

APRIL 19, 1991

CONCURRED IN.

THIRD READING, AMENDMENTS.
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 **HOUSE** BILL NO. **994**
 2 INTRODUCED BY Billie J. Bechtel *Bechtel*
 3 BY REQUEST OF THE DEPARTMENT OF HEALTH AND *Dolezal*
 4 ENVIRONMENTAL SCIENCES *Gettys*

5
 6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LICENSING
 7 OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES;
 8 AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
 9 SCIENCES TO ADMINISTER A LICENSING PROGRAM AND TO ADOPT
 10 RULES; ESTABLISHING LICENSE FEES; PROVIDING FOR THE
 11 VALIDATION OF LICENSES BY LOCAL HEALTH OFFICERS OR BOARDS;
 12 AUTHORIZING THE DEPARTMENT TO ENTER INTO COOPERATIVE
 13 AGREEMENTS FOR THE INSPECTION OF PUBLIC SWIMMING POOLS AND
 14 PUBLIC BATHING PLACES AND FOR ENFORCEMENT; PROVIDING FOR THE
 15 PAYMENT OF A PORTION OF THE FEES TO LOCAL GOVERNMENTS FOR
 16 INSPECTION AND ENFORCEMENT; PROVIDING FOR ADMINISTRATIVE AND
 17 JUDICIAL ENFORCEMENT; PROVIDING FOR THE RECOVERY OF
 18 ENFORCEMENT COSTS AND FOR CIVIL PENALTIES; AMENDING SECTIONS
 19 50-53-102, 50-53-103, AND 50-53-104, MCA; AND PROVIDING
 20 EFFECTIVE DATES."

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22 STATEMENT OF INTENT

23 A statement of intent is required for this bill because
 24 [section 2] requires the department of health and
 25 environmental sciences to adopt rules relating to licensing

1 of public swimming pools and public bathing places,
 2 enforcement procedures, cooperative agreements, procedures
 3 for hearings to be held by local boards of health, and
 4 performance standards for local boards of health, health
 5 officers, and sanitarians. Sanitation and safety standards
 6 contained in rules already adopted by the department and
 7 currently published in Title 16, chapter 10, subchapters 12,
 8 13, and 15, Administrative Rules of Montana, may be
 9 incorporated into new department rules as standards for
 10 licensing public swimming pools and public bathing places.

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

13 **Section 1.** Section 50-53-102, MCA, is amended to read:
 14 "50-53-102. **Definitions.** As used in this chapter,
 15 unless the context clearly indicates otherwise, the
 16 following definitions apply:

- 17 (1) "Department" means the department of health and
 18 environmental sciences, provided for in Title 2, chapter 15,
 19 part 21.
- 20 (2) "Local board of health" or "board" means a local
 21 board as defined in 50-2-101.
- 22 (3) "Local health officer" or "officer" means a local
 23 health officer as defined in 50-2-101.
- 24 (4) "Person" means a person, firm, partnership,
 25 corporation, organization, the state, or any political



1 subdivision of the state.

2 ~~3~~(5) "Public bathing place" means a body of water
3 with bathhouses and related appurtenances operated for the
4 public.

5 ~~4~~(6) "Public swimming pool" means an artificial pool
6 and bathhouses and related appurtenances for swimming,
7 bathing, or wading, including natural hot water pools. The
8 term does not include:

9 (a) swimming pools located on private property used for
10 swimming or bathing only by the owner, members of his
11 family, or their invited guests; or

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13 **Section 2.** Section 50-53-103, MCA, is amended to read:

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15 The department shall adopt rules relating to the operation
16 of public swimming pools and public bathing places,
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19 public swimming pools and public bathing places to protect
20 public health and safety;

21 (b) relating to the licensing of operators of public
22 swimming pools and public bathing places;

23 (c) providing procedures for the enforcement of the
24 laws and rules relating to public swimming pools and public
25 bathing places;

1 (d) relating to cooperative agreements between the
2 department and local boards of health; and

3 (e) setting performance standards for local boards of
4 health, local health officers, and sanitarians to meet as a
5 condition to receipt of funds provided by the department
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7 (2) Any rule relating to the design, construction,
8 reconstruction, alteration, conversion, repair, inspection,
9 or use of buildings or installation of equipment in
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11 department of commerce as part of the state building code
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19 and public bathing places and otherwise conduct
20 investigations to determine if provisions of this chapter
21 and rules of the department have been or are being violated
22 and make reports to the department concerning the
23 inspections;

24 (2) request an injunction from the district court to
25 enjoin actions in violation of this chapter or rules adopted

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3 violation of this chapter in the manner provided by law for
4 the summary abatement of other public nuisances;

5 (4) ~~enforce---rules---adopted---by---the---department~~ file
6 complaints with the district court for assessment of the
7 penalties provided for in [section 15] or for recovery of
8 costs provided for in [section 16], or both."

9 **NEW SECTION. Section 4. License required -- exemption**
10 **-- validation.** (1) Except as provided in subsection (3), a
11 person may not operate a public swimming pool or public
12 bathing place without annually obtaining a license from the
13 department.

14 (2) A separate license is required for each public
15 swimming pool or public bathing place unless more than one
16 public swimming pool is operated on the same premises by the
17 same person, in which case a single license is required for
18 all public swimming pools on the premises.

19 (3) The state or a political subdivision of the state
20 owning or operating a public swimming pool or public bathing
21 place is not required to obtain a license under subsection
22 (1) but must comply with the health and safety requirements
23 in 50-53-101 through 50-53-109 and [sections 4 through 17]
24 and the rules of the department.

25 (4) A license issued by the department is not valid

1 unless signed in accordance with [section 7] or in
2 accordance with [section 8], in the case of an appeal.

3 **NEW SECTION. Section 5. Application for and right to**
4 **license.** (1) An application for both an original and renewal
5 license to operate a public swimming pool or public bathing
6 place must be made to the department, must contain the
7 information required by the department, and must be
8 accompanied by the fee provided for in [section 6].

9 (2) A license must be issued to an applicant who has
10 satisfied the requirements for a license provided in
11 50-53-101 through 50-53-109, [sections 4 through 17], and
12 department rules.

13 (3) Upon issuing a license, the department shall
14 forward the license to the appropriate local health officer
15 for validation as provided in [section 7].

16 **NEW SECTION. Section 6. License fee and late fee --**
17 **disposition.** (1) (a) Except as provided in subsection
18 (1)(b), each application for an original or renewal license
19 must be accompanied by a license fee of \$75.

20 (b) The fee for an original or renewal license for a
21 public swimming pool or public bathing place operated in
22 conjunction with a public accommodation is \$50.

23 (2) An operator of a public swimming pool or public
24 bathing place who fails to renew a license by the expiration
25 date provided in [section 9] and who operates the public

1 swimming pool or public bathing place in the license year
 2 for which no renewal fee was paid shall, upon renewal, pay
 3 to the department a late renewal fee of \$25 in addition to
 4 the renewal fee required by subsection (1). Payment of the
 5 late renewal fee does not relieve the operator of
 6 responsibility for any operation without a license.

7 (3) The department shall deposit 85% of the fees
 8 collected under subsection (1) in the state special revenue
 9 fund to the credit of the local board inspection fund
 10 account created by 50-2-108. Money deposited in the local
 11 board inspection fund account is subject to appropriation by
 12 the legislature for the purposes of [section 17].

13 (4) The department shall deposit 15% of the fees
 14 collected under subsection (1) and all the fees collected
 15 under subsection (2) in an account in the state special
 16 revenue fund to be appropriated by the legislature to the
 17 department for the enforcement of 50-53-101 through
 18 50-53-109 and [sections 4 through 17].

19 NEW SECTION. Section 7. validation of license required
 20 -- validation by local officer. (1) A license issued by the
 21 department under 50-53-101 through 50-53-109 and [sections 4
 22 through 17] is not valid until it is signed by the local
 23 health officer of the jurisdiction in which the public
 24 swimming pool or public bathing place is located.

25 (2) The local health officer shall, within 15 days of

1 receipt of the license, validate or refuse to validate the
 2 license. Failure of the officer to validate a license is a
 3 refusal for the purposes of [section 8].

4 NEW SECTION. Section 8. Refusal of health officer to
 5 validate -- appeal to board. (1) A local health officer may
 6 refuse to validate a license issued by the department under
 7 50-53-101 through 50-53-109 and [sections 4 through 17] only
 8 if the officer determines that the license applicant has not
 9 met the requirements for the issuance of a license under
 10 50-53-101 through 50-53-109, [sections 4 through 17], and
 11 the rules of the department. If the local health officer
 12 refuses to validate a license, the officer shall notify the
 13 license applicant and the department of the refusal within 5
 14 days of his decision. The notice must state the grounds for
 15 the refusal.

16 (2) The license applicant may appeal the decision of
 17 the local health officer to the local board of health by
 18 filing a written notice of appeal with the officer and the
 19 board within 30 days of the officer's refusal or within 30
 20 days of the expiration of the period for the officer's
 21 decision under [section 7], whichever is first.

22 (3) Upon filing the notice of appeal, the license
 23 applicant is entitled to a hearing before the board to
 24 determine the applicant's eligibility for a license under
 25 50-53-101 through 50-53-109, [sections 4 through 17], and

1 the rules of the department. The hearing must be held
 2 pursuant to the contested case procedure of the Montana
 3 Administrative Procedure Act. If the board finds that the
 4 applicant is entitled to a validated license, the chairman
 5 of the board shall validate the license by signing the
 6 license.

7 NEW SECTION. Section 9. License expiration --
 8 nontransferability. (1) A license issued under 50-53-101
 9 through 50-53-109 and [sections 4 through 17] expires on
 10 December 31 of the year of issuance unless it is suspended
 11 or canceled by the department before that date.

12 (2) A license issued under 50-53-101 through 50-53-109
 13 and [sections 4 through 17] is not transferable.

14 NEW SECTION. Section 10. Cooperative agreements --
 15 inspections. (1) The department may enter into cooperative
 16 agreements with local boards of health to authorize those
 17 boards to act as agents of the department and to conduct
 18 inspections of and enforce applicable statutes and
 19 department rules relating to public swimming pools and
 20 public bathing places within the jurisdictions of the
 21 respective boards.

22 (2) The department or a local board of health, pursuant
 23 to a cooperative agreement, shall annually conduct:

24 (a) at least one full facility inspection and one
 25 critical point inspection of each public swimming pool or

1 public bathing place operated throughout the year; and

2 (b) at least one full facility inspection of each
 3 seasonal public swimming pool or public bathing place.

4 NEW SECTION. Section 11. Denial, suspension, or
 5 cancellation of license -- multiple pool facility. (1) The
 6 department may deny, suspend, or cancel a license if it
 7 finds that the license applicant or licensee has violated
 8 50-53-101 through 50-53-109, [sections 4 through 17], or the
 9 rules of the department and has failed or refused to remedy
 10 or correct the violation in accordance with the procedure
 11 provided in [section 13].

12 (2) If the license of an operator who operates more
 13 than one public swimming pool under one license is denied,
 14 suspended, or canceled, the use of all of the public
 15 swimming pools on the premises must cease unless the
 16 department determines that the violation for which the
 17 license was denied, suspended, or canceled does not affect
 18 the operation or the use of all of the public swimming pools
 19 on the premises.

20 NEW SECTION. Section 12. Administrative enforcement --
 21 notice -- department hearing. (1) A license may not be
 22 denied, suspended, or canceled or corrective action may not
 23 be ordered by the department unless the department delivers
 24 to the license applicant or licensee a written notice of
 25 violation that contains a written statement of the facts

1 constituting the violation and a citation to the statute or
 2 rule of the department alleged to have been violated. No
 3 further administrative enforcement action may be taken by
 4 the department pursuant to the notice if within 10 days
 5 after receipt of the notice, the license applicant or
 6 licensee complies with the provisions of [section 13].

7 (2) The department may combine with any notice issued
 8 under subsection (1) an order for the suspension or
 9 cancellation of a license or for corrective action as the
 10 department finds necessary to remedy the violation evidenced
 11 in the notice. The order becomes final 10 days after service
 12 unless within that time the license applicant or licensee
 13 requests a hearing pursuant to subsection (4) or submits a
 14 corrective action plan in accordance with [section 13].

15 (3) The department may combine with any notice or order
 16 issued under subsection (1) or (2) an order for the license
 17 applicant or licensee to appear before the department within
 18 a time specified by the department and show cause why the
 19 department should not deny, suspend, or cancel the license
 20 or otherwise order compliance with 50-53-101 through
 21 50-53-109, [sections 4 through 17], and the rules of the
 22 department.

23 (4) A hearing requested by a license applicant or
 24 licensee must be made in writing to the department and must
 25 specify the mistake in the facts or law relied on by the

1 department. A hearing held pursuant to this section must be
 2 held in accordance with the contested case procedure of the
 3 Montana Administrative Procedure Act. Following a hearing,
 4 the department may issue an appropriate order. Service of
 5 notice or an order mailed by the department is complete upon
 6 mailing.

7 **NEW SECTION. Section 13. Compliance with corrective**
 8 **action plan as bar to further administrative enforcement.**
 9 The department may not deny, suspend, or cancel the license
 10 or require corrective action of an operator of a public
 11 swimming pool or public bathing place who received a notice
 12 of violation from the department pursuant to [section 12]
 13 if:

14 (1) the operator submits a plan to correct the
 15 violation to the department within 10 days of service of the
 16 notice;

17 (2) the department approves the plan in writing,
 18 including the time in which the plan must be complied with;
 19 and

20 (3) the operator complies with the plan within the time
 21 period prescribed by the department.

22 **NEW SECTION. Section 14. Return of license for**
 23 **alteration or destruction.** Upon cancellation of a license or
 24 the right to operate one or more public swimming pools under
 25 a single license for the premises, the operator of the

1 public swimming pool shall return the license to the
 2 department for destruction of the license or deletion of the
 3 listing of the public swimming pool affected by the
 4 cancellation. Cancellation by the department of a license to
 5 operate a public swimming pool is effective notwithstanding
 6 the refusal or failure of an operator to return the license
 7 to the department.

8 NEW SECTION. **Section 15. Civil penalties -- other**
 9 **enforcement not barred.** (1) A person who violates a
 10 provision of 50-53-101 through 50-53-109 and [sections 4
 11 through 17], the rules of the department implementing those
 12 sections, an order of the department, or any condition of a
 13 license issued by the department is subject to a civil
 14 penalty not to exceed \$500 for each violation. Each day of
 15 violation constitutes a separate violation.

16 (2) An action for collection of a civil penalty under
 17 this section does not bar administrative enforcement under
 18 [section 12], an action for injunctive relief under
 19 50-53-104, or enforcement under 50-53-109.

20 NEW SECTION. **Section 16. Recovery of costs by**
 21 **department or local jurisdiction.** In a civil or criminal
 22 action brought by the department or a local jurisdiction to
 23 enforce the requirements of 50-53-101 through 50-53-109 and
 24 [sections 4 through 17], the rules of the department, or any
 25 condition of a license or to assess civil penalties and in

1 an action brought by the department to enforce an order of
 2 the department, the court may assess the operator of the
 3 public swimming pool or public bathing facility for the
 4 costs of any investigation and the costs of the civil or
 5 criminal action, including reasonable attorney fees.

6 NEW SECTION. **Section 17. Department to pay board for**
 7 **inspections or enforcement, or both.** (1) By June 30 of each
 8 year, the department shall pay to a local board of health
 9 established under 50-2-104, 50-2-106, or 50-2-107 an amount
 10 from the local board inspection fund account, created by
 11 50-2-108, for the purpose of inspecting public swimming
 12 pools and public bathing places licensed under 50-53-101
 13 through 50-53-109 and [sections 4 through 17] or for taking
 14 appropriate enforcement action with respect to the public
 15 swimming pools and public bathing places, or for both
 16 inspection and enforcement. The payment required by this
 17 section must be made to a board only if the board and any
 18 local health officer and sanitarian for the jurisdiction of
 19 the board meet the program performance standards established
 20 by department rules.

21 (2) Money received by the board pursuant to subsection
 22 (1) may be used only for the purpose of inspections and
 23 enforcement under 50-53-101 through 50-53-109 and [sections
 24 4 through 17] and must be used to supplement and not
 25 supplant other money received by the board for the same

1 purpose.

2 (3) The department may use money in the local board
3 inspection fund account appropriated to the department for
4 the enforcement of 50-53-101 through 50-53-109, [sections 4
5 through 17], and the rules of the department and for
6 inspections to determine compliance with those sections and
7 rules in any local jurisdiction not receiving payment under
8 subsection (1).

9 NEW SECTION. Section 18. Codification instruction.
10 [Sections 4 through 17] are intended to be codified as an
11 integral part of Title 50, chapter 53, and the provisions of
12 Title 50, chapter 53, apply to [sections 4 through 17].

13 NEW SECTION. Section 19. Effective dates. (1)
14 [Sections 2, 6, and this section] are effective on passage
15 and approval.

16 (2) [Sections 1, 3 through 5, and 7 through 18] are
17 effective January 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0994, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


A bill requiring the licensing of public swimming pools and bathing places; establishing license fees; providing for administrative and judicial enforcement; and providing for recovery of enforcement costs and civil penalties.


ASSUMPTIONS:

1. There are approximately 1200 public swimming pools/spas in Montana of which approximately 50% (600) are operated in conjunction with public accommodations.
2. A base annual license fee of \$75/establishment for public swimming pools/spas would be established with the exception that pools operated in conjunction with public accommodations would be \$50/establishment.
3. 85% (\$63.75 or \$42.50) of the public swimming pool/spa license fees would be deposited into the state special revenue account (local board inspection fund) as grants to local health departments for inspection and enforcement of the statute and administrative rules and 15% (\$11.25 or \$7.50) would be deposited in the state special revenue account earmarked for the department.
4. 5% of annual public swimming pool/spa license renewals would be delinquent with a late fee penalty of \$25 assessed which would be deposited in the state special revenue account earmarked for the department for the enforcement of the statute and administrative rules.
5. The special revenue account earmarked to the department would be used as the funding source for necessary program development resulting from the proposed legislation.

FISCAL IMPACT:

see next page

 3-19-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 3-21-91
STELLA JEAN HANSEN, PRIMARY SPONSOR DATE
Fiscal Note for HB0994, as introduced. **HB 994-1**

Fiscal Note Request, HB0994, as introduced.
 Form BD-15
 Page 2

FISCAL IMPACT:

Department of Health and Environmental Sciences:

	FY92			FY93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Expenses	0	11,225	11,225	0	10,000	10,000
Grants	0	63,750	63,750	0	63,750	63,750
Total	0	74,975	74,975	0	73,750	73,750
<u>Funding:</u>						
Inspection Fund (02)	0	74,975	74,975	0	73,750	73,750
<u>Revenues:</u>						
Local Brd. Insp. Fund (02)	0	63,750	63,750	0	63,750	63,750
License Renewals (02)	0	11,250	11,250	0	11,250	11,250
Late Fee Penalty (02)	0	1,500	1,500	0	1,500	1,500
Total	0	76,500	76,500	0	76,500	76,500

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Some local health departments currently operate inspection programs. An estimated \$63,750 would be deposited into the state special revenue account (local board inspection fund) to support local public pool/spa inspection and enforcement programs. Performance standards would be established to provide uniform program performance. Reimbursement from the local board inspection fund to local environmental health programs representing all 56 counties would be made in proportion to the number of establishments licensed per jurisdiction.

HB994-1

APPROVED BY COMM. ON HUMAN SERVICES AND AGING

1 HOUSE BILL NO. 994
 2 INTRODUCED BY HANSEN, BROOKE, DOLEZAL, G. BECK, J. BROWN,
 3 SQUIRES, J. DEBRUYCKER, STRIZICH, KEATING
 4 BY REQUEST OF THE DEPARTMENT OF HEALTH AND
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16 for validation as provided in [section 7].

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18 disposition. (1) (a) Except as provided in subsection
19 (1)(b), each application for an original or renewal license
20 must be accompanied by a license fee of \$75.

21 (b) The fee for an original or renewal license for a
22 public swimming pool or public bathing place operated in
23 conjunction with a public accommodation is \$50.

24 (2) An operator of a public swimming pool or public
25 bathing place who fails to renew a license by the expiration

1 date provided in [section 9] and who operates the public
 2 swimming pool or public bathing place in the license year
 3 for which no renewal fee was paid shall, upon renewal, pay
 4 to the department a late renewal fee of \$25 in addition to
 5 the renewal fee required by subsection (1). Payment of the
 6 late renewal fee does not relieve the operator of
 7 responsibility for any operation without a license.

8 (3) The department shall deposit 85% of the fees
 9 collected under subsection (1) in the state special revenue
 10 fund to the credit of the local board inspection fund
 11 account created by 50-2-108. Money deposited in the local
 12 board inspection fund account is subject to appropriation by
 13 the legislature for the purposes of [section 17].

14 (4) The department shall deposit 15% of the fees
 15 collected under subsection (1) and all the fees collected
 16 under subsection (2) in an account in the state special
 17 revenue fund to be appropriated by the legislature to the
 18 department for the enforcement of 50-53-101 through
 19 50-53-109 and [sections 4 through 17].

20 NEW SECTION. Section 7. validation of license required
 21 -- validation by local officer. (1) A license issued by the
 22 department under 50-53-101 through 50-53-109 and [sections 4
 23 through 17] is not valid until it is signed by the local
 24 health officer of the jurisdiction in which the public
 25 swimming pool or public bathing place is located.

1 (2) The local health officer shall, within 15 days of
 2 receipt of the license, validate or refuse to validate the
 3 license. Failure of the officer to validate a license is a
 4 refusal for the purposes of [section 8].

5 NEW SECTION. Section 8. Refusal of health officer to
 6 validate -- appeal to board. (1) A local health officer may
 7 refuse to validate a license issued by the department under
 8 50-53-101 through 50-53-109 and [sections 4 through 17] only
 9 if the officer determines that the license applicant has not
 10 met the requirements for the issuance of a license under
 11 50-53-101 through 50-53-109, [sections 4 through 17], and
 12 the rules of the department. If the local health officer
 13 refuses to validate a license, the officer shall notify the
 14 license applicant and the department of the refusal within 5
 15 days of his decision. The notice must state the grounds for
 16 the refusal.

17 (2) The license applicant may appeal the decision of
 18 the local health officer to the local board of health by
 19 filing a written notice of appeal with the officer and the
 20 board within 30 days of the officer's refusal or within 30
 21 days of the expiration of the period for the officer's
 22 decision under [section 7], whichever is first.

23 (3) Upon filing the notice of appeal, the license
 24 applicant is entitled to a hearing before the board to
 25 determine the applicant's eligibility for a license under

1 50-53-101 through 50-53-109, [sections 4 through 17], and
 2 the rules of the department. The hearing must be held
 3 pursuant to the contested case procedure of the Montana
 4 Administrative Procedure Act. If the board finds that the
 5 applicant is entitled to a validated license, the chairman
 6 of the board shall validate the license by signing the
 7 license.

8 NEW SECTION. Section 9. License expiration --
 9 nontransferability. (1) A license issued under 50-53-101
 10 through 50-53-109 and [sections 4 through 17] expires on
 11 December 31 of the year of issuance unless it is suspended
 12 or canceled by the department before that date.

13 (2) A license issued under 50-53-101 through 50-53-109
 14 and [sections 4 through 17] is not transferable.

15 NEW SECTION. Section 10. Cooperative agreements --
 16 inspections. (1) The department may enter into cooperative
 17 agreements with local boards of health to authorize those
 18 boards to act as agents of the department and to conduct
 19 inspections of and enforce applicable statutes and
 20 department rules relating to public swimming pools and
 21 public bathing places within the jurisdictions of the
 22 respective boards.

23 (2) The department or a local board of health, pursuant
 24 to a cooperative agreement, shall annually conduct:

25 (a) at least one full facility inspection and one

1 critical point inspection of each public swimming pool or
 2 public bathing place operated throughout the year; and

3 (b) at least one full facility inspection of each
 4 seasonal public swimming pool or public bathing place.

5 NEW SECTION. Section 11. Denial, suspension, or
 6 cancellation of license -- multiple pool facility. (1) The
 7 department may deny, suspend, or cancel a license if it
 8 finds that the license applicant or licensee has violated
 9 50-53-101 through 50-53-109, [sections 4 through 17], or the
 10 rules of the department and has failed or refused to remedy
 11 or correct the violation in accordance with the procedure
 12 provided in [section 13].

13 (2) If the license of an operator who operates more
 14 than one public swimming pool under one license is denied,
 15 suspended, or canceled, the use of all of the public
 16 swimming pools on the premises must cease unless the
 17 department determines that the violation for which the
 18 license was denied, suspended, or canceled does not affect
 19 the operation or the use of all of the public swimming pools
 20 on the premises.

21 NEW SECTION. Section 12. Administrative enforcement --
 22 notice -- department hearing. (1) A license may not be
 23 denied, suspended, or canceled or corrective action may not
 24 be ordered by the department unless the department delivers
 25 to the license applicant or licensee a written notice of

1 violation that contains a written statement of the facts
 2 constituting the violation and a citation to the statute or
 3 rule of the department alleged to have been violated. No
 4 further administrative enforcement action may be taken by
 5 the department pursuant to the notice if within 10 days
 6 after receipt of the notice, the license applicant or
 7 licensee complies with the provisions of [section 13].

8 (2) The department may combine with any notice issued
 9 under subsection (1) an order for the suspension or
 10 cancellation of a license or for corrective action as the
 11 department finds necessary to remedy the violation evidenced
 12 in the notice. The order becomes final 10 days after service
 13 unless within that time the license applicant or licensee
 14 requests a hearing pursuant to subsection (4) or submits a
 15 corrective action plan in accordance with [section 13].

16 (3) The department may combine with any notice or order
 17 issued under subsection (1) or (2) an order for the license
 18 applicant or licensee to appear before the department within
 19 a time specified by the department and show cause why the
 20 department should not deny, suspend, or cancel the license
 21 or otherwise order compliance with 50-53-101 through
 22 50-53-109, [sections 4 through 17], and the rules of the
 23 department.

24 (4) A hearing requested by a license applicant or
 25 licensee must be made in writing to the department and must

1 specify the mistake in the facts or law relied on by the
 2 department. A hearing held pursuant to this section must be
 3 held in accordance with the contested case procedure of the
 4 Montana Administrative Procedure Act. Following a hearing,
 5 the department may issue an appropriate order. Service of
 6 notice or an order mailed by the department is complete upon
 7 mailing.

8 NEW SECTION. **Section 13. Compliance with corrective**
 9 **action plan as bar to further administrative enforcement.**

10 The department may not deny, suspend, or cancel the license
 11 or require corrective action of an operator of a public
 12 swimming pool or public bathing place who received a notice
 13 of violation from the department pursuant to [section 12]
 14 if:

15 (1) the operator submits a plan to correct the
 16 violation to the department within 10 days of service of the
 17 notice;

18 (2) the department approves the plan in writing,
 19 including the time in which the plan must be complied with;
 20 and

21 (3) the operator complies with the plan within the time
 22 period prescribed by the department.

23 NEW SECTION. **Section 14. Return of license for**
 24 **alteration or destruction.** Upon cancellation of a license or
 25 the right to operate one or more public swimming pools under

1 a single license for the premises, the operator of the
 2 public swimming pool shall return the license to the
 3 department for destruction of the license or deletion of the
 4 listing of the public swimming pool affected by the
 5 cancellation. Cancellation by the department of a license to
 6 operate a public swimming pool is effective notwithstanding
 7 the refusal or failure of an operator to return the license
 8 to the department.

9 NEW SECTION. Section 15. Civil penalties -- other
 10 enforcement not barred. (1) A person who violates a
 11 provision of 50-53-101 through 50-53-109 and [sections 4
 12 through 17], the rules of the department implementing those
 13 sections, an order of the department, or any condition of a
 14 license issued by the department is subject to a civil
 15 penalty not to exceed \$500 for each violation. ~~Each--day--of~~
 16 ~~violation-constitutes-a-separate-violation.~~

17 (2) An action for collection of a civil penalty under
 18 this section does not bar administrative enforcement under
 19 [section 12], an action for injunctive relief under
 20 50-53-104, or enforcement under 50-53-109.

21 NEW SECTION. Section 16. Recovery of costs by
 22 department or local jurisdiction. In a civil or criminal
 23 action brought by the department or a local jurisdiction to
 24 enforce the requirements of 50-53-101 through 50-53-109 and
 25 [sections 4 through 17], the rules of the department, or any

1 condition of a license or to assess civil penalties and in
 2 an action brought by the department to enforce an order of
 3 the department, the court may, IN THE CASE OF AN INTENTIONAL
 4 VIOLATION OF 50-53-101 THROUGH 50-53-109 AND [SECTIONS 4
 5 THROUGH 17], assess the operator of the public swimming pool
 6 or public bathing facility for the costs of any
 7 investigation and the costs of the civil or criminal action,
 8 including reasonable attorney fees.

9 NEW SECTION. Section 17. Department to pay board for
 10 inspections or enforcement, or both. (1) By June 30 of each
 11 year, the department shall pay to a local board of health
 12 established under 50-2-104, 50-2-106, or 50-2-107 an amount
 13 from the local board inspection fund account, created by
 14 50-2-108, for the purpose of inspecting public swimming
 15 pools and public bathing places licensed under 50-53-101
 16 through 50-53-109 and [sections 4 through 17] or for taking
 17 appropriate enforcement action with respect to the public
 18 swimming pools and public bathing places, or for both
 19 inspection and enforcement. The payment required by this
 20 section must be made to a board only if the board and any
 21 local health officer and sanitarian for the jurisdiction of
 22 the board meet the program performance standards established
 23 by department rules.

24 (2) Money received by the board pursuant to subsection
 25 (1) may be used only for the purpose of inspections and

1 enforcement under 50-53-101 through 50-53-109 and [sections
2 4 through 17] and must be used to supplement and not
3 supplant other money received by the board for the same
4 purpose.

5 (3) The department may use money in the local board
6 inspection fund account appropriated to the department for
7 the enforcement of 50-53-101 through 50-53-109, [sections 4
8 through 17], and the rules of the department and for
9 inspections to determine compliance with those sections and
10 rules in any local jurisdiction not receiving payment under
11 subsection (1).

12 NEW SECTION. **Section 18.** Codification instruction.
13 [Sections 4 through 17] are intended to be codified as an
14 integral part of Title 50, chapter 53, and the provisions of
15 Title 50, chapter 53, apply to [sections 4 through 17].

16 NEW SECTION. **Section 19.** Effective dates. (1)
17 [Sections 2, 6, and this section] are effective on passage
18 and approval.

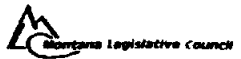
19 (2) [Sections 1, 3 through 5, and 7 through 18] are
20 effective January 1, 1992.

-End-

1 HOUSE BILL NO. 994
2 INTRODUCED BY HANSEN, BROOKE, DOLEZAL, G. BECK, J. BROWN,
3 SQUIRES, J. DEBRUYCKER, STRIZICH, KEATING
4 BY REQUEST OF THE DEPARTMENT OF HEALTH AND
5 ENVIRONMENTAL SCIENCES
6
7 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LICENSING
8 OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES;
9 AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
10 SCIENCES TO ADMINISTER A LICENSING PROGRAM AND TO ADOPT
11 RULES; ESTABLISHING LICENSE FEES; PROVIDING FOR THE
12 VALIDATION OF LICENSES BY LOCAL HEALTH OFFICERS OR BOARDS;
13 AUTHORIZING THE DEPARTMENT TO ENTER INTO COOPERATIVE
14 AGREEMENTS FOR THE INSPECTION OF PUBLIC SWIMMING POOLS AND
15 PUBLIC BATHING PLACES AND FOR ENFORCEMENT; PROVIDING FOR THE
16 PAYMENT OF A PORTION OF THE FEES TO LOCAL GOVERNMENTS FOR
17 INSPECTION AND ENFORCEMENT; PROVIDING FOR ADMINISTRATIVE AND
18 JUDICIAL ENFORCEMENT; PROVIDING FOR THE RECOVERY OF
19 ENFORCEMENT COSTS AND FOR CIVIL PENALTIES; AMENDING SECTIONS
20 50-53-102, 50-53-103, AND 50-53-104, MCA; AND PROVIDING
21 EFFECTIVE DATES."

22
23 STATEMENT OF INTENT
24 A statement of intent is required for this bill because
25 [section 2] requires the department of health and

There are no changes in this bill,
and will not be reprinted. Please
refer to yellow copy for complete
text.



SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 11, 1991

Page 2 of 2
April 11, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration House Bill No. 994 (third reading copy -- blue), respectfully report that House Bill No. 994 be amended and as so amended be concurred in:

1. Title, line 19.
Following: "SECTIONS"
Insert: "50-2-118,"

2. Page 15, line 12.
Following: line 11
Insert: "Section 18. Section 50-2-118, MCA, is amended to read:
"50-2-118. Powers and duties of local health officers. (1)
Local health officers or their authorized representatives shall:
(a) make inspections for sanitary conditions;
(b) as directed by the local board, issue written orders for the destruction and removal of filth which might cause disease;
(c) with written approval of the department, order buildings or facilities where people congregate closed during epidemics;
(d) on forms provided by the department, report communicable diseases to the department each week;
(e) before the first day of January, April, July, and October, give a report to the local board of sanitary conditions in the county, city, city-county, or district, together with a detailed account of his activities, on forms and containing information required by the department;
(f) before the 10th day after the report is given to the local board, send a copy of the report required by subsection (1)(e) of this section to the department;
(g) as prescribed by rules adopted by the department, establish and maintain quarantines;
(h) as prescribed by rules adopted by the department, supervise the disinfection of places at the expense of the local board when a period of quarantine ends;
(i) notify the department of his appointment and changes in membership of the local board;
(j) file a complaint with the appropriate court if this chapter or rules adopted by the local board or state department under this chapter are violated;
(k) validate state licenses issued by the department in accordance with chapters 50, 51, and 52 through 53 of this title.
(2) With approval of the department, local health officers may forbid persons to assemble in a place if the assembly endangers public health.

(3) A local health officer who is a physician may be placed in charge of a communicable disease hospital, but a local health officer who is a physician is not required to act as a physician to the indigent.

(4) A local health officer who is not a physician shall not act as a physician to anyone."
Renumber: subsequent sections

3. Page 15, line 19.
Following: "7 through"
Strike: "18"
Insert: "19"

Signed: *Dorothy Eck*
Dorothy Eck, Chairman

JA 4-11-91
Ad. Coord.
SB 411 12:50
Sec. of Senate

HOUSE BILL NO. 994

INTRODUCED BY HANSEN, BROOKE, DOLEZAL, G. BECK, J. BROWN, SQUIRES, J. DEBRUYCKER, STRIZICH, KEATING BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LICENSING OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADMINISTER A LICENSING PROGRAM AND TO ADOPT RULES; ESTABLISHING LICENSE FEES; PROVIDING FOR THE VALIDATION OF LICENSES BY LOCAL HEALTH OFFICERS OR BOARDS; AUTHORIZING THE DEPARTMENT TO ENTER INTO COOPERATIVE AGREEMENTS FOR THE INSPECTION OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES AND FOR ENFORCEMENT; PROVIDING FOR THE PAYMENT OF A PORTION OF THE FEES TO LOCAL GOVERNMENTS FOR INSPECTION AND ENFORCEMENT; PROVIDING FOR ADMINISTRATIVE AND JUDICIAL ENFORCEMENT; PROVIDING FOR THE RECOVERY OF ENFORCEMENT COSTS AND FOR CIVIL PENALTIES; AMENDING SECTIONS 50-2-118, 50-53-102, 50-53-103, AND 50-53-104, MCA; AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 2] requires the department of health and

environmental sciences to adopt rules relating to licensing of public swimming pools and public bathing places, enforcement procedures, cooperative agreements, procedures for hearings to be held by local boards of health, and performance standards for local boards of health, health officers, and sanitarians. Sanitation and safety standards contained in rules already adopted by the department and currently published in Title 16, chapter 10, subchapters 12, 13, and 15, Administrative Rules of Montana, may be incorporated into new department rules as standards for licensing public swimming pools and public bathing places.

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

Section 1. Section 50-53-102, MCA, is amended to read:

"50-53-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Department" means the department of health and environmental sciences, provided for in Title 2, chapter 15, part 21.

(2) "Local board of health" or "board" means a local board as defined in 50-2-101.

(3) "Local health officer" or "officer" means a local health officer as defined in 50-2-101.

+2+(4) "Person" means a person, firm, partnership,



1 corporation, organization, the state, or any political
2 subdivision of the state.

3 †3†(5) "Public bathing place" means a body of water
4 with bathhouses and related appurtenances operated for the
5 public.

6 †4†(6) "Public swimming pool" means an artificial pool
7 and bathhouses and related appurtenances for swimming,
8 bathing, or wading, including natural hot water pools. The
9 term does not include:

10 (a) swimming pools located on private property used for
11 swimming or bathing only by the owner, members of his
12 family, or their invited guests; or

13 (b) medicinal hot water baths for individual use."

14 **Section 2.** Section 50-53-103, MCA, is amended to read:

15 "50-53-103. Sanitation-and-safety Department rules. (1)
16 The department shall adopt rules relating to the operation
17 of public swimming pools and public bathing places,
18 including rules:

19 (a) setting standards to ensure sanitation and safety in
20 public swimming pools and public bathing places to protect
21 public health and safety;

22 (b) relating to the licensing of operators of public
23 swimming pools and public bathing places;

24 (c) providing procedures for the enforcement of the
25 laws and rules relating to public swimming pools and public

1 bathing places;

2 (d) relating to cooperative agreements between the
3 department and local boards of health; and

4 (e) setting performance standards for local boards of
5 health, local health officers, and sanitarians to meet as a
6 condition to receipt of funds provided by the department
7 pursuant to [section 17].

8 (2) Any rule relating to the design, construction,
9 reconstruction, alteration, conversion, repair, inspection,
10 or use of buildings or installation of equipment in
11 buildings is effective only when it has been adopted by the
12 department of commerce as part of the state building code
13 and filed with the secretary of state pursuant to
14 50-60-204."

15 **Section 3.** Section 50-53-104, MCA, is amended to read:

16 "50-53-104. Powers of health officers -- enforcement
17 authority. Authorized employees of the department and local
18 boards of health may:

19 (1) at reasonable times inspect public swimming pools
20 and public bathing places and otherwise conduct
21 investigations to determine if provisions of this chapter
22 and rules of the department have been or are being violated
23 and make reports to the department concerning the
24 inspections;

25 (2) request an injunction from the district court to

1 enjoin actions in violation of this chapter or rules adopted
2 by the department;

3 (3) bring actions to abate nuisances maintained in
4 violation of this chapter in the manner provided by law for
5 the summary abatement of other public nuisances;

6 (4) ~~enforce---rules--adopted--by--the--department~~ file
7 complaints with the district court for assessment of the
8 penalties provided for in [section 15] or for recovery of
9 costs provided for in [section 16], or both."

10 NEW SECTION. Section 4. License required -- exemption
11 -- validation. (1) Except as provided in subsection (3), a
12 person may not operate a public swimming pool or public
13 bathing place without annually obtaining a license from the
14 department.

15 (2) A separate license is required for each public
16 swimming pool or public bathing place unless more than one
17 public swimming pool is operated on the same premises by the
18 same person, in which case a single license is required for
19 all public swimming pools on the premises.

20 (3) The state or a political subdivision of the state
21 owning or operating a public swimming pool or public bathing
22 place is not required to obtain a license under subsection
23 (1) but must comply with the health and safety requirements
24 in 50-53-101 through 50-53-109 and [sections 4 through 17]
25 and the rules of the department.

1 (4) A license issued by the department is not valid
2 unless signed in accordance with [section 7] or in
3 accordance with [section 8], in the case of an appeal.

4 NEW SECTION. Section 5. Application for and right to
5 license. (1) An application for both an original and renewal
6 license to operate a public swimming pool or public bathing
7 place must be made to the department, must contain the
8 information required by the department, and must be
9 accompanied by the fee provided for in [section 6].

10 (2) A license must be issued to an applicant who has
11 satisfied the requirements for a license provided in
12 50-53-101 through 50-53-109, [sections 4 through 17], and
13 department rules.

14 (3) Upon issuing a license, the department shall
15 forward the license to the appropriate local health officer
16 for validation as provided in [section 7].

17 NEW SECTION. Section 6. License fee and late fee --
18 disposition. (1) (a) Except as provided in subsection
19 (1)(b), each application for an original or renewal license
20 must be accompanied by a license fee of \$75.

21 (b) The fee for an original or renewal license for a
22 public swimming pool or public bathing place operated in
23 conjunction with a public accommodation is \$50.

24 (2) An operator of a public swimming pool or public
25 bathing place who fails to renew a license by the expiration

1 date provided in [section 9] and who operates the public
 2 swimming pool or public bathing place in the license year
 3 for which no renewal fee was paid shall, upon renewal, pay
 4 to the department a late renewal fee of \$25 in addition to
 5 the renewal fee required by subsection (1). Payment of the
 6 late renewal fee does not relieve the operator of
 7 responsibility for any operation without a license.

8 (3) The department shall deposit 85% of the fees
 9 collected under subsection (1) in the state special revenue
 10 fund to the credit of the local board inspection fund
 11 account created by 50-2-108. Money deposited in the local
 12 board inspection fund account is subject to appropriation by
 13 the legislature for the purposes of [section 17].

14 (4) The department shall deposit 15% of the fees
 15 collected under subsection (1) and all the fees collected
 16 under subsection (2) in an account in the state special
 17 revenue fund to be appropriated by the legislature to the
 18 department for the enforcement of 50-53-101 through
 19 50-53-109 and [sections 4 through 17].

20 NEW SECTION. Section 7. validation of license required
 21 -- validation by local officer. (1) A license issued by the
 22 department under 50-53-101 through 50-53-109 and [sections 4
 23 through 17] is not valid until it is signed by the local
 24 health officer of the jurisdiction in which the public
 25 swimming pool or public bathing place is located.

1 (2) The local health officer shall, within 15 days of
 2 receipt of the license, validate or refuse to validate the
 3 license. Failure of the officer to validate a license is a
 4 refusal for the purposes of [section 8].

5 NEW SECTION. Section 8. Refusal of health officer to
 6 validate -- appeal to board. (1) A local health officer may
 7 refuse to validate a license issued by the department under
 8 50-53-101 through 50-53-109 and [sections 4 through 17] only
 9 if the officer determines that the license applicant has not
 10 met the requirements for the issuance of a license under
 11 50-53-101 through 50-53-109, [sections 4 through 17], and
 12 the rules of the department. If the local health officer
 13 refuses to validate a license, the officer shall notify the
 14 license applicant and the department of the refusal within 5
 15 days of his decision. The notice must state the grounds for
 16 the refusal.

17 (2) The license applicant may appeal the decision of
 18 the local health officer to the local board of health by
 19 filing a written notice of appeal with the officer and the
 20 board within 30 days of the officer's refusal or within 30
 21 days of the expiration of the period for the officer's
 22 decision under [section 7], whichever is first.

23 (3) Upon filing the notice of appeal, the license
 24 applicant is entitled to a hearing before the board to
 25 determine the applicant's eligibility for a license under

1 50-53-101 through 50-53-109, [sections 4 through 17], and
 2 the rules of the department. The hearing must be held
 3 pursuant to the contested case procedure of the Montana
 4 Administrative Procedure Act. If the board finds that the
 5 applicant is entitled to a validated license, the chairman
 6 of the board shall validate the license by signing the
 7 license.

8 NEW SECTION. Section 9. License expiration --
 9 nontransferability. (1) A license issued under 50-53-101
 10 through 50-53-109 and [sections 4 through 17] expires on
 11 December 31 of the year of issuance unless it is suspended
 12 or canceled by the department before that date.

13 (2) A license issued under 50-53-101 through 50-53-109
 14 and [sections 4 through 17] is not transferable.

15 NEW SECTION. Section 10. Cooperative agreements --
 16 inspections. (1) The department may enter into cooperative
 17 agreements with local boards of health to authorize those
 18 boards to act as agents of the department and to conduct
 19 inspections of and enforce applicable statutes and
 20 department rules relating to public swimming pools and
 21 public bathing places within the jurisdictions of the
 22 respective boards.

23 (2) The department or a local board of health, pursuant
 24 to a cooperative agreement, shall annually conduct:

25 (a) at least one full facility inspection and one

1 critical point inspection of each public swimming pool or
 2 public bathing place operated throughout the year; and

3 (b) at least one full facility inspection of each
 4 seasonal public swimming pool or public bathing place.

5 NEW SECTION. Section 11. Denial, suspension, or
 6 cancellation of license -- multiple pool facility. (1) The
 7 department may deny, suspend, or cancel a license if it
 8 finds that the license applicant or licensee has violated
 9 50-53-101 through 50-53-109, [sections 4 through 17], or the
 10 rules of the department and has failed or refused to remedy
 11 or correct the violation in accordance with the procedure
 12 provided in [section 13].

13 (2) If the license of an operator who operates more
 14 than one public swimming pool under one license is denied,
 15 suspended, or canceled, the use of all of the public
 16 swimming pools on the premises must cease unless the
 17 department determines that the violation for which the
 18 license was denied, suspended, or canceled does not affect
 19 the operation or the use of all of the public swimming pools
 20 on the premises.

21 NEW SECTION. Section 12. Administrative enforcement --
 22 notice -- department hearing. (1) A license may not be
 23 denied, suspended, or canceled or corrective action may not
 24 be ordered by the department unless the department delivers
 25 to the license applicant or licensee a written notice of

1 violation that contains a written statement of the facts
 2 constituting the violation and a citation to the statute or
 3 rule of the department alleged to have been violated. No
 4 further administrative enforcement action may be taken by
 5 the department pursuant to the notice if within 10 days
 6 after receipt of the notice, the license applicant or
 7 licensee complies with the provisions of [section 13].

8 (2) The department may combine with any notice issued
 9 under subsection (1) an order for the suspension or
 10 cancellation of a license or for corrective action as the
 11 department finds necessary to remedy the violation evidenced
 12 in the notice. The order becomes final 10 days after service
 13 unless within that time the license applicant or licensee
 14 requests a hearing pursuant to subsection (4) or submits a
 15 corrective action plan in accordance with [section 13].

16 (3) The department may combine with any notice or order
 17 issued under subsection (1) or (2) an order for the license
 18 applicant or licensee to appear before the department within
 19 a time specified by the department and show cause why the
 20 department should not deny, suspend, or cancel the license
 21 or otherwise order compliance with 50-53-101 through
 22 50-53-109, [sections 4 through 17], and the rules of the
 23 department.

24 (4) A hearing requested by a license applicant or
 25 licensee must be made in writing to the department and must

1 specify the mistake in the facts or law relied on by the
 2 department. A hearing held pursuant to this section must be
 3 held in accordance with the contested case procedure of the
 4 Montana Administrative Procedure Act. Following a hearing,
 5 the department may issue an appropriate order. Service of
 6 notice or an order mailed by the department is complete upon
 7 mailing.

8 NEW SECTION. Section 13. Compliance with corrective
 9 action plan as bar to further administrative enforcement.
 10 The department may not deny, suspend, or cancel the license
 11 or require corrective action of an operator of a public
 12 swimming pool or public bathing place who received a notice
 13 of violation from the department pursuant to [section 12]
 14 if:

15 (1) the operator submits a plan to correct the
 16 violation to the department within 10 days of service of the
 17 notice;

18 (2) the department approves the plan in writing,
 19 including the time in which the plan must be complied with;
 20 and

21 (3) the operator complies with the plan within the time
 22 period prescribed by the department.

23 NEW SECTION. Section 14. Return of license for
 24 alteration or destruction. Upon cancellation of a license or
 25 the right to operate one or more public swimming pools under

1 a single license for the premises, the operator of the
 2 public swimming pool shall return the license to the
 3 department for destruction of the license or deletion of the
 4 listing of the public swimming pool affected by the
 5 cancellation. Cancellation by the department of a license to
 6 operate a public swimming pool is effective notwithstanding
 7 the refusal or failure of an operator to return the license
 8 to the department.

9 NEW SECTION. Section 15. Civil penalties -- other
 10 enforcement not barred. (1) A person who violates a
 11 provision of 50-53-101 through 50-53-109 and [sections 4
 12 through 17], the rules of the department implementing those
 13 sections, an order of the department, or any condition of a
 14 license issued by the department is subject to a civil
 15 penalty not to exceed \$500 for each violation. ~~Each--day--of~~
 16 ~~violation-constitutes-a-separate-violation-~~

17 (2) An action for collection of a civil penalty under
 18 this section does not bar administrative enforcement under
 19 [section 12], an action for injunctive relief under
 20 50-53-104, or enforcement under 50-53-109.

21 NEW SECTION. Section 16. Recovery of costs by
 22 department or local jurisdiction. In a civil or criminal
 23 action brought by the department or a local jurisdiction to
 24 enforce the requirements of 50-53-101 through 50-53-109 and
 25 [sections 4 through 17], the rules of the department, or any

1 condition of a license or to assess civil penalties and in
 2 an action brought by the department to enforce an order of
 3 the department, the court may, IN THE CASE OF AN INTENTIONAL
 4 VIOLATION OF 50-53-101 THROUGH 50-53-109 AND [SECTIONS 4
 5 THROUGH 17], assess the operator of the public swimming pool
 6 or public bathing facility for the costs of any
 7 investigation and the costs of the civil or criminal action,
 8 including reasonable attorney fees.

9 NEW SECTION. Section 17. Department to pay board for
 10 inspections or enforcement, or both. (1) By June 30 of each
 11 year, the department shall pay to a local board of health
 12 established under 50-2-104, 50-2-106, or 50-2-107 an amount
 13 from the local board inspection fund account, created by
 14 50-2-108, for the purpose of inspecting public swimming
 15 pools and public bathing places licensed under 50-53-101
 16 through 50-53-109 and [sections 4 through 17] or for taking
 17 appropriate enforcement action with respect to the public
 18 swimming pools and public bathing places, or for both
 19 inspection and enforcement. The payment required by this
 20 section must be made to a board only if the board and any
 21 local health officer and sanitarian for the jurisdiction of
 22 the board meet the program performance standards established
 23 by department rules.

24 (2) Money received by the board pursuant to subsection
 25 (1) may be used only for the purpose of inspections and

1 enforcement under 50-53-101 through 50-53-109 and [sections
2 4 through 17] and must be used to supplement and not
3 supplant other money received by the board for the same
4 purpose.

5 (3) The department may use money in the local board
6 inspection fund account appropriated to the department for
7 the enforcement of 50-53-101 through 50-53-109, [sections 4
8 through 17], and the rules of the department and for
9 inspections to determine compliance with those sections and
10 rules in any local jurisdiction not receiving payment under
11 subsection (1).

12 **SECTION 18. SECTION 50-2-118, MCA, IS AMENDED TO READ:**

13 **"50-2-118. Powers and duties of local health officers.**

14 (1) Local health officers or their authorized
15 representatives shall:

16 (a) make inspections for sanitary conditions;

17 (b) as directed by the local board, issue written
18 orders for the destruction and removal of filth which might
19 cause disease;

20 (c) with written approval of the department, order
21 buildings or facilities where people congregate closed
22 during epidemics;

23 (d) on forms provided by the department, report
24 communicable diseases to the department each week;

25 (e) before the first day of January, April, July, and

1 October, give a report to the local board of sanitary
2 conditions in the county, city, city-county, or district,
3 together with a detailed account of his activities, on forms
4 and containing information required by the department;

5 (f) before the 10th day after the report is given to
6 the local board, send a copy of the report required by
7 subsection (1)(e) of this section to the department;

8 (g) as prescribed by rules adopted by the department,
9 establish and maintain quarantines;

10 (h) as prescribed by rules adopted by the department,
11 supervise the disinfection of places at the expense of the
12 local board when a period of quarantine ends;

13 (i) notify the department of his appointment and
14 changes in membership of the local board;

15 (j) file a complaint with the appropriate court if this
16 chapter or rules adopted by the local board or state
17 department under this chapter are violated;

18 (k) validate state licenses issued by the department in
19 accordance with chapters 50~~7~~⁵¹~~7~~-and-52 through 53 of this
20 title.

21 (2) With approval of the department, local health
22 officers may forbid persons to assemble in a place if the
23 assembly endangers public health.

24 (3) A local health officer who is a physician may be
25 placed in charge of a communicable disease hospital, but a

1 local health officer who is a physician is not required to
2 act as a physician to the indigent.

3 (4) A local health officer who is not a physician shall
4 not act as a physician to anyone."

5 NEW SECTION. Section 19. Codification instruction.
6 [Sections 4 through 17] are intended to be codified as an
7 integral part of Title 50, chapter 53, and the provisions of
8 Title 50, chapter 53, apply to [sections 4 through 17].

9 NEW SECTION. Section 20. Effective dates. (1)
10 [Sections 2, 6, and this section] are effective on passage
11 and approval.

12 (2) [Sections 1, 3 through 5, and 7 through ~~18~~ 19] are
13 effective January 1, 1992.

-End-

1 HOUSE BILL NO. 994

2 INTRODUCED BY HANSEN, BROOKE, DOLEZAL, G. BECK, J. BROWN,
 3 SQUIRES, J. DEBRUYCKER, STRIZICH, KEATING
 4 BY REQUEST OF THE DEPARTMENT OF HEALTH AND
 5 ENVIRONMENTAL SCIENCES
 6

7 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE LICENSING
 8 OF PUBLIC SWIMMING POOLS AND PUBLIC BATHING PLACES;
 9 AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL
 10 SCIENCES TO ADMINISTER A LICENSING PROGRAM AND TO ADOPT
 11 RULES; ESTABLISHING LICENSE FEES; PROVIDING FOR THE
 12 VALIDATION OF LICENSES BY LOCAL HEALTH OFFICERS OR BOARDS;
 13 AUTHORIZING THE DEPARTMENT TO ENTER INTO COOPERATIVE
 14 AGREEMENTS FOR THE INSPECTION OF PUBLIC SWIMMING POOLS AND
 15 PUBLIC BATHING PLACES AND FOR ENFORCEMENT; PROVIDING FOR THE
 16 PAYMENT OF A PORTION OF THE FEES TO LOCAL GOVERNMENTS FOR
 17 INSPECTION AND ENFORCEMENT; PROVIDING FOR ADMINISTRATIVE AND
 18 JUDICIAL ENFORCEMENT; PROVIDING FOR THE RECOVERY OF
 19 ENFORCEMENT COSTS AND FOR CIVIL PENALTIES; AMENDING SECTIONS
 20 50-2-118, 50-53-102, 50-53-103, AND 50-53-104, MCA; AND
 21 PROVIDING EFFECTIVE DATES."
 22

23 STATEMENT OF INTENT

24 A statement of intent is required for this bill because
 25 [section 2] requires the department of health and

1 environmental sciences to adopt rules relating to licensing
 2 of public swimming pools and public bathing places,
 3 enforcement procedures, cooperative agreements, procedures
 4 for hearings to be held by local boards of health, and
 5 performance standards for local boards of health, health
 6 officers, and sanitarians. Sanitation and safety standards
 7 contained in rules already adopted by the department and
 8 currently published in Title 16, chapter 10, subchapters 12,
 9 13, and 15, Administrative Rules of Montana, may be
 10 incorporated into new department rules as standards for
 11 licensing public swimming pools and public bathing places.
 12

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

14 **Section 1.** Section 50-53-102, MCA, is amended to read:

15 **"50-53-102. Definitions.** As used in this chapter,
 16 unless the context clearly indicates otherwise, the
 17 following definitions apply:

18 (1) "Department" means the department of health and
 19 environmental sciences, provided for in Title 2, chapter 15,
 20 part 21.

21 (2) "Local board of health" or "board" means a local
 22 board as defined in 50-2-101.

23 (3) "Local health officer" or "officer" means a local
 24 health officer as defined in 50-2-101.

25 ~~+2~~(4) "Person" means a person, firm, partnership,

1 corporation, organization, the state, or any political
2 subdivision of the state.

3 ~~†3†~~(5) "Public bathing place" means a body of water
4 with bathhouses and related appurtenances operated for the
5 public.

6 ~~†4†~~(6) "Public swimming pool" means an artificial pool
7 and bathhouses and related appurtenances for swimming,
8 bathing, or wading, including natural hot water pools. The
9 term does not include:

10 (a) swimming pools located on private property used for
11 swimming or bathing only by the owner, members of his
12 family, or their invited guests; or

13 (b) medicinal hot water baths for individual use."

14 **Section 2.** Section 50-53-103, MCA, is amended to read:

15 "50-53-103. ~~Sanitation-and-safety~~ Department rules. (1)
16 The department shall adopt rules relating to the operation
17 of public swimming pools and public bathing places,
18 including rules:

19 (a) setting standards to ensure sanitation and safety in
20 public swimming pools and public bathing places to protect
21 public health and safety;

22 (b) relating to the licensing of operators of public
23 swimming pools and public bathing places;

24 (c) providing procedures for the enforcement of the
25 laws and rules relating to public swimming pools and public

1 bathing places;

2 (d) relating to cooperative agreements between the
3 department and local boards of health; and

4 (e) setting performance standards for local boards of
5 health, local health officers, and sanitarians to meet as a
6 condition to receipt of funds provided by the department
7 pursuant to [section 17].

8 (2) Any rule relating to the design, construction,
9 reconstruction, alteration, conversion, repair, inspection,
10 or use of buildings or installation of equipment in
11 buildings is effective only when it has been adopted by the
12 department of commerce as part of the state building code
13 and filed with the secretary of state pursuant to
14 50-60-204."

15 **Section 3.** Section 50-53-104, MCA, is amended to read:

16 "50-53-104. Powers of health officers -- enforcement
17 authority. Authorized employees of the department and local
18 boards of health may:

19 (1) at reasonable times inspect public swimming pools
20 and public bathing places and otherwise conduct
21 investigations to determine if provisions of this chapter
22 and rules of the department have been or are being violated
23 and make reports to the department concerning the
24 inspections;

25 (2) request an injunction from the district court to

1 enjoin actions in violation of this chapter or rules adopted
2 by the department;

3 (3) bring actions to abate nuisances maintained in
4 violation of this chapter in the manner provided by law for
5 the summary abatement of other public nuisances;

6 (4) ~~enforce---rules--adopted--by--the--department~~ file
7 complaints with the district court for assessment of the
8 penalties provided for in [section 15] or for recovery of
9 costs provided for in [section 16], or both."

10 **NEW SECTION. Section 4.** License required -- exemption
11 -- validation. (1) Except as provided in subsection (3), a
12 person may not operate a public swimming pool or public
13 bathing place without annually obtaining a license from the
14 department.

15 (2) A separate license is required for each public
16 swimming pool or public bathing place unless more than one
17 public swimming pool is operated on the same premises by the
18 same person, in which case a single license is required for
19 all public swimming pools on the premises.

20 (3) The state or a political subdivision of the state
21 owning or operating a public swimming pool or public bathing
22 place is not required to obtain a license under subsection
23 (1) but must comply with the health and safety requirements
24 in 50-53-101 through 50-53-109 and [sections 4 through 17]
25 and the rules of the department.

1 (4) A license issued by the department is not valid
2 unless signed in accordance with [section 7] or in
3 accordance with [section 8], in the case of an appeal.

4 **NEW SECTION. Section 5.** Application for and right to
5 license. (1) An application for both an original and renewal
6 license to operate a public swimming pool or public bathing
7 place must be made to the department, must contain the
8 information required by the department, and must be
9 accompanied by the fee provided for in [section 6].

10 (2) A license must be issued to an applicant who has
11 satisfied the requirements for a license provided in
12 50-53-101 through 50-53-109, [sections 4 through 17], and
13 department rules.

14 (3) Upon issuing a license, the department shall
15 forward the license to the appropriate local health officer
16 for validation as provided in [section 7].

17 **NEW SECTION. Section 6.** License fee and late fee --
18 disposition. (1) (a) Except as provided in subsection
19 (1)(b), each application for an original or renewal license
20 must be accompanied by a license fee of \$75.

21 (b) The fee for an original or renewal license for a
22 public swimming pool or public bathing place operated in
23 conjunction with a public accommodation is \$50.

24 (2) An operator of a public swimming pool or public
25 bathing place who fails to renew a license by the expiration

1 date provided in [section 9] and who operates the public
 2 swimming pool or public bathing place in the license year
 3 for which no renewal fee was paid shall, upon renewal, pay
 4 to the department a late renewal fee of \$25 in addition to
 5 the renewal fee required by subsection (1). Payment of the
 6 late renewal fee does not relieve the operator of
 7 responsibility for any operation without a license.

8 (3) The department shall deposit 85% of the fees
 9 collected under subsection (1) in the state special revenue
 10 fund to the credit of the local board inspection fund
 11 account created by 50-2-108. Money deposited in the local
 12 board inspection fund account is subject to appropriation by
 13 the legislature for the purposes of [section 17].

14 (4) The department shall deposit 15% of the fees
 15 collected under subsection (1) and all the fees collected
 16 under subsection (2) in an account in the state special
 17 revenue fund to be appropriated by the legislature to the
 18 department for the enforcement of 50-53-101 through
 19 50-53-109 and [sections 4 through 17].

20 **NEW SECTION. Section 7. Validation of license required**
 21 **-- validation by local officer.** (1) A license issued by the
 22 department under 50-53-101 through 50-53-109 and [sections 4
 23 through 17] is not valid until it is signed by the local
 24 health officer of the jurisdiction in which the public
 25 swimming pool or public bathing place is located.

1 (2) The local health officer shall, within 15 days of
 2 receipt of the license, validate or refuse to validate the
 3 license. Failure of the officer to validate a license is a
 4 refusal for the purposes of [section 8].

5 **NEW SECTION. Section 8. Refusal of health officer to**
 6 **validate -- appeal to board.** (1) A local health officer may
 7 refuse to validate a license issued by the department under
 8 50-53-101 through 50-53-109 and [sections 4 through 17] only
 9 if the officer determines that the license applicant has not
 10 met the requirements for the issuance of a license under
 11 50-53-101 through 50-53-109, [sections 4 through 17], and
 12 the rules of the department. If the local health officer
 13 refuses to validate a license, the officer shall notify the
 14 license applicant and the department of the refusal within 5
 15 days of his decision. The notice must state the grounds for
 16 the refusal.

17 (2) The license applicant may appeal the decision of
 18 the local health officer to the local board of health by
 19 filing a written notice of appeal with the officer and the
 20 board within 30 days of the officer's refusal or within 30
 21 days of the expiration of the period for the officer's
 22 decision under [section 7], whichever is first.

23 (3) Upon filing the notice of appeal, the license
 24 applicant is entitled to a hearing before the board to
 25 determine the applicant's eligibility for a license under

1 50-53-101 through 50-53-109, [sections 4 through 17], and
 2 the rules of the department. The hearing must be held
 3 pursuant to the contested case procedure of the Montana
 4 Administrative Procedure Act. If the board finds that the
 5 applicant is entitled to a validated license, the chairman
 6 of the board shall validate the license by signing the
 7 license.

8 NEW SECTION. Section 9. License expiration --
 9 nontransferability. (1) A license issued under 50-53-101
 10 through 50-53-109 and [sections 4 through 17] expires on
 11 December 31 of the year of issuance unless it is suspended
 12 or canceled by the department before that date.

13 (2) A license issued under 50-53-101 through 50-53-109
 14 and [sections 4 through 17] is not transferable.

15 NEW SECTION. Section 10. Cooperative agreements --
 16 inspections. (1) The department may enter into cooperative
 17 agreements with local boards of health to authorize those
 18 boards to act as agents of the department and to conduct
 19 inspections of and enforce applicable statutes and
 20 department rules relating to public swimming pools and
 21 public bathing places within the jurisdictions of the
 22 respective boards.

23 (2) The department or a local board of health, pursuant
 24 to a cooperative agreement, shall annually conduct:

25 (a) at least one full facility inspection and one

1 critical point inspection of each public swimming pool or
 2 public bathing place operated throughout the year; and
 3 (b) at least one full facility inspection of each
 4 seasonal public swimming pool or public bathing place.

5 NEW SECTION. Section 11. Denial, suspension, or
 6 cancellation of license -- multiple pool facility. (1) The
 7 department may deny, suspend, or cancel a license if it
 8 finds that the license applicant or licensee has violated
 9 50-53-101 through 50-53-109, [sections 4 through 17], or the
 10 rules of the department and has failed or refused to remedy
 11 or correct the violation in accordance with the procedure
 12 provided in [section 13].

13 (2) If the license of an operator who operates more
 14 than one public swimming pool under one license is denied,
 15 suspended, or canceled, the use of all of the public
 16 swimming pools on the premises must cease unless the
 17 department determines that the violation for which the
 18 license was denied, suspended, or canceled does not affect
 19 the operation or the use of all of the public swimming pools
 20 on the premises.

21 NEW SECTION. Section 12. Administrative enforcement --
 22 notice -- department hearing. (1) A license may not be
 23 denied, suspended, or canceled or corrective action may not
 24 be ordered by the department unless the department delivers
 25 to the license applicant or licensee a written notice of

1 violation that contains a written statement of the facts
 2 constituting the violation and a citation to the statute or
 3 rule of the department alleged to have been violated. No
 4 further administrative enforcement action may be taken by
 5 the department pursuant to the notice if within 10 days
 6 after receipt of the notice, the license applicant or
 7 licensee complies with the provisions of [section 13].

8 (2) The department may combine with any notice issued
 9 under subsection (1) an order for the suspension or
 10 cancellation of a license or for corrective action as the
 11 department finds necessary to remedy the violation evidenced
 12 in the notice. The order becomes final 10 days after service
 13 unless within that time the license applicant or licensee
 14 requests a hearing pursuant to subsection (4) or submits a
 15 corrective action plan in accordance with [section 13].

16 (3) The department may combine with any notice or order
 17 issued under subsection (1) or (2) an order for the license
 18 applicant or licensee to appear before the department within
 19 a time specified by the department and show cause why the
 20 department should not deny, suspend, or cancel the license
 21 or otherwise order compliance with 50-53-101 through
 22 50-53-109, [sections 4 through 17], and the rules of the
 23 department.

24 (4) A hearing requested by a license applicant or
 25 licensee must be made in writing to the department and must

1 specify the mistake in the facts or law relied on by the
 2 department. A hearing held pursuant to this section must be
 3 held in accordance with the contested case procedure of the
 4 Montana Administrative Procedure Act. Following a hearing,
 5 the department may issue an appropriate order. Service of
 6 notice or an order mailed by the department is complete upon
 7 mailing.

8 NEW SECTION. **Section 13. Compliance with corrective**
 9 **action plan as bar to further administrative enforcement.**
 10 The department may not deny, suspend, or cancel the license
 11 or require corrective action of an operator of a public
 12 swimming pool or public bathing place who received a notice
 13 of violation from the department pursuant to [section 12]
 14 if:

15 (1) the operator submits a plan to correct the
 16 violation to the department within 10 days of service of the
 17 notice;

18 (2) the department approves the plan in writing,
 19 including the time in which the plan must be complied with;
 20 and

21 (3) the operator complies with the plan within the time
 22 period prescribed by the department.

23 NEW SECTION. **Section 14. Return of license for**
 24 **alteration or destruction.** Upon cancellation of a license or
 25 the right to operate one or more public swimming pools under

1 a single license for the premises, the operator of the
 2 public swimming pool shall return the license to the
 3 department for destruction of the license or deletion of the
 4 listing of the public swimming pool affected by the
 5 cancellation. Cancellation by the department of a license to
 6 operate a public swimming pool is effective notwithstanding
 7 the refusal or failure of an operator to return the license
 8 to the department.

9 NEW SECTION. Section 15. Civil penalties -- other
 10 enforcement not barred. (1) A person who violates a
 11 provision of 50-53-101 through 50-53-109 and [sections 4
 12 through 17], the rules of the department implementing those
 13 sections, an order of the department, or any condition of a
 14 license issued by the department is subject to a civil
 15 penalty not to exceed \$500 for each violation. ~~Each--day--of~~
 16 ~~violation-constitutes-a-separate-violation:~~

17 (2) An action for collection of a civil penalty under
 18 this section does not bar administrative enforcement under
 19 [section 12], an action for injunctive relief under
 20 50-53-104, or enforcement under 50-53-109.

21 NEW SECTION. Section 16. Recovery of costs by
 22 department or local jurisdiction. In a civil or criminal
 23 action brought by the department or a local jurisdiction to
 24 enforce the requirements of 50-53-101 through 50-53-109 and
 25 [sections 4 through 17], the rules of the department, or any

1 condition of a license or to assess civil penalties and in
 2 an action brought by the department to enforce an order of
 3 the department, the court may, IN THE CASE OF AN INTENTIONAL
 4 VIOLATION OF 50-53-101 THROUGH 50-53-109 AND [SECTIONS 4
 5 THROUGH 17], assess the operator of the public swimming pool
 6 or public bathing facility for the costs of any
 7 investigation and the costs of the civil or criminal action,
 8 including reasonable attorney fees.

9 NEW SECTION. Section 17. Department to pay board for
 10 inspections or enforcement, or both. (1) By June 30 of each
 11 year, the department shall pay to a local board of health
 12 established under 50-2-104, 50-2-106, or 50-2-107 an amount
 13 from the local board inspection fund account, created by
 14 50-2-108, for the purpose of inspecting public swimming
 15 pools and public bathing places licensed under 50-53-101
 16 through 50-53-109 and [sections 4 through 17] or for taking
 17 appropriate enforcement action with respect to the public
 18 swimming pools and public bathing places, or for both
 19 inspection and enforcement. The payment required by this
 20 section must be made to a board only if the board and any
 21 local health officer and sanitarian for the jurisdiction of
 22 the board meet the program performance standards established
 23 by department rules.

24 (2) Money received by the board pursuant to subsection
 25 (1) may be used only for the purpose of inspections and

1 enforcement under 50-53-101 through 50-53-109 and [sections
2 4 through 17] and must be used to supplement and not
3 supplant other money received by the board for the same
4 purpose.

5 (3) The department may use money in the local board
6 inspection fund account appropriated to the department for
7 the enforcement of 50-53-101 through 50-53-109, [sections 4
8 through 17], and the rules of the department and for
9 inspections to determine compliance with those sections and
10 rules in any local jurisdiction not receiving payment under
11 subsection (1).

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13 **"50-2-118. Powers and duties of local health officers.**

14 (1) Local health officers or their authorized
15 representatives shall:

16 (a) make inspections for sanitary conditions;

17 (b) as directed by the local board, issue written
18 orders for the destruction and removal of filth which might
19 cause disease;

20 (c) with written approval of the department, order
21 buildings or facilities where people congregate closed
22 during epidemics;

23 (d) on forms provided by the department, report
24 communicable diseases to the department each week;

25 (e) before the first day of January, April, July, and

1 October, give a report to the local board of sanitary
2 conditions in the county, city, city-county, or district,
3 together with a detailed account of his activities, on forms
4 and containing information required by the department;

5 (f) before the 10th day after the report is given to
6 the local board, send a copy of the report required by
7 subsection (1)(e) of this section to the department;

8 (g) as prescribed by rules adopted by the department,
9 establish and maintain quarantines;

10 (h) as prescribed by rules adopted by the department,
11 supervise the disinfection of places at the expense of the
12 local board when a period of quarantine ends;

13 (i) notify the department of his appointment and
14 changes in membership of the local board;

15 (j) file a complaint with the appropriate court if this
16 chapter or rules adopted by the local board or state
17 department under this chapter are violated;

18 (k) validate state licenses issued by the department in
19 accordance with chapters ~~507-517~~ and ~~52~~ through 53 of this
20 title.

21 (2) With approval of the department, local health
22 officers may forbid persons to assemble in a place if the
23 assembly endangers public health.

24 (3) A local health officer who is a physician may be
25 placed in charge of a communicable disease hospital, but a

1 local health officer who is a physician is not required to
2 act as a physician to the indigent.

3 (4) A local health officer who is not a physician shall
4 not act as a physician to anyone."

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6 [Sections 4 through 17] are intended to be codified as an
7 integral part of Title 50, chapter 53, and the provisions of
8 Title 50, chapter 53, apply to [sections 4 through 17].

9 NEW SECTION. Section 20. Effective dates. (1)
10 [Sections 2, 6, and this section] are effective on passage
11 and approval.

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