

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO BUILDING AND
5 FIRE CODES; REQUIRING THE INCORPORATION OF FIRE SAFETY REGULATIONS IN BUILDING
6 REGULATIONS ADOPTED BY THE DEPARTMENT OF LABOR AND INDUSTRY; REQUIRING CERTAIN
7 MUNICIPALITIES AND LOCAL FIRE AGENCIES TO REVIEW BUILDING PLANS FOR CONFORMITY;
8 PROVIDING DEFINITIONS; AND AMENDING SECTIONS 50-60-101, 50-60-103, 50-60-107, 50-60-202, 50-
9 60-206, AND 50-61-102, MCA."

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

12
13 **Section 1.** Section 50-60-101, MCA, is amended to read:

14 **"50-60-101. Definitions.** As used in parts 1 through 4 and 7 of this chapter, unless the context
15 requires otherwise, the following definitions apply:

16 (1) "Alteration" means any change, addition, or modification in construction or occupancy.

17 (2) "Building" means a combination of any materials, whether mobile, portable, or fixed, to form a
18 structure and the related facilities for the use or occupancy by persons or property. The term must be construed
19 as though followed by the words "or part or parts of a building".

20 (3) (a) "Building regulations" means any law, rule, resolution, regulation, ordinance, or code, general
21 or special, or compilation of laws, rules, resolutions, regulations, ordinances, or codes enacted or adopted by
22 the state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the
23 state or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair,
24 inspection, or use of buildings and installation of equipment in buildings.

25 (b) The term does not include zoning ordinances.

26 (4) "City or town" means an incorporated city or town as provided for in Title 7, chapter 2, part 41.

27 (5) "Code enforcement program" means the plan for enforcement of the building regulations adopted
28 by a municipality or county and includes the local building department and the staff associated with executing

1 any aspect of the program's purposes or functions.

2 (6) "Construction" means the original construction and equipment of buildings and requirements or
3 standards relating to or affecting materials used, including provisions for safety and sanitary conditions.

4 (7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part
5 17.

6 (8) "Equipment" means plumbing, heating, electrical, ventilating, air-conditioning, and refrigerating
7 equipment, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

8 (9) (a) "Factory-built building" means a factory-assembled structure or structures equipped with the
9 necessary service connections but not made so as to be readily movable as a unit or units and designed to be
10 used with a permanent foundation.

11 (b) The term does not include manufactured housing constructed after June 15, 1976, under the
12 National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401, et seq.

13 (10) "Fire safety regulation" means a rule or code adopted by the department of justice pursuant to 50-
14 3-102 and 50-3-103.

15 ~~(10)~~(11) "Local building department" means the agency or agencies of a county, city, or town charged
16 with the administration, supervision, or enforcement of building regulations, the approval of plans, the
17 inspection of buildings, or the issuance of permits, licenses, certificates, and similar documents prescribed or
18 required by state or local building regulations.

19 (12) "Local fire agency" means a fire agency organized under Title 7, chapter 33, and approved by the
20 department of justice for a fire inspection program for local enforcement as allowed in 50-61-102(2).

21 ~~(11)~~(13) "Local legislative body" means the council or commission charged with governing the county,
22 city, or town.

23 ~~(12)~~(14) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee
24 in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in
25 control of a building.

26 ~~(13)~~(15) (a) "Primary function area" means an area of a building or facility in which a major activity for
27 which the building or facility is designed is carried out. Primary function areas include but are not limited to a
28 customer service lobby of a savings institution, a cafeteria dining area, and meeting rooms of a conference

1 center.

2 (b) Areas that are not primary function areas include but are not limited to boiler rooms, storage
3 rooms, employee lounges, janitorial closets, entrances, corridors, and restrooms.

4 ~~(14)~~(16) "Public building" means a building or facility owned or operated by a governmental entity or a
5 private sector building or facility that is open to members of the public.

6 ~~(15)~~(17) "Public sidewalk" means a sidewalk located in a public right-of-way.

7 ~~(16)~~(18) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living
8 quarters for recreational, camping, or travel use that either has its own mode of power or is mounted on or
9 towed by another vehicle, including but not limited to a:

10 (a) travel trailer;

11 (b) camping trailer;

12 (c) truck camper; or

13 (d) motor home.

14 ~~(17)~~(19) "Site" means a parcel of land bounded by property lines or a designated portion of a public
15 right-of-way.

16 ~~(18)~~(20) "State agency" means any state officer, department, board, bureau, commission, or other
17 agency of this state.

18 ~~(19)~~(21) "State building code" means the state building code provided for in 50-60-203 or any portion
19 of the code of limited application and any of its modifications or amendments."

20

21 **Section 2.** Section 50-60-103, MCA, is amended to read:

22 **"50-60-103. Administration by department.** The department shall administer parts 1 through 7 and
23 for that purpose shall:

24 (1) issue orders necessary to effectuate the purposes of parts 1 through 7 and enforce the orders by
25 all appropriate administrative and judicial proceedings;

26 (2) enter, inspect, and examine buildings or premises necessary for the proper performance of its
27 duties under parts 1 through 7;

28 (3) study the operation of the state building code, local building regulations, and other laws related to

1 the construction of buildings to ascertain their effects upon the cost of building construction and the
2 effectiveness of their provisions for health and safety;

3 (4) recommend tests or require the testing and approval of materials, devices, and methods of
4 construction to ascertain their acceptability under the requirements of the state building code and issue
5 certification of the acceptability;

6 (5) appoint experts, consultants, and technical advisers for assistance and recommendations relative
7 to the formulation and adoption of the state building code;

8 (6) advise, consult, and cooperate with other agencies of the state, local governments, industries, and
9 interested persons or groups, including the department of justice regarding the promulgation of fire safety
10 regulations related to the review of building plans, use of buildings, and installation of equipment as allowed in
11 50-60-202; and

12 (7) consult with the building codes council, established in 50-60-115, on all rules and interpretations of
13 building code provisions and on the checklist for the examination of single-family dwelling construction plans
14 provided for in 50-60-118."

15

16 **Section 3.** Section 50-60-107, MCA, is amended to read:

17 **"50-60-107. Certificate of occupancy.** (1) A certificate of occupancy for a building constructed in
18 accordance with the provisions of the state building code or county, city, or town building code must certify that
19 the building conforms to the requirements of the building regulations and the fire safety regulations applicable to
20 it.

21 (2) Every certificate of occupancy, unless and until set aside or vacated by a court of competent
22 jurisdiction, is binding and conclusive upon all county, city, or town agencies as to all matters set forth, and an
23 order, directive, or requirement at variance with the certificate of occupancy may not be made or issued by any
24 other state agency or county, city, or town agency."

25

26 **Section 4.** Section 50-60-202, MCA, is amended to read:

27 **"50-60-202. Department ~~to be sole state agency to promulgate building regulations -- exception~~**
28 **incorporation of fire safety regulations and review.** (1) The department is the only state agency that may

1 promulgate building regulations as defined in 50-60-101, which must also incorporate fire safety regulations
2 promulgated by the department of justice pursuant to subsection (2).

3 ~~(2) except the~~ The department of justice may promulgate fire safety regulations relating to use of
4 ~~buildings fire safety~~ and installation of fire safety equipment in buildings. The state fire prevention and
5 investigation section of the department of justice, a municipality, or other local fire agency shall review building
6 plans ~~and regulations for conformity with rules promulgated by the department~~ fire safety regulations and
7 immediately notify the department of its findings."

8

9 **Section 5.** Section 50-60-206, MCA, is amended to read:

10 **"50-60-206. Variances to state building code.** (1) The department has the power, on satisfactory
11 proof after a public hearing, to:

12 (a) vary or modify, in whole or part, the application of any provision or requirement of the state
13 building code if strict compliance would cause any undue ~~hardship;~~ hardship, but ~~no~~ a variance or modification
14 ~~shall~~ may not adversely affect ~~adversely~~ provisions for health, safety, and security, and equally safe and proper
15 alternatives may be prescribed ~~therefor~~;

16 (b) reverse, modify, or annul, in whole or part, any ruling, direction, determination, or order of any
17 state agency affecting or relating to the construction of any building, the construction of which is pursuant or
18 purports to be pursuant to the provisions of the state building code;

19 (c) review within 30 days after disapproval any application for permission for the construction of a
20 building pursuant to the provisions of the state building code or plans or specifications submitted in connection
21 ~~therewith~~ with it;

22 (d) reverse, modify, or annul the disapproval in whole or part;

23 (e) within 30 days make a determination that the application or plans or specifications are in
24 compliance with the provisions of the state building code and fire safety regulations. If this determination is
25 made, the officer charged with the duty shall issue any permit, license, certificate, authorization, or other
26 document required for the construction and immediately notify the state fire prevention and investigation section
27 of the department of justice, the municipality, or other local fire agency who reviewed the building plans under
28 50-60-202.

1 (2) An application for a variance, modification, reversal, annulment, or review may be made by a local
2 fire agency or any person aggrieved pursuant to the Montana Administrative Procedure Act.

3 (3) An application for a variance, modification, reversal, annulment, or review ~~shall~~ must stay all
4 proceedings in furtherance of the action appealed from unless there is a showing by the state agency that a
5 stay would involve imminent peril to life or property.

6 (4) The department, in hearings conducted under this section, shall not be bound by common-law or
7 statutory rules of evidence."
8

9 **Section 6.** Section 50-61-102, MCA, is amended to read:

10 **"50-61-102. Department of justice to administer chapter.** (1) The department of justice has general
11 charge and supervision of the enforcement of this chapter, and the officers enumerated in 50-61-114 shall act
12 under its general charge and supervision, shall assist the department in giving effect to this chapter, and are
13 subject to its direction and the rules adopted under 50-3-102 and 50-3-103 for the enforcement of 50-61-120,
14 50-61-121, and this chapter.

15 (2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality or
16 other ~~governmental~~ local fire agency organized under Title 7, chapter 33 as defined in 50-60-101, the
17 department may approve a municipal or ~~governmental~~ local fire agency fire inspection program for local
18 enforcement.

19 (3) A plan for enforcement of the code as required in subsection (2) must include the review of
20 building plans for conformity with fire safety regulations promulgated pursuant to 50-60-202(2)."

21 - END -