, is amended to read:

17 **"37-31-204. Sanitary rules.** The ~~board~~ department, subject to the approval of the department of public
18 health and human services, shall prescribe sanitary rules that it considers necessary, with particular reference
19 to the precautions necessary to be employed to prevent the creation and spread of infectious and contagious
20 diseases."

21

22 **Section 36.** Section 37-31-303, MCA, is amended to read:

23 **"37-31-303. Application for license to practice or teach.** An applicant for a license to practice or teach
24 barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring shall file an application
25 provided by the department and pass the examination prescribed by the ~~board~~ department to qualify for
26 licensure."

27

28 **Section 37.** Section 37-31-304, MCA, is amended to read:

29 **"37-31-304. Qualifications of applicants for license to practice.** (1) Before a person may practice:

30 (a) barbering, the person shall obtain a license to practice barbering from the department;

1 (b) barbering nonchemical, the person shall obtain a license to practice barbering nonchemical from the
2 department;

3 (c) cosmetology, the person shall obtain a license to practice cosmetology from the department;

4 (d) electrology, the person shall obtain a license to practice electrology from the department;

5 (e) manicuring, the person shall obtain a license to practice manicuring from the department unless the
6 person is licensed to practice cosmetology; or

7 (f) esthetics, the person shall obtain a license to practice esthetics from the department unless the
8 person is already licensed to practice cosmetology.

9 (2) (a) (i) To be eligible to take the examination to practice barbering or barbering nonchemical, the
10 applicant must be at least 18 years of age, must be of good moral character, and must possess a high school
11 diploma or its equivalent that is recognized by the superintendent of public instruction. An applicant may apply
12 to the ~~board~~ department for an exception to the requirement of a high school diploma or its equivalent. The ~~board~~
13 department shall adopt by rule procedures for granting an exception.

14 (ii) An applicant to practice barbering must have completed a course of study of at least 1,100 hours in
15 a licensed barbering school and must have received a diploma from the barbering school or must have completed
16 the course of study in barbering at a school of cosmetology authorized to offer a course of study in barbering
17 prescribed by the ~~board~~ department by rule.

18 (iii) An applicant to practice barbering nonchemical must have completed a course of study of at least
19 900 hours in a licensed barbering or barbering nonchemical school, not including hours applicable to the use of
20 chemicals to wave, straighten, color, bleach, or highlight hair, and must have received a diploma from the
21 barbering or barbering nonchemical school or must have completed the course of study in barbering or barbering
22 nonchemical at a school of cosmetology authorized to offer a course of study in barbering or barbering
23 nonchemical as prescribed by the ~~board~~ department by rule.

24 (b) A person qualified under subsection (2)(a) shall file an application and deposit the application fee with
25 the department and pass an examination as to fitness to practice barbering or barbering nonchemical.

26 (c) The ~~board~~ department shall issue a license to practice barbering or barbering nonchemical, without
27 examination, to a person licensed in another state if the ~~board~~ department determines that:

28 (i) the other state's course of study hour requirement is equal to or greater than the hour requirement
29 in this state; and

30 (ii) the person's license from the other state is current and the person is not subject to pending or final

1 disciplinary action for unprofessional conduct or impairment.

2 (3) (a) To be eligible to take the examination to practice cosmetology, the applicant must be at least 18
3 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that
4 is recognized by the superintendent of public instruction. A person may apply to the ~~board~~ department for an
5 exception to the educational requirement of a high school diploma or its equivalent. The ~~board~~ department shall
6 adopt by rule procedures for granting an exception. The applicant must have completed a course of study of at
7 least 1,500 hours in a licensed cosmetology school and must have received a diploma from the cosmetology
8 school or must have completed the course of study in cosmetology prescribed by the ~~board~~ department by rule.

9 (b) A person qualified under subsection (3)(a) shall file an application and deposit the required
10 application fee with the department and pass an examination as to fitness to practice cosmetology.

11 (4) (a) To be eligible to take the examination to practice electrology, the applicant must be at least 18
12 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that
13 is recognized by the superintendent of public instruction. An applicant may apply to the ~~board~~ department for an
14 exception to the requirement of a high school diploma or its equivalent. The ~~board~~ department shall adopt by rule
15 procedures for granting an exception. The applicant must have completed a course of education, training, and
16 experience in the field of electrology as prescribed by the ~~board~~ department by rule.

17 (b) A person qualified under subsection (4)(a) shall file an application and deposit the required
18 application fee with the department and pass an examination as to fitness to practice electrology.

19 (5) (a) To be eligible to take the examination to practice manicuring, an applicant must be at least 18
20 years of age, must be of good moral character, and must possess a high school diploma or its equivalent that
21 is recognized by the superintendent of public instruction. The applicant must have completed a course of study
22 prescribed by the ~~board~~ department in a licensed school of cosmetology or a licensed school of manicuring. A
23 person may apply to the ~~board~~ department for an exception to the educational requirement of a high school
24 diploma or its equivalent or a certificate of completion from a vocational-technical program. The ~~board~~ department
25 shall adopt by rule procedures for granting an exception.

26 (b) A person qualified under subsection (5)(a) shall file an application and deposit the required
27 application fee with the department and pass an examination as to fitness to practice manicuring.

28 (6) (a) To be eligible to take the examination to practice esthetics, an applicant must be at least 18 years
29 of age, must be of good moral character, and must possess a high school diploma or its equivalent that is
30 recognized by the superintendent of public instruction. The applicant must have completed a course of study

1 prescribed by the ~~board~~ department and consisting of not less than 650 hours of training and instruction in a
 2 licensed school of cosmetology or a licensed school of esthetics. A person may apply to the ~~board~~ department
 3 for an exception to the educational requirement of a high school diploma or its equivalent. The ~~board~~ department
 4 shall adopt by rule procedures for granting an exception.

5 (b) A person qualified under subsection (6)(a) shall file an application and deposit the required
 6 application fee with the department and pass an examination as to fitness to practice esthetics."

7
 8 **Section 38.** Section 37-31-305, MCA, is amended to read:

9 **"37-31-305. Qualifications of applicants for license to teach.** (1) Before a person may teach or
 10 instruct in a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring, the
 11 person shall obtain from the department a license to teach.

12 (2) To be eligible for a license to teach barbering, barbering nonchemical, cosmetology, electrology,
 13 esthetics, or manicuring, a person must:

14 (a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized
 15 by the superintendent of public instruction;

16 (b) have a license to practice issued by the department in the particular area of practice in which the
 17 person plans to teach;

18 (c) have been actively engaged in that particular area of practice for 12 continuous months before taking
 19 the teacher's examination; and

20 (d) (i) have received a diploma from a licensed school approved by the ~~board~~ department, certifying
 21 satisfactory completion of 650 hours of student teacher training; or

22 (ii) have 3 years of experience in that particular area of practice. A person who qualifies for a license
 23 under this subsection (2)(d)(ii) has 2 years to complete ~~board-approved~~ department-approved coursework related
 24 to teaching methodology before a license to teach is renewed."

25
 26 **Section 39.** Section 37-31-309, MCA, is amended to read:

27 **"37-31-309. Booth rental license.** (1) A person may not receive a booth rental license under 37-31-302
 28 without proving to the satisfaction of the ~~board~~ department that the booth will be used and maintained in
 29 compliance with the rules and regulations promulgated by the ~~board~~ department, including sanitary rules
 30 prescribed under 37-31-204.

1 (2) A booth rental license that is not renewed within 1 year of the most recent renewal date automatically
2 terminates. The terminated license may not be reactivated, and a new original license must be obtained. The
3 provisions of 37-1-141 do not apply to this subsection."
4

5 **Section 40.** Section 37-31-311, MCA, is amended to read:

6 **"37-31-311. Schools -- license -- requirements -- bond -- curriculum.** (1) A person, firm, partnership,
7 corporation, or other legal entity may not operate a school for the purpose of teaching barbering, barbering
8 nonchemical, cosmetology, electrology, esthetics, or manicuring for compensation unless licensed by the
9 department. Application for the license must be filed with the department on an approved form.

10 (2) A school for teaching barbering or barbering nonchemical may not be granted a license unless the
11 school complies with or is able to comply with the following requirements:

12 (a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision
13 of the work of the school or other teachers determined by the ~~board~~ department to be necessary for the proper
14 conduct of the school. There may not be more than 25 students for each teacher.

15 (b) It possesses apparatus and equipment the ~~board~~ department determines necessary for the teaching
16 of all subjects or practices of barbering or barbering nonchemical.

17 (c) It maintains a school term of not less than 1,100 hours for barbering and not less than 900 hours for
18 barbering nonchemical and a course of practical training and technical instruction equal to the requirements for
19 ~~board~~ department examinations. The school's course of training and technical instruction must be prescribed by
20 the ~~board~~ department by rule.

21 (d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations
22 before issuing diplomas.

23 (e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that
24 would make the room unsanitary a room used wholly or in part for a school of barbering or barbering
25 nonchemical.

26 (3) A school for teaching cosmetology may not be granted a license unless the school complies with or
27 is able to comply with the following requirements:

28 (a) It has in its employ either a licensed teacher who is at all times involved in the immediate supervision
29 of the work of the school or other teachers determined by the ~~board~~ department to be necessary for the proper
30 conduct of the school. There may not be more than 25 students for each teacher.

1 (b) It possesses apparatus and equipment the ~~board~~ department determines necessary for the teaching
2 of all subjects or practices of cosmetology.

3 (c) It maintains a school term of not less than 1,500 hours and a course of practical training and technical
4 instruction equal to the requirements for ~~board~~ department examinations. The school's course of training and
5 technical instruction must be prescribed by ~~the board~~ by department rule.

6 (d) It keeps a daily record of the attendance of each student, establishes grades, and holds examinations
7 before issuing diplomas.

8 (e) It does not permit a person to sleep in or use for residential purposes or for any other purpose that
9 would make the room unsanitary a room used wholly or in part for a school of cosmetology.

10 (4) A school for teaching electrology may not be granted a license unless the school maintains a school
11 term and a course of practical training and technical instruction prescribed by the ~~board~~ department, and
12 possesses apparatus and equipment necessary for teaching electrology as prescribed by ~~the board~~ by
13 department rule.

14 (5) A school for teaching manicuring may not be granted a license unless the school complies with
15 subsections (3)(a) and (3)(d) and the following requirements:

16 (a) It possesses apparatus and equipment the ~~board~~ department determines necessary for the teaching
17 of all subjects or practices of manicuring.

18 (b) It maintains a school term and a course of practical training and technical instruction as prescribed
19 by ~~the board~~ by department rule.

20 (c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that
21 would make the room unsanitary a room used wholly or in part for a school of manicuring.

22 (6) A school for teaching esthetics may not be granted a license unless the school complies with
23 subsections (3)(a) and (3)(d) and the following requirements:

24 (a) It possesses apparatus and equipment the ~~board~~ department determines necessary for the ready
25 and full teaching of all subjects or practices of esthetics.

26 (b) It maintains a school term and a course consisting of not less than 650 hours of practical training and
27 technical instruction as prescribed by the ~~board~~ department.

28 (c) It does not permit a person to sleep in or use for residential purposes or for any other purpose that
29 would make the room unsanitary a room used wholly or in part for a school of esthetics.

30 (7) Licenses for schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or

1 manicuring may be refused, revoked, or suspended as provided in 37-31-331.

2 (8) A teacher or student teacher may not be permitted to practice barbering, barbering nonchemical,
3 cosmetology, electrology, esthetics, or manicuring on the public in a school of barbering, barbering nonchemical,
4 cosmetology, electrology, esthetics, or manicuring. A school that enrolls student teachers for a course of student
5 teacher training may not have, at any one time, more than one student teacher for each full-time licensed teacher
6 actively engaged at the school. The student teachers may not substitute for full-time teachers.

7 (9) The ~~board~~ department may make further rules necessary for the proper conduct of schools of
8 barbering, barbering nonchemical, cosmetology, electrology, esthetics, and manicuring.

9 (10) The ~~board~~ department shall require the person, firm, partnership, corporation, or other legal entity
10 operating a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to
11 furnish a bond or other security in the amount of \$5,000 and in a form and manner prescribed by the ~~board~~
12 department by rule.

13 (11) A professional salon or shop may not be operated in connection with a school of barbering, barbering
14 nonchemical, cosmetology, electrology, esthetics, or manicuring.

15 (12) The ~~board~~ department may, by rule, establish a suitable curriculum for teachers' training in licensed
16 schools of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring."
17

18 **Section 41.** Section 37-31-312, MCA, is amended to read:

19 **"37-31-312. Inspection -- temporary permits.** (1) The department shall appoint one or more inspectors,
20 each of whom shall devote time to inspecting salons or shops and performing other duties as the department,
21 ~~in cooperation with the board,~~ may direct. The inspectors may enter a salon or shop, booth, school of barbering,
22 school of barbering nonchemical, school of cosmetology, school of electrology, school of esthetics, or school of
23 manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit
24 the inspection during business hours is cause for revocation of a licensee's or school's license.

25 (2) When an owner or operator applies for a shop or salon license and pays licensure and inspection
26 fees prescribed by the ~~board, the board~~ department, the department:

27 (a) may ~~authorize the department to~~ grant to a new salon or shop a temporary operating permit; or

28 (b) shall, in order to avoid a disruption of business, ~~authorize the department to~~ grant a temporary
29 operating permit to an existing shop or salon whose owner or operator is currently in good standing ~~with the~~
30 ~~board,~~ as defined by the ~~board~~ department, and who is relocating to a new location. An owner or operator of an

1 existing shop or salon may not receive a temporary operating permit under this section within 90 days of a license
2 renewal date.

3 (3) A temporary operating permit granted pursuant to subsection (2) authorizes the salon or shop to
4 operate until an inspection is conducted of the salon or shop and the salon or shop owner or manager has had
5 30 days to respond in writing to all inspection report violations to the ~~board office~~ department. A license will not
6 be granted to a salon or shop if the ~~board~~ department does not receive a response within 30 days from the date
7 of the inspection or the response received does not indicate that all of the inspection violations have been
8 corrected, in which case a new license application must be filed. A temporary permit is not renewable.

9 (4) The department shall require an inspector appointed under subsection (1) to conduct an annual
10 inspection of each salon or shop in the state."
11

12 **Section 42.** Section 37-31-323, MCA, is amended to read:

13 **"37-31-323. Fees.** (1) Fees for licenses must be paid to the department in amounts prescribed by ~~the~~
14 ~~board by~~ department rule.

15 (2) The license fees must be paid in advance to the department unless otherwise provided by ~~board~~
16 department rule.

17 (3) Other or additional license fees may not be imposed by a municipal corporation or other political
18 subdivision of this state for the practice or teaching of barbering, barbering nonchemical, cosmetology,
19 electrology, esthetics, or manicuring."
20

21 **Section 43.** Section 37-31-324, MCA, is amended to read:

22 **"37-31-324. Deposit of fees.** All fees collected by the department under this chapter shall be deposited
23 in the state special revenue fund for the use of the ~~board~~ program, subject to 37-1-101(6)."
24

25 **Section 44.** Section 37-31-331, MCA, is amended to read:

26 **"37-31-331. Refusal, revocation, or suspension of licenses -- grounds -- notice and hearing.** (1)
27 The ~~board~~ department may refuse to issue, may refuse to renew, or may revoke or suspend a license in any one
28 of the following cases:

29 (a) failure of a person, firm, partnership, corporation, or other legal entity operating a salon or shop or
30 a school of barbering, barbering nonchemical, cosmetology, electrology, esthetics, or manicuring to comply with

1 this chapter;

2 (b) failure to comply with the sanitary rules adopted by the ~~board~~ department and approved by the
3 department of public health and human services for the regulation of salons or shops or schools of barbering,
4 barbering nonchemical, cosmetology, electrology, esthetics, or manicuring;

5 (c) gross malpractice;

6 (d) continued practice by a person who knowingly has an infectious or contagious disease;

7 (e) habitual drunkenness or habitual addiction to the use of any habit-forming drug;

8 (f) permitting a license to be used when the holder is not personally, actively, and continuously engaged
9 in business; or

10 (g) failure to display the license.

11 (2) The ~~board~~ department may not refuse to ~~authorize the department to~~ issue or renew a license or to
12 revoke or suspend a license already issued until after notice and opportunity for a hearing."
13

14 **Section 45.** Section 37-31-333, MCA, is amended to read:

15 **"37-31-333. Appeal from actions of ~~board~~ department.** An appeal may be taken from any actions of
16 the ~~board~~ department to the district court of the county in which the applicant resides."
17

18 **Section 46.** Section 37-31-334, MCA, is amended to read:

19 **"37-31-334. Penalty -- injunction.** (1) The commission of any of the acts prohibited as provided in
20 37-31-301 or the violation of any other provision in this chapter shall be a misdemeanor punishable by a fine or
21 imprisonment or both fine and imprisonment.

22 (2) Regardless of any penalties provided in this chapter and as an additional remedy, the district courts
23 of the state of Montana are vested with jurisdiction to restrain and enjoin any violation or threatened violation of
24 the requirements of this chapter as a nuisance per se or otherwise and the ~~board~~ department, the attorney
25 general, or any county attorney may institute proceedings in equity for the purpose of obtaining equitable relief
26 against violations of the provisions of this chapter."
27

28 **Section 47.** Section 37-60-101, MCA, is amended to read:

29 **"37-60-101. Definitions.** As used in this chapter, the following definitions apply:

30 (1) "Alarm response runner" means an individual employed by an electronic security company, a contract

1 security company, or a proprietary security organization to respond to security alarm system signals.

2 (2) "Armed" means an individual who at any time wears, carries, or possesses a firearm in the
3 performance of professional duties.

4 (3) "Armed carrier service" means any person or security company who transports or offers to transport
5 under armed private security guard from one place to another any currency, documents, papers, maps, stocks, or
6 bonds, checks, or other items of value that require expeditious delivery.

7 (4) "Armed private investigator" means a private investigator who at any time wears, carries, or
8 possesses a firearm in the performance of the individual's duties.

9 (5) "Armed private security guard" means an individual employed by a contract security company or a
10 proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car
11 service guard, or carrier service guard and who at any time wears or carries a firearm in the performance of the
12 individual's duties.

13 (6) "Armored car service" means any person or security company who transports or offers to transport
14 under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or
15 other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

16 ~~(7) "Board" means the board of private security provided for in 2-15-1781.~~

17 ~~(8)~~(7) "Branch office" means any office of a licensee within the state, other than its principal place of
18 business within the state.

19 ~~(9)~~(8) "Contract security company" means any person who undertakes to provide a private security
20 guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual
21 basis to another person who exercises no direction and control over the performance of the details of the services
22 rendered.

23 ~~(10)~~(9) "Department" means the department of labor and industry provided for in 2-15-1701.

24 ~~(11)~~(10) (a) "Electronic security company" means a person who sells, installs, services, or maintains a
25 security alarm system and who undertakes to hire, employ, and provide alarm response runners and security
26 alarm installers on a contractual basis to another person who does not exercise direction and control over the
27 performance of the services rendered.

28 (b) The term does not include a person whose primary business is that of a locksmith and who may also
29 install closed-circuit television cameras and battery-operated door devices.

30 ~~(12)~~(11) "Firearms course" means the course approved by the ~~board~~ department and conducted by a

1 firearms instructor.

2 ~~(13)~~(12) "Firearms instructor" means an individual who has been approved by the ~~board~~ department to
3 instruct firearms courses in the use of weapons.

4 ~~(14)~~(13) "Insurance adjuster" means a person employed by an insurance company, other than a private
5 investigator, who for any consideration conducts investigations in the course of adjusting or otherwise
6 participating in the disposal of any claims in connection with a policy of insurance but who does not perform
7 surveillance activities or investigate crimes against the United States or any state or territory of the United States.

8 ~~(15)~~(14) "Licensee" means a person licensed under this chapter.

9 ~~(16)~~(15) "Paralegal" or "legal assistant" means a person qualified through education, training, or work
10 experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily
11 but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law
12 offices, governmental agencies, or other entities or who may be authorized by administrative, statutory, or court
13 authority to perform this work.

14 ~~(17)~~(16) "Person" means an individual, firm, company, association, organization, partnership, or
15 corporation.

16 ~~(18)~~(17) "Private investigator" means a person other than an insurance adjuster who for any
17 consideration makes or agrees to make any investigation with reference to:

- 18 (a) crimes against the United States or any state or territory of the United States;
19 (b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency,
20 loyalty, activity, movement, location, affiliations, associations, transactions, reputation, or character of any person;
21 (c) the location, disposition, or recovery of lost or stolen property;
22 (d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or
23 (e) gathering evidence to be used before any court, board, officer, or investigating committee.

24 ~~(19)~~(18) "Private security guard" means an individual employed or assigned duties to protect a person
25 or property or both a person and property from criminal acts and whose duties or any portion of whose duties
26 include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private
27 property or the direction of the movements of the public in public areas.

28 ~~(20)~~(19) "Process server" means a person described in 25-1-1101(1).

29 ~~(21)~~(20) "Proprietary security organization" means any person who employs a private security guard,
30 alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis

1 solely for the purposes of that person and exerts direction and control over the performance of the details of the
2 service rendered.

3 ~~(22)~~(21) "Resident manager" means the person appointed to exercise direct supervision, control, charge,
4 management, or operation of each office located in this state where the business of the licensee is conducted.

5 ~~(23)~~(22) (a) "Security alarm installer" means an individual who sells, installs, services, or maintains
6 security alarm systems to detect and signal unauthorized intrusion, movement, break-in, or criminal acts and is
7 employed by an electronic security company.

8 (b) The term does not include a person whose primary business is that of a locksmith and who may also
9 install closed-circuit television cameras and battery-operated door devices.

10 ~~(24)~~(23) (a) "Security alarm system" means an assembly of equipment and devices or a single device
11 or a portion of a system intended to detect or signal or to both detect and signal unauthorized intrusion,
12 movement, or criminal acts at a location.

13 (b) The term does not include systems that monitor temperature, humidity, or any other atmospheric
14 condition not directly related to the detection of an unauthorized intrusion or criminal act at a location.

15 ~~(25)~~(24) "Security company" means an electronic security company, a proprietary security organization,
16 or a contract security company.

17 ~~(26)~~(25) "Street patrol service" means a person providing patrols by means of foot, vehicle, or other
18 method of transportation using public streets, thoroughfares, or property in the performance of the person's duties
19 and responsibilities.

20 ~~(27)~~(26) "Unarmed private investigator" means a private investigator who does not wear, carry, or
21 possess a firearm in the performance of the individual's duties.

22 ~~(28)~~(27) "Unarmed private security guard" means an individual who is employed by a contract security
23 company or a proprietary security organization, whose duty or any portion of whose duty is that of a private
24 security guard, armored car service guard, or alarm response runner, and who does not wear, carry, or possess
25 a firearm in the performance of those duties."

26

27 **Section 48.** Section 37-60-105, MCA, is amended to read:

28 **"37-60-105. Exemptions.** (1) Except as provided in subsection (2), this chapter does not apply to:

29 (a) any one person employed singly and exclusively by any one employer in connection with the affairs
30 of that employer only and when there exists an employer-employee relationship and the employee is unarmed,

- 1 does not wear a uniform, and is guarding inside a structure that at the time is not open to the public;
- 2 (b) a person:
- 3 (i) employed singly and exclusively by a retail merchant;
- 4 (ii) performing at least some work for the retail merchant as a private security guard; and
- 5 (iii) who has received training as a private security guard from the employer or at the employer's direction;
- 6 (c) an officer or employee of the United States, of this state, or of a political subdivision of the United
- 7 States or this state while the officer or employee is engaged in the performance of official duties;
- 8 (d) a person engaged exclusively in the business of obtaining and furnishing information as to the
- 9 financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance,
- 10 indemnity bonds, or commercial credit;
- 11 (e) an attorney at law while performing duties as an attorney at law;
- 12 (f) a legal intern, paralegal, or legal assistant employed by one or more lawyers, law offices,
- 13 governmental agencies, or other entities;
- 14 (g) a law student who is serving a legal internship;
- 15 (h) a collection agency or finance company licensed to do business under the laws of this state, or an
- 16 employee of a collection agency or finance company licensed in this state while acting within the scope of
- 17 employment, while making an investigation incidental to the business of the agency or company, including an
- 18 investigation of the location of a debtor or the debtor's property when the contract with an assignor creditor is for
- 19 the collection of claims owed or due or asserted to be owed or due or the equivalent;
- 20 (i) special agents employed by railroad companies, provided that the railroad company notifies the ~~board~~
- 21 department that its agents are operating in the state;
- 22 (j) insurers and insurance producers and insurance brokers licensed by the state while performing duties
- 23 in connection with insurance transacted by them;
- 24 (k) individuals engaged in the collection and examination of physical material for forensic purposes;
- 25 (l) an insurance adjuster, as defined in 37-60-101;
- 26 (m) an internal investigator or auditor while making an investigation incidental to the business of the
- 27 agency or company by which the investigator or auditor is singularly and regularly employed;
- 28 (n) a person who evaluates and advises management on personnel and human resource issues in the
- 29 workplace; or
- 30 (o) a certified public accountant with a license or permit to practice or a practice privilege under

1 37-50-314 or 37-50-325 to the extent that the person is engaged in an investigation relating to the practice of
2 accounting.

3 (2) (a) Except as provided in subsection (2)(b), persons listed as exempt in subsection (1) are not
4 exempt for the purposes of acting as registered process servers.

5 (b) Subsection (2)(a) does not apply to attorneys or persons who make 10 or fewer services of process
6 in a calendar year, as provided in 25-1-1101."

7

8 **Section 49.** Section 37-60-202, MCA, is amended to read:

9 **"37-60-202. Rulemaking power.** The ~~board~~ department shall adopt and enforce rules:

10 (1) fixing the qualifications of resident managers, licensees, holders of identification cards, and process
11 servers, in addition to those prescribed in Title 25, chapter 1, part 11, and in this chapter, necessary to promote
12 and protect the public welfare;

13 (2) establishing, in accordance with 37-1-134, application fees for original licenses and identification
14 cards, and providing for refunding of any fees;

15 (3) (a) requiring approval of the ~~board~~ department prior to the establishment of branch offices of any
16 licensee; and

17 (b) establishing qualification requirements and license fees for branch offices identified in subsection
18 (3)(a);

19 (4) for the certification of private investigator, private security guard, security alarm installer, and alarm
20 response runner training programs, including the certification of firearms training programs;

21 (5) for the licensure of firearms instructors;

22 (6) for the approval of weapons;

23 (7) requiring licensees, except process servers, to file an insurance policy with the ~~board~~ department;
24 and

25 (8) providing for the issuance of probationary identification cards for private investigators and security
26 alarm installers who do not meet the requirements for age, employment experience, or written examination."

27

28 **Section 50.** Section 37-60-301, MCA, is amended to read:

29 **"37-60-301. License required -- process server registration required.** (1) (a) Except as provided in
30 37-60-105, it is unlawful for any person to act as or perform the duties, as defined in 37-60-101, of a contract

1 security company, a proprietary security organization, an electronic security company, a branch office, a private
2 investigator, a security alarm installer, an alarm response runner, a resident manager, a certified firearms
3 instructor, or a private security guard without having first obtained a license from the ~~board~~ department.

4 (b) Except as provided in 25-1-1101(2), it is unlawful for any person to act as or perform the duties of
5 a process server for more than 10 services of process in a calendar year without being issued a certificate of
6 registration by the ~~board~~ department.

7 (2) It is unlawful for any unlicensed person to act as, pretend to be, or represent to the public that the
8 person is licensed as a contract security company, a proprietary security organization, an electronic security
9 company, a branch office, a private investigator, a security alarm installer, an alarm response runner, a resident
10 manager, a certified firearms instructor, or a private security guard.

11 (3) A person appointed by the court as a confidential intermediary under 42-6-104 is not required to be
12 licensed under this chapter. A person who is licensed under this chapter is not authorized to act as a confidential
13 intermediary, as defined in 42-1-103, without meeting the requirements of 42-6-104.

14 (4) A person who knowingly engages an unlicensed contract security company, proprietary security
15 organization, electronic security company, branch office, private investigator, security alarm installer, alarm
16 response runner, resident manager, certified firearms instructor, or private security guard is guilty of a
17 misdemeanor punishable under 37-60-411."

18

19 **Section 51.** Section 37-60-302, MCA, is amended to read:

20 **"37-60-302. Resident manager required.** (1) Any contract security company, electronic security
21 company, or proprietary security organization that applies for a license under this chapter shall appoint for the
22 duration of the license a resident manager. Each resident manager shall satisfy the appropriate licensing
23 requirements of this chapter.

24 (2) A separate resident manager must be appointed for each branch office located in this state, and the
25 business of the applicant or licensee must be conducted under the resident manager's direct supervision and
26 control.

27 (3) If a resident manager for any reason ceases to perform the duties of a resident manager on a regular
28 basis, the licensee shall promptly notify the ~~board~~ department of that fact."

29

30 **Section 52.** Section 37-60-303, MCA, is amended to read:

1 **"37-60-303. License or registration qualifications.** (1) Except as provided in subsection (7)(a), an
2 applicant for licensure under this chapter or an applicant for registration as a process server under this chapter
3 is subject to the provisions of this section and shall submit evidence that the applicant:

4 (a) is at least 18 years of age;

5 (b) is a citizen of the United States or a legal, permanent resident of the United States;

6 (c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal
7 use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;

8 (d) has not been judicially declared incompetent by reason of any mental disease or disorder or, if so
9 declared, has been fully restored;

10 (e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;

11 (f) is of good moral character; and

12 (g) has complied with other experience qualifications as may be set by the rules of the ~~board~~ department.

13 (2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private
14 security guard, security alarm installer, or alarm response runner shall:

15 (a) complete the requirements of a training program certified by the ~~board~~ department and provide, on
16 a form prescribed by the department, written notice of satisfactory completion of the training; and

17 (b) fulfill other requirements as the ~~board~~ department may by rule prescribe.

18 (3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a
19 private investigator shall submit evidence under oath that the applicant:

20 (a) is at least 21 years of age;

21 (b) has at least a high school education or the equivalent;

22 (c) has not been dishonorably discharged from any branch of the United States military service; and

23 (d) has fulfilled any other requirements as the ~~board~~ department may by rule prescribe.

24 (4) The ~~board~~ department may require an applicant to demonstrate by written examination additional
25 qualifications as the ~~board~~ department may by rule require.

26 (5) An applicant for a license as a private security patrol officer or private investigator who will wear,
27 carry, or possess a firearm in performance of the applicant's duties shall submit written notice of satisfactory
28 completion of a firearms training program certified by or satisfactory to the ~~board~~ department, as the ~~board~~
29 department may by rule prescribe.

30 (6) Except for an applicant subject to the provisions of subsection (7)(a), the ~~board~~ department shall

1 require a background investigation of each applicant for licensure or registration under this chapter that includes
2 a fingerprint check by the Montana department of justice and the federal bureau of investigation.

3 (7) (a) A firm, company, association, partnership, limited liability company, corporation, or other entity
4 that intends to engage in business governed by the provisions of this chapter must be incorporated under the
5 laws of this state or qualified to do business within this state and must be licensed by the ~~board~~ department or,
6 if doing business as a process server, must be registered by the ~~board~~ department.

7 (b) Individual employees, officers, directors, agents, or other representatives of an entity described in
8 subsection (7)(a) who engage in duties that are subject to the provisions of this part must be licensed pursuant
9 to the requirements of this part or, if doing business as a process server, must be registered by the ~~board~~
10 department."

11

12 **Section 53.** Section 37-60-304, MCA, is amended to read:

13 **"37-60-304. Licenses and registration -- application form and content.** (1) An application for a
14 license or for a certificate of registration as a process server must be submitted to the department and
15 accompanied by the application fee set by the ~~board~~ department.

16 (2) An application must be made under oath and must include:

17 (a) the full name and address of the applicant;

18 (b) the name under which the applicant intends to do business;

19 (c) a statement as to the general nature of the business in which the applicant intends to engage;

20 (d) a statement as to whether the applicant desires to be licensed as a contract security company, a
21 proprietary security organization, an electronic security company, a branch office, a certified firearms instructor,
22 a private investigator, a security alarm installer, an alarm response runner, a resident manager, or a private
23 security guard or registered as a process server;

24 (e) except for an applicant pursuant to 37-60-303(7)(a), one recent photograph of the applicant, of a type
25 prescribed by the department, and one classifiable set of the applicant's fingerprints;

26 (f) a statement of the applicant's age and experience qualifications, except for an applicant pursuant to
27 37-60-303(7)(a); and

28 (g) other information, evidence, statements, or documents as may be prescribed by the rules of the ~~board~~
29 department.

30 (3) The ~~board~~ department shall verify the statements in the application.

1 (4) The submittal of fingerprints is a prerequisite to the issuance of a license or certificate of registration
2 to an applicant, other than an applicant under 37-60-303(7)(a), by means of fingerprint checks by the Montana
3 department of justice and the federal bureau of investigation."
4

5 **Section 54.** Section 37-60-309, MCA, is amended to read:

6 **"37-60-309. Form of license and identification cards.** The license and identification card must be in
7 a form determined by the ~~board~~ department."
8

9 **Section 55.** Section 37-60-314, MCA, is amended to read:

10 **"37-60-314. Nontransferability of license -- record changes.** (1) A license issued under this chapter
11 is not transferable.

12 (2) A licensee shall notify the ~~board~~ department within 5 days of any change in its officers or directors,
13 name, address, employment, or other material change in the information previously furnished or required to be
14 furnished to the ~~board~~ department or any other material change or occurrence that could reasonably be expected
15 to affect the licensee's right to a license. Upon the change or occurrence, the ~~board~~ department may suspend
16 or revoke the license or may allow the business to be carried on for a temporary period under terms and
17 conditions as the ~~board~~ department may require.

18 (3) This section may not be applied to restrict the sale of a business if the buyer qualifies for a license
19 under the provisions of this chapter."
20

21 **Section 56.** Section 37-60-320, MCA, is amended to read:

22 **"37-60-320. Fees.** (1) The fees prescribed ~~by the board~~ and collected by the department must be
23 deposited into the state special revenue fund for the use of the ~~board~~ program, subject to 37-1-101(6).

24 (2) The department shall keep an accurate account of funds received and vouchers issued by the
25 department."
26

27 **Section 57.** Section 37-60-403, MCA, is amended to read:

28 **"37-60-403. Licensee advertising.** Every advertisement by a licensee soliciting or advertising business
29 must contain the licensee's name, address, and license number as they appear in the records of the ~~board~~
30 department."

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Section 58. Section 37-60-404, MCA, is amended to read:

"37-60-404. Duty to maintain employee records. Each employer shall maintain a record containing information relative to the employer's employees that may be prescribed by the ~~board~~ department."

Section 59. Section 37-60-405, MCA, is amended to read:

"37-60-405. Approval of weapons. The weapons to be carried by armed licensees or holders of identification cards as private security personnel or private investigators must be approved by the ~~board~~ department."

Section 60. Section 37-60-407, MCA, is amended to read:

"37-60-407. Regulation of uniforms, badges, and equipment. (1) No licensee or officer, director, partner, manager, or employee of a licensee may wear, carry, or display a badge in connection with the activities of the licensee's business.

(2) The ~~board~~ department is authorized to establish rules regulating uniforms and any emblems, patches, insignias, and devices that may be either worn or displayed on uniforms, vehicles, or equipment."

Section 61. Section 37-60-411, MCA, is amended to read:

"37-60-411. Penalties -- investigation -- enforcement -- review. (1) Any person who violates any of the provisions of this chapter or who conspires with another person to violate any of the provisions of this chapter relating to licensure is guilty of a misdemeanor punishable by a fine of not more than \$1,000, by imprisonment of not more than 1 year, or by both fine and imprisonment.

(2) The ~~board~~ department shall:

(a) gather evidence of violations of this chapter, and of any rule established pursuant to this chapter, by persons engaged in a business subject to licensure under this chapter who fail to obtain licenses; and

(b) furnish that evidence to prosecuting officers of any county or city.

(3) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within the prosecutor's jurisdiction."

Section 62. Section 76-4-102, MCA, is amended to read:

1 **"76-4-102. Definitions.** As used in this part, unless the context clearly indicates otherwise, the following
2 definitions apply:

3 (1) "Adequate municipal facilities" means municipally, publicly, or privately owned facilities that supply
4 water, treat sewage, or dispose of solid waste for all or most properties within the boundaries of a municipality
5 and that are operating in compliance with Title 75, chapters 5 and 6.

6 (2) "Board" means the board of environmental review.

7 (3) "Department" means the department of environmental quality.

8 (4) "Extension of a public sewage system" means a sewerline that connects two or more sewer service
9 lines to a sewer main.

10 (5) "Extension of a public water supply system" means a waterline that connects two or more water
11 service lines to a water main.

12 (6) "Facilities" means public or private facilities for the supply of water or disposal of sewage or solid
13 waste and any pipes, conduits, or other stationary method by which water, sewage, or solid wastes might be
14 transported or distributed.

15 (7) "Individual water system" means any water system that serves one living unit or commercial unit and
16 that is not a public water supply system as defined in 75-6-102.

17 (8) "Mixing zone" has the meaning provided in 75-5-103.

18 (9) "Public sewage system" or "public sewage disposal system" means a public sewage system as
19 defined in 75-6-102.

20 (10) "Public water supply system" has the meaning provided in 75-6-102.

21 (11) "Registered professional engineer" means a person licensed to practice as a professional engineer
22 under Title 37, chapter 67.

23 (12) "Registered sanitarian" means a person ~~licensed to practice as a sanitarian under Title 37, chapter~~
24 ~~40~~ recognized or registered by a nationally recognized sanitarian credentialing entity.

25 (13) "Reviewing authority" means the department or a local department or board of health certified to
26 conduct a review under 76-4-104.

27 (14) "Sanitary restriction" means a prohibition against the erection of any dwelling, shelter, or building
28 requiring facilities for the supply of water or the disposition of sewage or solid waste or the construction of water
29 supply or sewage or solid waste disposal facilities until the department has approved plans for those facilities.

30 (15) "Sewer service line" means a sewerline that connects a single building or living unit to a public

1 sewage system or to an extension of a public sewage system.

2 (16) "Solid waste" has the meaning provided in 75-10-103.

3 (17) "Subdivision" means a division of land or land so divided that creates one or more parcels containing
4 less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be
5 sold, rented, leased, or otherwise conveyed and includes any resubdivision and any condominium or area,
6 regardless of size, that provides permanent multiple space for recreational camping vehicles or mobile homes.

7 (18) "Water service line" means a waterline that connects a single building or living unit to a public water
8 supply system or to an extension of a public water supply system.

9 (19) "Well isolation zone" means the area within a 100-foot radius of a water well."
10

11 **Section 63.** Section 87-5-709, MCA, is amended to read:

12 **"87-5-709. Exceptions and exemptions to possession and sale of exotic wildlife.** (1) Sections
13 87-5-705 through 87-5-708 and this section do not apply to:

14 (a) institutions that have established that their proposed facilities are adequate to provide secure
15 confinement of wildlife, including:

16 (i) an accredited zoological garden chartered by the state as a nonprofit corporation;

17 (ii) a roadside menagerie permitted under 87-4-803 that was established for the purpose of exhibition or
18 attracting trade;

19 (iii) a research facility for testing and science ~~that employs individuals licensed under 37-34-301~~ or that
20 submits evidence to the department that it meets animal testing standards as provided by the national institutes
21 of health, the national science foundation, the centers for disease control and prevention, the United States
22 department of agriculture, or another similar nationally recognized and approved testing standard; or

23 (b) domestic animals.

24 (2) Authorization for possession must be provided by the department for exotic wildlife possessed as
25 of January 1, 2004, and the authorization may include any conditions and restrictions necessary to minimize
26 risks."
27

28 **NEW SECTION. Section 64. Repealer.** The following sections of the Montana Code Annotated are
29 repealed:

30 2-15-1738. Board of radiologic technologists.

- 1 2-15-1740. Board of hearing aid dispensers.
- 2 2-15-1743 Board of funeral service.
- 3 2-15-1747. Board of barbers and cosmetologist.
- 4 2-15-1750. Board of respiratory care practitioners.
- 5 2-15-1751. Board of sanitarians.
- 6 2-15-1753. Board of clinical laboratory science practitioners.
- 7 2-15-1771. Board of athletic trainers.
- 8 2-15-1781 Board of private security.
- 9 37-14-101. Purpose.
- 10 37-14-102. Definitions.
- 11 37-14-201. Compensation of board members -- meetings.
- 12 37-14-202. Rulemaking power.
- 13 37-14-301. Limitation of license authority -- exemptions.
- 14 37-14-302. Qualifications.
- 15 37-14-305. Issuance of license or permit -- fee.
- 16 37-14-306. Permits.
- 17 37-14-307. Duty to carry or display license or permit.
- 18 37-14-308. Issuance of other documents.
- 19 37-14-311. Deposit of fees.
- 20 37-14-313. Radiologist assistant -- scope of practice -- board approval.
- 21 37-14-322. Inspections.
- 22 37-14-323. Penalty for violation.
- 23 37-16-101. Declaration of policy.
- 24 37-16-102. Definitions.
- 25 37-16-103. Exemptions.
- 26 37-16-201. Meetings -- organization.
- 27 37-16-202. Powers and duties.
- 28 37-16-203. Compensation of members -- expenses.
- 29 37-16-301. Permanent place of business in state necessary -- records -- notice -- designation of licensee
30 in charge.

- 1 37-16-302. Sale of dispensing business.
- 2 37-16-303. Bill of sale -- medical evaluation requirements -- waiver.
- 3 37-16-304. Right to cancel -- return of hearing aid or related device -- notice -- refund -- dispensing fee rules.
- 4 37-16-401. License required -- exception.
- 5 37-16-402. Application -- qualifications -- fee.
- 6 37-16-405. Trainee license.
- 7 37-16-406. Admission of licensees from other states.
- 8 37-16-408. Deposit of fees, fines, and costs.
- 9 37-16-411. Revocation or suspension of license -- investigations -- fines.
- 10 37-16-412. Revocation, suspension, or denial -- notice and hearing.
- 11 37-16-413. Penalty for unlawful practice -- injunction.
- 12 37-19-201. Organization -- compensation and expenses of members.
- 13 37-28-101. Findings -- purpose.
- 14 37-28-102. Definitions.
- 15 37-28-103. Board meetings -- procedure -- seal.
- 16 37-28-104. Board powers and duties.
- 17 37-28-201. License required -- exceptions -- respiratory care not the practice of medicine.
- 18 37-28-202. Licensing requirements -- examination -- fees.
- 19 37-28-302. Penalty.
- 20 37-28-305. Deposit of fees.
- 21 37-31-201. Organization -- seal.
- 22 37-31-202. Compensation of members -- expenses.
- 23 37-34-101. Short title.
- 24 37-34-102. Declaration of policy and purpose.
- 25 37-34-103. Definitions.
- 26 37-34-201. Powers and duties of board -- rulemaking authority.
- 27 37-34-301. License required.
- 28 37-34-302. Exemptions.
- 29 37-34-303. Standards for licensure.
- 30 37-34-305. Licensure application procedures.

- 1 37-34-307. Violation -- penalties -- injunction -- manner of charging violation.
2 37-36-101. Definitions.
3 37-36-102. Board duties -- rulemaking.
4 37-36-201. Qualifications -- temporary license -- exemption from examination.
5 37-36-202. License -- revocation.
6 37-36-203. Representation to public -- practice -- exemptions.
7 37-36-204. Application and administration of topical medications.
8 37-36-205. Violation -- penalties.
9 37-40-101. Definitions.
10 37-40-102. Exemptions.
11 37-40-201. Presiding officer -- meetings.
12 37-40-202. Compensation -- expenses.
13 37-40-203. Rulemaking power.
14 37-40-301. License required.
15 37-40-302. Application -- examination -- certificate.
16 37-40-312. Penalty.
17 37-60-201. Organization -- meetings -- records.
18 37-60-211. Compensation of board members -- expenses.

19

20 **NEW SECTION. Section 65. Transfer of funds.** The balance remaining in each special revenue
21 account shall transfer to the general fund effective October 1, 2019.

22

23 **NEW SECTION. Section 66. Transition.** (1) Licenses issued by boards terminated in [section 64] are
24 void on October 1, 2019.

25 (2) (a) Pending applications for licensure by boards terminated in [section 64] expire on [the effective
26 date] and may not be approved. The department of labor and industry shall refund application fees paid for all
27 expired applications.

28 (b) Boards terminated in [section 64] may not accept new applications after [the effective date of this
29 section].

30 (3) License renewal applications pending or received within 160 days prior to October 1, 2019, expire

1 and the department of labor and industry shall refund renewal application fees paid by the licensee.

2

3 NEW SECTION. **Section 67. Effective dates.** (1) Except as provided in subsection (2), [this act] is
4 effective October 1, 2019.

5 (2) [Section 66] and this section are effective on passage and approval.

6

- END -