

1 House BILL NO. 551
2 INTRODUCED BY W. Baith

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION
5 AND GENERAL REVISION OF THE LAWS RELATING TO THE MONTANA
6 SAFETY ACT; METAL AND NONMETALLIC MINE SAFETY LAWS; BOILER
7 LAWS; PAYMENT OF SILICOSIS BENEFITS, AND THE OCCUPATIONAL
8 DISEASE ACT; AMENDING SECTIONS 41-1709, 41-1713 THROUGH
9 41-1729, 41-1733, 50-101, 50-102, 50-108, 50-118, 50-119,
10 69-1501, 69-1503, 69-1507, 69-1509, 69-1510, 69-1512,
11 69-1513, 69-1514, 69-1515, 69-1517, 69-1601, 69-1602,
12 69-1604, 71-1001, 71-1002, 71-1005, 71-1006, 71-1007,
13 92-1302, 92-1303, R.C.M. 1947."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 41-1709, R.C.M. 1947, is amended to
17 read as follows:

18 "41-1709. Definitions. Unless context requires
19 otherwise, in this act:

20 (1) ~~"Board" means the industrial accident board of the~~
21 ~~state of Montana~~ "Division" means the division of workers'
22 compensation of the department of labor and industry
23 provided for in section 82A-1004.

24 (2) "Employer" is defined as in section 92-410
25 92-410.1, R.C.M. 1947.

1 (3) "Code" means a standard body of rules for safety
2 formulated, adopted and issued by the board division under
3 the provisions of this act.

4 (4) "Employee" and "~~workmen-worker~~" are defined as in
5 section 92-411, R.C.M. 1947.

6 (5) "Amendment" means such modification or change in a
7 code as shall be intended to be of universal or general
8 application.

9 (6) "Variation" means a special, limited modification
10 or change in the code which is applicable only to the
11 particular place of employment of the employer or person
12 petitioning for such modification or change."

13 Section 2. Section 41-1713, R.C.M. 1947, is amended to
14 read as follows:

15 "41-1713. Board's Division's powers ~~----duty--to~~
16 ~~establish-department-of-safety-under-a-safety--director --~~
17 ~~rule-making power -- subpoena and other powers.~~ In the
18 administration of this act the board division:

19 (1) Is vested with full power and jurisdiction over,
20 and shall have such supervision of, every employment and
21 place of employment in this state as may be necessary to
22 enforce and administer all laws and all lawful orders
23 requiring such employment and places of employment to be
24 safe and requiring the protection of the life and safety of
25 every employee in such employment or place of employment.

1 (2) Shall ~~establish--a-department-of-safety-under-the~~
 2 ~~supervision-of-a-safety-director,-to-be--appointed--by--the~~
 3 ~~board,-to~~ carry out the provisions of this act. The safety
 4 ~~director~~ bureau chief shall be a person with at least two
 5 (2) years' experience or training in the field of industrial
 6 safety.

7 (3) May ~~make,-establish,-promulgate~~ adopt and enforce
 8 all necessary and reasonable rules and provisions for the
 9 purpose of carrying this act into effect and in reference to
 10 the investigation of all violations of this act and fix and
 11 set the time and place for all hearings which may be
 12 necessary or expedient for the purpose of carrying the
 13 provisions of this act into effect.

14 (4) May on its own motion or at the request of others,
 15 subpoena witnesses, administer oaths, take depositions and
 16 fix the fees and mileage of witnesses and compel the
 17 attendance of witnesses and the production of papers, books,
 18 accounts, documents and testimony in any inquiry,
 19 investigation, hearing or proceeding in any part of this
 20 state, and the board division shall provide for defraying
 21 the expenses thereof."

22 Section 3. Section 41-1714, R.C.M. 1947, is amended to
 23 read as follows:

24 "41-1714. Compelling witnesses to appear in response
 25 to subpoena -- contempt. (1) The board division or any

1 member thereof, before whom testimony is to be given or
 2 produced, in the case of refusal of any witness to attend or
 3 testify or produce any papers required by such subpoena, may
 4 in applying to the district court in and for the county in
 5 which the proceeding is pending show that the witness has
 6 been subpoenaed in the manner prescribed and the witness has
 7 failed or refused to attend or produce the papers required
 8 by the subpoena or has refused to answer questions
 9 propounded to him in the course of such proceeding, and ask
 10 the court to compel the witness to attend and testify or
 11 produce such papers before the board division.

12 (2) The court, upon such application, shall enter an
 13 order directing the witness to appear before the court at a
 14 time and place to be fixed by the court then and there to
 15 show cause why he the witness has not attended and testified
 16 or produced the papers before the board division or any
 17 member thereof.

18 (3) A copy of the order shall be served upon the
 19 witness.

20 (4) If it is apparent to the court that the subpoena
 21 was regularly issued by the board division or member
 22 thereof, the court thereupon shall enter an order that the
 23 witness appear before the board division or member thereof
 24 at a time and place to be fixed in such order, and testify
 25 and produce the required papers and upon failure to obey the

1 order the witness shall be dealt with as for contempt of
2 court."

3 Section 4. Section 41-1715, R.C.M. 1947, is amended to
4 read as follows:

5 "41-1715. ~~Board's~~ Division's power to prescribe safety
6 devices and fix and order safety standards. The ~~board~~
7 division may, after hearing had upon its own motion or upon
8 complaint, by safety orders, rules or otherwise:

9 (1) Declare and prescribe what safety devices,
10 safeguards or other means or methods of protection are well
11 adapted to render the employees of every employment and
12 place of employment safe as required by law.

13 (2) Fix reasonable standards and prescribe, modify and
14 enforce such reasonable orders for the adoption,
15 installation, use, maintenance and operation of safety
16 devices, safeguards and other means or methods of
17 protection, to be as nearly uniform as possible, as may be
18 necessary to carry out all laws and lawful orders relative
19 to the protection of the life and safety of the employees
20 and places of employment.

21 (3) Fix and order such reasonable standards for the
22 construction, repair and maintenance of places of employment
23 and equipment as shall render them safe.

24 (4) Require the performance of any other act which the
25 protection of the life and safety of employees in

1 employments and places of employment may demand."

2 Section 5. Section 41-1716, R.C.M. 1947, is amended to
3 read as follows:

4 "41-1716. Notice of hearing on rules and codes. Upon
5 the fixing of a time and place for the holding of a public
6 hearing for the purpose of considering and issuing rules and
7 codes, as authorized in this act, the ~~board~~ division shall
8 cause a notice of the hearing to be published in one or more
9 daily newspapers of general circulation published in this
10 state and in such other papers of general circulation in
11 this state as the ~~board~~ division may deem expedient. The
12 notice shall contain a brief statement of the time, place
13 and purpose of the hearing. No defect or inaccuracy in the
14 notice or in the publication thereof shall invalidate any
15 rule or code issued or adopted by the ~~board~~ division after
16 the hearing."

17 Section 6. Section 41-1717, R.C.M. 1947, is amended to
18 read as follows:

19 "41-1717. Order directing additions, repairs, and
20 improvements. Whenever the ~~board~~ division, after a hearing
21 had upon its own motion or upon complaint, finds that an
22 employment or place of employment is not safe, or that the
23 practices or methods or operations or processes employed or
24 used in connection therewith are unsafe, or do not afford
25 adequate protection to the life and safety of the employees

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1 in such employments and place of employment, the ~~board~~
 2 division shall make and enter and serve such order relative
 3 thereto as may be necessary to render such employment or
 4 place of employment safe and protect the life and safety of
 5 employees in such employment and places of employment. The
 6 ~~board~~ division may in the order direct that such additions,
 7 repairs, improvements or changes be made and such safety
 8 devices and safeguards be furnished, provided and used, as
 9 are reasonably required to render such employment or places
 10 of employment safe, in the manner and within the time
 11 specified in the order."

12 Section 7. Section 41-1718, R.C.M. 1947, is amended to
 13 read as follows:

14 "41-1718. Notice of violation of safety code, order or
 15 rule -- penalties for violations -- hearings -- injunction
 16 authorized. (1) The ~~board--or--authorized--representative~~
 17 ~~thereof-with--the--approval--of--the--board--or--the--safety~~
 18 ~~directors~~ division upon finding any violation of any duly
 19 promulgated adopted safety code, order or rule involving
 20 failure to install or maintain any safety appliance, device
 21 or safeguard required by such safety order, code or rule,
 22 may prohibit the further use of the machine, equipment, or
 23 apparatus constituting such violation, and when such use is
 24 prohibited shall post notice in an appropriate place in
 25 plain view of any person likely to use the same calling

1 attention to the unsafe condition, defect, or lack of
 2 safeguard and the fact that the further use thereof is
 3 prohibited.

4 (2) The notice required by subsection (1) of this
 5 section shall not be removed until the required safety
 6 appliance, device or safeguard complies with the requirement
 7 of the safety order or safety code.

8 (3) Every person who, after the notice required by
 9 subsection (1) of this section is posted as provided in that
 10 subsection, uses or operates any place of employment,
 11 machine, device, apparatus or equipment referred to in
 12 subsection (1) of this section before it is made safe and
 13 the required safeguards or safety appliances or devices are
 14 provided, or who defaces or destroys or removes any notice
 15 required by subsection (1) of this section without the
 16 authority of the board division, or who fails or refuses to
 17 file a report of accident as required by section 92-808,
 18 R.C.M. 1947, is guilty of a misdemeanor and, in addition to
 19 the punishment provided for misdemeanors, is subject to a
 20 civil penalty in an amount of not more than one thousand
 21 dollars (\$1,000). This civil penalty may be imposed and
 22 collected by the board division in an action brought in the
 23 name of the state of Montana in the county in which the
 24 employer resides or in which he employs ~~workmen~~ workers. Any
 25 penalty collected under this subsection shall be paid into

1 the industrial accident administrative earmarked revenue
2 account.

3 (4) Any person aggrieved by an order prohibiting the
4 use of the machine, equipment, apparatus or place of
5 employment as provided for in this section may request a
6 hearing before the board division within twenty (20) days
7 after entry of such order. The board division shall then
8 affirm, modify or revoke the order and all procedures of
9 this act relative to entry of orders, rehearing and appeal
10 shall apply.

11 (5) In addition to all other remedies provided in this
12 act, the board division may bring an action to enjoin any
13 violation of any duly ~~promulgated~~ adopted safety order, code
14 or rule."

15 Section 8. Section 41-1719, R.C.M. 1947, is amended to
16 read as follows:

17 "41-1719. Time allowed for compliance with order. The
18 board division shall grant such time as may be reasonably
19 necessary for compliance with any order, and any person
20 affected by the order may petition the board division for an
21 extension of time, which the board division shall grant if
22 it finds the extension of time necessary."

23 Section 9. Section 41-1720, R.C.M. 1947, is amended to
24 read as follows:

25 "41-1720. Order of closure or for cessation of work

1 where place of employment an immediate menace to life or
2 safety. The ~~board or authorized representative thereof, with~~
3 ~~the approval of the board or the safety director,~~ division
4 may order any place of employment closed, or the work
5 therein to cease if it is found that the place of employment
6 is in such an unsafe condition as to constitute an immediate
7 menace to the life or safety of the workmen workers employed
8 therein. Any such order of closure or for cessation of work
9 shall be expressly limited to only that portion of the
10 plant, installation or facility as is directly and
11 immediately affected by the unsafe condition constituting an
12 immediate menace to the life and safety of the workmen
13 workers employed therein. Upon issuance of any such order,
14 the ~~board or safety director~~ division shall fix a place and
15 time, not later than twenty-four (24) hours thereafter, for
16 a hearing to be held before the board division. Not more
17 than twenty-four (24) hours after the commencement of the
18 hearing, and without adjournment thereof, the board division
19 shall affirm, modify, or set aside the order. Nothing in
20 this section shall empower the ~~safety director~~ division to
21 determine that any employment or place of employment is in
22 an unsafe condition on the basis of the number or
23 qualifications of employees operating such employment or
24 place of employment unless a specific rule adopted after
25 public hearing is violated. Provided that for those

1 employments or places of employment for which no code has
 2 been adopted and where it is found by the ~~safety-director~~
 3 division that such place of employment is in such an unsafe
 4 condition as to constitute an immediate menace to the life
 5 or safety of the ~~workmen workers~~ there employed, the ~~safety~~
 6 ~~director~~ division may order that portion of the plant,
 7 installation or facility as is directly and immediately
 8 affected by such unsafe condition closed for a period not to
 9 exceed four (4) hours unless such period be extended by
 10 order of the board division."

11 Section 10. Section 41-1721, R.C.M. 1947, is amended
 12 to read as follows:

13 "41-1721. Judicial review of ~~board's~~ divisions
 14 orders, rules or decisions. (1) The orders of the board
 15 division, its rules, findings and decisions, made and
 16 entered under the provisions of this act, may be reviewed by
 17 the courts within the time and in the manner specified in
 18 this section and not otherwise.

19 (2) Within thirty (30) days after an application for
 20 rehearing is denied, or, if the application is granted,
 21 within thirty (30) days after rendition of the decision on
 22 the rehearing, any party affected thereby may appeal to the
 23 district court for the county in which is situated the place
 24 of employment complained of for the purpose of having the
 25 lawfulness of the original order, or decision, or the order

1 or decision on rehearing inquired into and determined.

2 (3) To give the district court jurisdiction it is
 3 sufficient that a notice be filed with the clerk of the
 4 court to the effect that an appeal is taken to the district
 5 court from the order or decision of the board division and
 6 describing the order or decision sufficiently for purposes
 7 of identification. The notice shall be signed by the party
 8 appealing or his attorney and a copy thereof shall be served
 9 by certified mail upon the board division. Within ten (10)
 10 days after the receipt of the notice, the board division
 11 shall file with the clerk of court the record of proceedings
 12 before the board division, including a transcript of all the
 13 evidence adduced upon the hearing and any rehearing before
 14 the board division. The district court, on application for
 15 good cause shown, may extend the time within which the board
 16 division shall file the record, transcript and evidence. The
 17 cause shall be tried in the same manner as a civil action,
 18 provided that no new or additional evidence may be
 19 introduced in the court, but the cause shall be heard on the
 20 record to the court as certified to it by the board
 21 division.

22 (4) The appeal shall not be extended further than to
 23 determine whether or not:

24 (a) The board division acted without or in excess of
 25 its powers, or in violation of the law;

1 (b) The order or decision was procured by fraud;

2 (c) The order, decision or rule is unreasonable;

3 (d) If findings of fact are made, the finding of fact
4 supports the order or decision under review.

5 (5) An appeal may be taken from the decree of the
6 district court to the supreme court as in all other civil
7 cases."

8 Section 11. Section 41-1722, R.C.M. 1947, is amended
9 to read as follows:

10 "41-1722. Application for rehearing of order,
11 decision, or rule of beard division. Any party aggrieved
12 directly or indirectly by any final order, decision or rule
13 of the beard division made or entered pursuant to this act
14 may apply to the beard division within twenty (20) days
15 after the order of the beard division for rehearing in
16 respect to any matters determined or covered by such final
17 order, decision or rule, and specified in the application,
18 for hearing within the time and in the manner prescribed in
19 this act."

20 Section 12. Section 41-1723, R.C.M. 1947, is amended
21 to read as follows:

22 "41-1723. Application for rehearing -- contents --
23 waiver -- copies to adverse parties -- procedure where no
24 adverse parties. (1) The application for rehearing shall set
25 forth specifically and in full detail the grounds upon which

1 the applicant considers the final order, decision or rule is
2 unjust or unlawful, and every issue to be considered by the
3 beard division.

4 (2) The applicant for rehearing shall be deemed to have
5 finally waived all objections, irregularities and
6 illegalities concerning the matters upon which rehearing is
7 sought other than those set forth in the application.

8 (3) A copy of the application for rehearing shall be
9 served immediately on all adverse parties, who may file an
10 answer thereto within ten (10) days after being served.

11 (4) If there are no adverse parties, the application
12 may be heard ex parte, or the beard division may require the
13 application for rehearing to be served on such parties as
14 may be designated by the beard division."

15 Section 13. Section 41-1724, R.C.M. 1947, is amended
16 to read as follows:

17 "41-1724. Resolution of issues on rehearing -- notice
18 -- disposition. (1) Upon the filing of the application for
19 rehearing, if the issues raised thereby have theretofore
20 been adequately considered by the beard division, it may
21 determine the same by confirming, without hearing, its
22 previous determination, or if a rehearing is necessary to
23 determine one or more of the issues raised, the beard
24 division shall order a rehearing thereon and consider and
25 determine the matters raised by such application.

1 (2) Notice of the time and place of the rehearing shall
2 be given to the applicant, the adverse parties and such
3 other persons as the board division may order.

4 (3) If after the rehearing and the consideration of all
5 the facts, including those arising since the making of the
6 order or decision involved, the board division shall be of
7 the opinion that all or any part of the original order or
8 decision is in any respect unjust or unwarranted, or should
9 be changed, the board division shall abrogate, change or
10 modify the same.

11 (4) An order or decision made after the rehearing,
12 abrogating, changing or modifying the original order or
13 decision shall have the same force and effect as an original
14 order or decision but shall not affect any right or the
15 enforcement of any right arising from or by virtue of the
16 original order or decision unless so ordered by the board
17 division.

18 (5) An application for rehearing is considered denied
19 by the board division unless it has been acted upon within
20 thirty (30) days from the date of filing; provided that the
21 board division may, upon good cause being shown therefor,
22 extend the time within which it may act upon an application
23 for rehearing for not exceeding an additional thirty (30)
24 days."

25 Section 14. Section 41-1725, R.C.M. 1947, is amended

1 to read as follows:

2 "41-1725. Periodic inspections of hazardous places of
3 employment -- report. (1) The board division shall inspect
4 from time to time all the places of employment defined in
5 the Montana ~~Workmen's~~ Workers' Compensation Act as being
6 hazardous and the machinery and appliances therein contained
7 for the purpose of determining whether they conform to law.

8 (2) A report of such periodic inspection shall be filed
9 in the office of the board division and a copy thereof given
10 the employer. Such report shall not be open to public
11 inspection, or made public except on order of the board
12 division, or by the ~~board or a member of the board~~ division
13 in the course of a hearing or in the course of a hearing or
14 proceeding."

15 Section 15. Section 41-1725, R.C.M. 1947, is amended
16 to read as follows:

17 "41-1726. ~~Workmen~~ Workers to notify employers of
18 safety violations -- complaint to board division --
19 investigation. (1) A workman worker shall notify ~~his~~ the
20 worker's employer of any violation of law or regulation
21 pertaining to safety of places of employment when the
22 violation comes to the knowledge of the workman worker.

23 (2) If the employer fails to remedy the violation, the
24 workman worker may complain in writing to the board division
25 of the violation.

1 (3) Upon receiving the complaint the board division
 2 shall forthwith inquire or make an inspection as to the
 3 safety of the place of employment. A copy of the report of
 4 inspection shall be given to the complainant."

5 Section 16. Section 41-1727, R.C.M. 1947, is amended
 6 to read as follows:

7 "~~41-1727. Code-making power. (1) In-addition-to-such~~
 8 ~~other-powers-and-duties-as-may-be-conferred-upon-it-by-law,~~
 9 ~~the-board--shall--have-the-power-to-promulgate~~ The division
 10 may adopt, amend, repeal and enforce rules for the
 11 prevention of accidents to be known as "safety codes" in
 12 every employment and place of employment, including the
 13 repair and maintenance of such places of employment, to
 14 render them safe. In the performance of its duties the board
 15 division may appoint advisory committees to deal with
 16 specified industries composed of equal numbers of employers
 17 and employees; and others to suggest safety codes or
 18 amendments thereto. All such safety codes and rules shall,
 19 when adopted, be not inconsistent with the then existing
 20 widely accepted codes of such engineering bodies as the
 21 American Society of Mechanical Engineers, the American
 22 Standards Association, the American Society of Safety
 23 Engineers, the United States of America Standards Institute,
 24 the National Fire Protection Association, and, in addition,
 25 agencies of the federal government with responsibilities for

1 administering worker safety programs, and other accepted
 2 codes. Any amendments made to such codes by the board
 3 division shall be such that when amended such code shall be
 4 consistent with the widely accepted safety codes as then
 5 existing. All codes and all amendments thereto and repeals
 6 thereof shall take effect thirty (30) days after certified
 7 copies thereof shall be filed in the office of the secretary
 8 of state.

9 (2) Every code adopted and every amendment or repeal
 10 thereof shall be published in such manner as the board
 11 division may determine. A printed list of all titles of all
 12 codes including amendments thereof issued and adopted by the
 13 board division under the provisions of this act, together
 14 with the dates of adoption thereof, shall be published from
 15 time to time."

16 Section 17. Section 41-1728, R.C.M. 1947, is amended
 17 to read as follows:

18 "~~41-1728. Variations. Any employer may consult with~~
 19 ~~the board division for advice and assistance in complying~~
 20 ~~with the provisions of this act or any codes adopted~~
 21 ~~hereunder. In case of practical difficulties, the board~~
 22 ~~division may grant variations from particular provisions of~~
 23 ~~the code and permit the use of other or different devices or~~
 24 ~~methods, provided, however, that~~ However, such variations
 25 shall be granted only when it is clear that the reasonable

1 safety of the workers in ~~said~~ the plant or place of
 2 employment is not thereby endangered. In any case where the
 3 board division shall decline or refuse to grant any request
 4 for variations on the ground that the safety of the workers
 5 involved would be endangered, the employer may request a
 6 rehearing as specified in this act. A properly indexed
 7 record of all variations made shall be kept in the office of
 8 the board division and be open to public inspection."

9 Section 18. Section 41-1729, R.C.M. 1947, is amended
 10 to read as follows:

11 "41-1729. General research and review powers of board
 12 division -- power to appoint advisers. The board division
 13 may: (1) Develop greater knowledge and interest in the
 14 causes and prevention of industrial accidents, occupational
 15 diseases and related subjects through:

16 (a) Research, conferences, lectures and uses of public
 17 communications media,

18 (b) Collection and dissemination of accident
 19 statistics, and

20 (c) Development of staff competent in the review of
 21 safety codes.

22 (2) Appoint advisers who shall be compensated by the
 23 board division if necessary, and who shall assist the board
 24 division in establishing standards of safety. The board
 25 division may adopt and incorporate in its orders such safety

1 recommendations as it may receive from such advisers."

2 Section 19. Section 41-1733, R.C.M. 1947, is amended
 3 to read as follows:

4 "41-1733. Occupational health hazards. The board
 5 division shall report occupational health hazards discovered
 6 in its investigations and inspection of places of employment
 7 to the ~~state--board--of--health~~ department of health and
 8 environmental sciences and shall co-operate with the ~~state~~
 9 ~~board-of--health~~ department of health and environmental
 10 sciences in carrying out its duties as specified in Title
 11 69, chapter 42, R.C.M. 1947."

12 Section 20. Section 50-101, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-101. Inspectors of metal and nonmetallic mines --
 15 employment. The ~~industrial--accident~~ board division of
 16 workers' compensation shall employ an adequate number of
 17 qualified metal and nonmetallic mine inspectors necessary
 18 for the enforcement of this act and shall prescribe their
 19 powers, duties and responsibilities."

20 Section 21. Section 50-102, R.C.M. 1947, is amended to
 21 read as follows:

22 "50-102. Inspections and investigations -- access to
 23 mine -- order to close mine or abate violation -- notice --
 24 hearing and review. (a) The board division is authorized at
 25 any time to cause to be made such inspections and

1 investigations as it shall deem necessary in surface and
 2 underground mines which are subject to this act (1) for the
 3 purpose of obtaining, utilizing, and disseminating
 4 information relating to health and safety conditions in such
 5 mines, the causes of accidents involving bodily injury or
 6 loss of life, or the causes of occupational diseases
 7 originating therein, and (2) for the purpose of determining
 8 whether or not there is compliance with a health and safety
 9 standard or order issued under this act.

10 (b) For the purpose of making any inspection or
 11 investigation authorized by this act, authorized
 12 representatives of the board division shall have the right
 13 of entry to, upon, or through any mine which is subject to
 14 this act.

15 (c) If, upon any inspection of a mine which is subject
 16 to this act authorized representatives of the board division
 17 find that the conditions or practices in the mine are such
 18 that a danger exists which could reasonably be expected to
 19 cause death or serious physical harm immediately or before
 20 the imminence of such danger can be eliminated, such
 21 representatives shall determine the extent of the area of
 22 such mine throughout which the danger exists, and thereupon
 23 issue an order requiring the operator of such mine to cause
 24 all persons, except the persons designated below, whose
 25 presence in such area is necessary to eliminate the danger

1 described in such order, to be withdrawn from, and to be
 2 debarred from entering such area:

3 (1) Any person whose presence in such area is necessary
 4 in the judgment of the operator of the mine, to eliminate
 5 the danger described in the order.

6 (2) Any public official whose official duties require
 7 him to enter such area.

8 (3) Any legal or technical consultant, or any
 9 representative of the employees of the mine, who is a person
 10 qualified to make mine examinations, or is accompanied by
 11 such a person, and whose presence in such area is necessary,
 12 in the judgment of the operator of the mine, for the proper
 13 investigation of the conditions described in the order.

14 (d) If, upon any such inspection or investigation, an
 15 authorized representative finds that there has been a
 16 failure to comply with a mandatory standard which is
 17 applicable to such mine, but that such failure to comply has
 18 not created a danger that could reasonably be expected to
 19 cause death or serious physical harm in such mine
 20 immediately or before the imminence of such danger can be
 21 eliminated, he shall find what would be a reasonable period
 22 of time within which such violation should be totally abated
 23 and thereupon issue a notice fixing a reasonable time for
 24 the abatement of the violation. If, upon the expiration of
 25 such period of time as originally fixed or extended, the

1 authorized representative finds that such violation has not
 2 been totally abated, and if he also finds that such period
 3 of time should not be further extended, he shall also find
 4 the extent of the area which is affected by such violation;
 5 thereupon, the board division shall make an order requiring
 6 the operator of such mine to cause all persons in such area,
 7 excepting the following persons whose presence in such area
 8 is necessary to abate the violation described in the order,
 9 to be withdrawn from, and to be debarred from entering such
 10 area:

11 (1) Any person whose presence in such area is
 12 necessary, in the judgment of the operator of the mine, to
 13 abate the violation described in the order.

14 (2) Any public official whose official duties require
 15 him to enter such area.

16 (3) Any legal or technical consultant, or any
 17 representative of the employees of the mine who is a person
 18 qualified to make examinations, or is accompanied by such a
 19 person, and whose presence in such area is necessary, in the
 20 judgment of the operator of the mine, for the proper
 21 investigation of the conditions described in the order.

22 (e) Findings and orders issued pursuant to this section
 23 shall contain a detailed description of the conditions or
 24 practices which cause and constitute a situation of imminent
 25 danger or a violation of a mandatory standard, and a

1 description of the area of the mine throughout which persons
 2 must be withdrawn and debarred.

3 (f) Each finding made and notice or order issued under
 4 this section shall be given promptly to the operator of the
 5 mine to which it pertains by the person making such finding
 6 or order, and all such findings, orders, and notices shall
 7 be in writing, and shall be signed by the person making
 8 them. A notice or order issued by an authorized
 9 representative pursuant to this section may be annulled,
 10 canceled, or revised by the authorized representative, and
 11 in case of a board division order, the board division may
 12 annul, cancel or revise the order.

13 (g) The order of the duly authorized representative of
 14 the board division shall remain in effect, but shall
 15 immediately be subject to review as provided in this act.

16 (h) An operator notified of an order made pursuant to
 17 section 50-102 (c) may apply to the board division for a
 18 hearing, revision, or annulment of such order. Whenever the
 19 board division after such a hearing upon complaint, or upon
 20 its own motion, finds that danger throughout the area of
 21 such mine as set out in such order existed at the time of
 22 making the inspection, it shall make an order denying a
 23 revision or annulment; but, if it finds that such danger did
 24 not exist throughout the area of such mine, it shall make an
 25 order consistent with its findings, revising or annulling

1 the order under review.

2 (i) An operator notified of an order made pursuant to
3 section 50-102 (d) may apply to the board division for a
4 hearing or revision of such order. If the board division
5 finds that there was no violation, it shall make an order
6 annulling the order under review. If the board division
7 finds that there was such a violation, but such violation
8 has since been abated, it shall make an order annulling the
9 order under review. If the board division finds that such
10 violation was not totally abated, it shall make an order
11 consistent with its findings.

12 (j) In view of the urgent need for prompt decisions of
13 matters submitted to the board division under section
14 50-102, all actions which the board division or its
15 authorized representatives are required to take under this
16 section shall be taken as rapidly as practical, consistent
17 with adequate consideration of the issues involved."

18 Section 22. Section 50-108, R.C.M. 1947, is amended to
19 read as follows:

20 "50-108. To what mines act is applicable. This act
21 shall apply to all mines (except coal and lignite) and
22 individuals, owners, lessors, lessees, agents, partnerships,
23 corporations, managers, operators, or employers operating
24 any surface or underground metal or nonmetallic mines in
25 this state. These individuals, owners, lessors, lessees,

1 agents, partnerships, corporations, managers, operators, or
2 employers operating any surface or underground metal or
3 nonmetallic mines (excluding coal and lignite) shall report
4 the same to the board division, state the name of the mine,
5 the location of the same, the name of the company, person,
6 or persons owning or operating the same, post-office
7 address, and number of men persons employed."

8 Section 23. Section 50-118, R.C.M. 1947, is amended to
9 read as follows:

10 "50-118. Violation of the act -- penalties. (a)
11 Whenever an operator (1) violates or fails or refuses to
12 comply with any order, rule, or regulation issued under this
13 act, or (2) interferes with, hinders, or delays the board
14 division or its authorized representatives in carrying out
15 any duties under this act, or (3) refuses to admit an
16 authorized representative of the board division to any mine
17 which is subject to this act, or (4) refuses to permit the
18 inspection or investigation of any mine which is subject to
19 this act, or an accident, injury, or occupational disease
20 occurring in or connected with such a mine, or (5) refuses
21 to furnish the board division any information or report
22 requested by the board division and which may reasonably be
23 necessary to carry out the provisions of this act, a civil
24 action for preventive relief, including, but not limited to,
25 an application for a permanent or temporary injunction,

1 restraining order, or other order, may be instituted by the
 2 board division in the district court for the county in which
 3 the mine in question is located or in which the mine
 4 operator has its principal office.

5 (b) Any person who knowingly (1) violates or fails or
 6 refuses to comply with any order, rule, or regulation issued
 7 under this act, or (2) interferes with, hinders, or delays
 8 the board division or its authorized representatives in
 9 carrying out any duties under this act, or (3) refuses to
 10 admit an authorized representative of the board division to
 11 any mine which is subject to this act, or (4) refuses to
 12 permit the inspection or investigation of any mine which is
 13 subject to this act, or of an accident, injury, or
 14 occupational disease occurring in or connected with such a
 15 mine, or (5) refuses to furnish the board division any
 16 information or report requested by the board division and
 17 which may reasonably be necessary to carry out the
 18 provisions of this act, shall be guilty of a misdemeanor,
 19 and shall upon conviction thereof be punished for each such
 20 offense by a fine of not less than one hundred dollars
 21 (\$100), or more than three thousand dollars (\$3,000), or by
 22 imprisonment in the county jail not exceeding six (6)
 23 months, or both. In any instance in which such offense is
 24 committed by a corporation, any officer or authorized
 25 representative of such corporation who knowingly permits

1 such offense to be committed shall, upon conviction, be
 2 subject to the same fine or imprisonment, or both."

3 Section 24. Section 50-119, R.C.M. 1947, is amended to
 4 read as follows:

5 "50-119. Definitions. "Authorized representative"
 6 means mine inspector or any other person employed or
 7 authorized by the ~~industrial--~~accident board division to
 8 perform any and all duties under this act. ~~"Board"~~
 9 ~~"Division"~~ means the ~~industrial--~~accident-board division of
 10 workers' compensation of the state of Montana. "Corporation"
 11 means a body formed and authorized by law to act as a single
 12 person although constituted by one or more persons and
 13 legally endowed with various rights and duties including the
 14 capacity of succession. "Employee" means every person in
 15 this state, including a contractor other than an
 16 "independent contractor," who is in the service of an
 17 employer as hereinafter defined in or about any mine, mill,
 18 smelter, excavation, or quarry under any appointment or
 19 contract of hire, express or implied, oral or written,
 20 whether lawfully or unlawfully employed and whether the
 21 employment is casual or otherwise. "Employer" means every
 22 person, firm, partnership, corporation, or association,
 23 including an independent contractor, who has any person in
 24 service in or about any mine, mill, smelter, excavation, or
 25 quarry under any appointment or contract of hire, express or

1 implied, oral or written. "Inspector" means a person or
 2 persons employed by the industrial-accident board division
 3 to inspect metallic and nonmetallic mines, mills, smelters,
 4 or quarries as provided in this act. "Mine" means any mine
 5 (or excavation) when clay, metallic ore, mineral, gypsum, or
 6 rock is dug or mined whether on surface or underground,
 7 where metal-bearing ores or nonmetallic mineral commodities
 8 (exclusive of coal or lignite) are dug or mined whether at
 9 the surface or underground. "Notice" means a written notice,
 10 work order or correction notice issued by an authorized
 11 representative of the board division, which notice specifies
 12 a violation(s) and directs or recommends corrective measures
 13 and may specify a definite date or time in which to abate
 14 said violation(s). "Occupational Health" means any of those
 15 health conditions that occur as a result of employment in a
 16 mine. "Order" means and includes any decision, rule,
 17 regulation, direction, requirement, or standard set,
 18 adopted, or issued by the board division, or any other
 19 determination or decision made by the board division."

20 Section 25. Section 69-1501, R.C.M. 1947, is amended
 21 to read as follows:

22 "69-1501. Advisory---committee-----functions-----
 23 appointment-and-terms-of-members-----traveling-expenses-----
 24 Boiler rules and regulations -- state inspectors of boilers,
 25 appointment, term and compensation -- special boiler

1 inspectors. ~~{1}--There--is--hereby--created--to--advise--the~~
 2 ~~industrial--accident-board-an-advisory-committee-which-shall~~
 3 ~~hereafter-be-referred-to-as--the--committee,--consisting--of~~
 4 ~~three--(3)--members--who-shall-be-appointed-by-the-governor,~~
 5 ~~one-for-two--(2)--years, one-for-three--(3)--years-and--one--for~~
 6 ~~four--(4)--years, At-the-expiration-of-their-respective-terms~~
 7 ~~or-when-vacancies-occur-they-or-their-successors--identified~~
 8 ~~with--the--same--interest-respectively-shall-be-appointed-by~~
 9 ~~the-governor-for-terms-of-four--(4)--years--each,--Of--these~~
 10 ~~appointed--members--one--(1)--shall-be-a-Montana-first-class~~
 11 ~~steam-licensed-operating-engineer--of--boilers--employed--in~~
 12 ~~that--capacity-at-the-time-of-his-appointment, one--(1)--shall~~
 13 ~~be--commissioned--by--the--national--board--of--boilers--and~~
 14 ~~pressure--vessels--inspectors-and-shall-represent-the-boiler~~
 15 ~~insurance-companies-licensed-to-do-business--in--the--state,~~
 16 ~~and--one--(1)--shall--be--a--Montana-registered-professional~~
 17 ~~mechanical-engineer.--The-committee-shall-elect--one--(1)--of~~
 18 ~~its-members-as-chairman-and-shall-meet-when-ever-required.~~

19 The-members-of-the-committee-shall-serve-without-salary
 20 but--shall-receive-actual-travel-expenses-in-the-same-manner
 21 as-other-state-officers.

22 The--committee--shall--act--in--a--technical--advisory
 23 capacity--to--the--industrial--accident--board--and (1) The
 24 division of workers' compensation shall formulate
 25 definitions, rules and regulations for the safe

1 construction, installation, operation, inspection and repair
 2 of equipment covered by this act. The definitions, rules and
 3 regulations so formulated shall follow generally accepted
 4 nationwide engineering standards as published by the
 5 American society of mechanical engineers.

6 (2) Appointment, term and compensation of boiler
 7 inspectors. The ~~industrial--accident~~ board division shall
 8 appoint state inspectors of boilers and shall prescribe
 9 their duties, term of office and fix their compensation.

10 (3) In addition to the state boiler inspectors the
 11 ~~industrial--accident~~ board division shall issue to the
 12 inspectors of boiler insurance companies authorized to do
 13 business in the state, commissions, certificates or other
 14 recognition as special boiler inspectors and shall accept
 15 the inspection reports of such special inspectors as
 16 equivalent to those of the state inspectors, provided that
 17 each such special inspector shall hold a certificate as
 18 boiler inspector issued by the national board of boiler and
 19 pressure vessels inspectors. Such special inspectors shall
 20 receive no salary or expenses from the state nor shall the
 21 state collect inspection fees for inspections made by such
 22 special inspectors."

23 Section 26. Section 69-1503, R.C.M. 1947, is amended
 24 to read as follows:

25 "69-1503. Inspection of boilers -- boiler

1 installations. (1) The inspector of boilers must inspect all
 2 boilers and steam generators before the same are used, and
 3 all persons who bring into this state, for operation in this
 4 state, any boiler or boilers must notify the board division
 5 stating the number and kind of boilers, and where they are
 6 to be located and operated in this state, and must secure
 7 from the board division a certificate of inspection before
 8 ~~said~~ boilers are placed in operation, except in the case of
 9 new boilers, which must be inspected within ninety (90) days
 10 after they are put in use, and all boilers must be inspected
 11 at least once in every year, except boilers exempt under
 12 provisions of section 69-1515. Upon written application,
 13 longer inspection intervals may be authorized by the board
 14 division. Any owner, operator or user who opens a boiler or
 15 boilers between inspections for repair or other reasons must
 16 notify the board division of such action and such boiler or
 17 boilers shall at the discretion of the board division be
 18 inspected by the state or special boiler inspector before
 19 the boiler or boilers may be placed back in operation. Any
 20 person failing to give notice to the board division as
 21 herein provided, or who operates such boilers without a
 22 certificate from the board division, shall be punished by a
 23 fine of not less than one hundred dollars (\$100) nor more
 24 than five hundred dollars (\$500) for each offense, or by
 25 imprisonment in the county jail for not less than thirty

1 (30) nor more than ninety (90) days, or by both such fine
2 and imprisonment.

3 (2) When necessary, the boiler inspector shall subject
4 boilers, except those exempted by 69-1515, to hydrostatic
5 pressure, which hydrostatic pressure shall not exceed one
6 hundred fifty per cent (150%) of the steam pressure allowed
7 on the boilers, providing there are no such leaks on such
8 boilers which prevent the inspector from applying such
9 hydrostatic pressure. And the inspector must satisfy himself
10 by a thorough interior and exterior examination that the
11 boilers are well-made and of good and suitable material;
12 that the openings for the passage of water and steam,
13 respectively, and all pipes and tubes exposed to heat, are
14 of the proper dimensions and free from obstructions; that
15 the flues are circular in shape; that the fire line of the
16 furnace is at least two (2) inches below prescribed minimum
17 water line of the boilers; that the arrangements for
18 delivering the feed water are such that the boilers cannot
19 be injured thereby, and that such boilers and the steam
20 connections may be safely employed without danger to life.

21 (3) New boiler installations. No boiler which does not
22 conform to the rules ~~and-regulations-formulated~~ adopted by
23 the committee division governing new construction and
24 installation shall be installed and operated in this state
25 after twelve (12) months from the date upon which the first

1 rules ~~and--regulations~~ under this act pertaining to new
2 construction and installation shall have become effective,
3 unless the boiler is of special design or construction, and
4 is not covered by the rules-~~and-regulations~~, nor is in any
5 way inconsistent with such rules-~~and-regulations~~, in which
6 case a special installation and operating permit may at its
7 discretion be granted by the committee division."

8 Section 27. Section 69-1507, R.C.M. 1947, is amended
9 to read as follows:

10 "69-1507. Duty of owner to permit inspection -- board
11 division action -- costs and expenses. It is the duty of the
12 owners, engineers, or managers of steam or water boilers to
13 allow the inspector free access to the same. In case the
14 owner, operators, or manager of any boiler is notified by
15 the inspector to have ~~said~~ the boiler ready for inspection
16 on a certain day, and fails to have such boiler ready for
17 inspection at such time, the inspector shall notify the
18 board division to gain access to ~~said~~ the boiler. Any person
19 failing to immediately comply with ~~board~~ division directed
20 access to ~~said~~ the boiler shall be deemed guilty of a
21 misdemeanor, and upon conviction thereof shall be punished
22 by a fine of not less than one hundred dollars nor more than
23 five hundred dollars, or by imprisonment in the county jail
24 for not less than two months nor more than six months, or by
25 both such fine and imprisonment. The owner, engineer or

1 manager of any boiler who has refused access resulting in a
 2 board division order must pay all transportation and hotel
 3 expenses of the inspector who makes the inspection directed
 4 by such order, in addition to the inspection fee provided by
 5 law. It shall be the duty of the engineer operating any
 6 boiler or boilers to assist the inspectors in their
 7 examination of the same, and point out any defects known to
 8 him in the boilers or machinery under his charge. Any
 9 engineer not complying with this section shall have his
 10 license revoked or suspended."

11 Section 28. Section 69-1509, R.C.M. 1947, is amended
 12 to read as follows:

13 "69-1509. Classification and licensing of engineers.

14 (1) Engineers entrusted with the operation, care and
 15 management of steam or water boilers and steam machinery as
 16 specified in the preceding section must be divided into four
 17 classes, namely, first-class engineers, second-class
 18 engineers, third-class engineers, and low-pressure
 19 engineers.

20 (2) Licenses for the operation of steam or water
 21 boilers and steam machinery shall be divided into four
 22 classifications in accordance with the following:

23 (a) First-class engineers shall be licensed to operate
 24 all classes, pressures, and temperatures of steam and water
 25 boilers and steam driven machinery with the exception of

1 traction and hoisting engines.

2 (b) Second-class engineers shall be licensed to operate
 3 steam boilers operating not in excess of two hundred fifty
 4 (250) pounds per square inch gauge saturated steam pressure
 5 or water boilers operating not in excess of three hundred
 6 seventy-five (375) pounds per square inch gauge pressure and
 7 four hundred fifty degrees Fahrenheit (450°F) temperature,
 8 and steam driven machinery not to exceed one hundred (100)
 9 horsepower per unit with the exception of traction and
 10 hoisting engines.

11 (c) Third-class engineers shall be licensed to operate
 12 steam boilers operating not in excess of one hundred (100)
 13 pounds per square inch gauge saturated steam pressure or
 14 water boilers operating not in excess of one hundred sixty
 15 (160) pounds per square inch gauge pressure and three
 16 hundred fifty degrees Fahrenheit (350°F) temperature.

17 (d) Low-pressure engineers shall be licensed to operate
 18 steam boilers operating not in excess of fifteen (15) pounds
 19 per square inch gauge pressure or water boilers operating
 20 not in excess of fifty (50) pounds per square inch gauge
 21 pressure and two hundred fifty degrees Fahrenheit (250°F)
 22 temperature.

23 (3) Each applicant for an engineer's license shall meet
 24 the following minimum requirements for the class of
 25 engineer's license for which application is being made. Each

1 applicant for any classification must be physically and
2 mentally capable of performing the required duties for the
3 class of engineer's license for which application is being
4 made.

5 (a) Applicants for low-pressure engineer's license
6 shall have no less than three (3) months' full-time
7 experience in the actual operation of a boiler in this
8 classification and successfully pass a written examination
9 prescribed by the board division and has passed his
10 eighteenth (18th) birthday and is found to be competent to
11 operate a boiler or boilers in this classification shall be
12 granted a low-pressure engineer's license.

13 (b) Applicants for third-class engineer's license shall
14 have no less than six (6) months' full-time experience in
15 the actual operation of a boiler in this classification,
16 under an engineer holding a valid third-class or higher
17 license, and successfully pass a written examination
18 prescribed by the board division and has passed his
19 eighteenth (18th) birthday and is found to be competent to
20 operate a boiler or boilers in this classification shall be
21 granted a third-class engineer's license.

22 (c) Applicants for second-class engineer's license
23 shall have:

24 (1) No less than two (2) years' full-time experience in
25 the actual operation of a boiler and steam driven machinery

1 in this classification, under an engineer holding a valid
2 second-class or first-class license, and successfully pass a
3 written examination prescribed by the board division and has
4 passed his eighteenth (18th) birthday and is found to be
5 competent to operate a boiler or boilers and steam driven
6 machinery in this classification shall be granted a
7 second-class engineer's license; or

8 (2) Hold a valid third-class engineer's license and
9 have no less than one (1) year's full-time experience in the
10 actual operation of a boiler and steam driven machinery in
11 this classification, under an engineer holding a valid
12 second-class or first-class license, and successfully pass a
13 written examination prescribed by the board division and has
14 passed his eighteenth (18th) birthday and is found to be
15 competent to operate a boiler or boilers and steam driven
16 machinery in this classification shall be granted a
17 second-class engineer's license.

18 (d) Applicants for first-class engineer's license shall
19 have:

20 (1) No less than three (3) years' full-time experience
21 in the actual operation of a boiler and steam driven
22 machinery in this classification, under an engineer holding
23 a valid first-class license, and successfully pass a written
24 examination prescribed by the board division and has passed
25 his eighteenth (18th) birthday and is found to be competent

1 to operate a boiler or boilers and steam driven machinery in
 2 this classification, shall be granted a first-class
 3 engineer's license; or

4 (2) Hold a valid second-class engineer's license and
 5 have no less than one (1) year's full-time experience in the
 6 actual operation of a boiler and steam driven machinery in
 7 this classification, under an engineer holding a valid
 8 first-class license, and successfully pass a written
 9 examination prescribed by the board division and has passed
 10 his eighteenth (18th) birthday and is found to be competent
 11 to operate a boiler or boilers and steam driven machinery in
 12 this classification shall be granted a first-class
 13 engineer's license; or,

14 (3) Hold a valid third-class engineer's license and
 15 have no less than two (2) year's full-time experience in the
 16 actual operation of a boiler and steam driven machinery in
 17 this classification, under an engineer holding a valid
 18 first-class license, and successfully pass a written
 19 examination prescribed by the board division and has passed
 20 his eighteenth (18th) birthday and is found to be competent
 21 to operate a boiler or boilers and steam driven machinery in
 22 this classification shall be granted a first-class
 23 engineer's license.

24 (e) Allowable exceptions or variances to the foregoing
 25 minimum requirements are as follows:

1 (1) Applicants for engineer's license in any
 2 classification holding a valid license in that
 3 classification from another state with licensing
 4 requirements equal to or exceeding the foregoing minimum
 5 requirements for the state of Montana and successfully pass
 6 a written examination prescribed by the board division and
 7 is found to be competent to operate a boiler or boilers and
 8 steam driven machinery in that classification shall be
 9 granted a license in that classification.

10 (2) Operating experience in a classification
 11 satisfactory to the board division, accumulated in United
 12 States military services or the merchant marine service may
 13 be accepted in lieu of the operating experience required for
 14 licensing of engineers in each of the foregoing
 15 classifications.

16 (3) Applicants with training in the actual operation of
 17 steam or water boilers and steam machinery who have been
 18 certified as having satisfactorily completed a prescribed
 19 training course from a recognized vocational-technical
 20 training school or center or other board division approved
 21 institution or training program in the classification for
 22 which he is applying may at the discretion of the board
 23 division be credited with a maximum of six (6) months'
 24 experience toward first, second, or third-class engineer's
 25 license.

1 (4) None of the licenses in this section above named
 2 shall entitle the holder thereof to operate a traction
 3 engine, but all persons who are entrusted with the care and
 4 management of traction engines, or boilers on wheels, are
 5 required to pass an examination as to their competency to
 6 operate such class of machinery and to procure a license to
 7 be known as a traction license. Such traction license shall
 8 not entitle the holder thereof to operate any other class of
 9 steam machinery specified in the preceding section.
 10 Applicants for a traction engineer's license shall have no
 11 less than six (6) months' full-time experience in the
 12 operation of steam traction engines and successfully pass a
 13 written examination prescribed by the board division and has
 14 passed his eighteenth (18th) birthday and is found to be
 15 competent to operate a traction engine shall be granted a
 16 traction engineer's license. The board division at its
 17 discretion may waive the experience requirement for
 18 operators of traction engines which are maintained and
 19 operated as a hobby for the restoration and show purposes of
 20 antique equipment."

21 Section 29. Section 69-1510, R.C.M. 1947, is amended
 22 to read as follows:

23 "69-1510. Complaints and revocation of license.
 24 Whenever complaint is made against an engineer holding a
 25 license that he through negligence, want of skill, or

1 inattention to duty, permitted his boiler(s) to burn or
 2 otherwise become in bad condition, or that he has been found
 3 intoxicated or under the influence of drugs while on duty,
 4 it is the duty of the board division to make a thorough
 5 investigation of the charge, and upon satisfactory proof of
 6 such charge to revoke the license of ~~said~~ the engineer."

7 Section 30. Section 69-1512, R.C.M. 1947, is amended
 8 to read as follows:

9 "69-1512. Fees for inspection or examination. (1) All
 10 fees for inspection are to be paid to the ~~industrial~~
 11 ~~accident--~~board division in accordance with the following
 12 schedule based on safety valve setting:

13 (a) Boilers with pressure under thirty (30) pounds per
 14 square inch \$10

15 (b) Boilers with pressure from thirty (30) pounds to
 16 one hundred (100) pounds per square inch \$15

17 (c) Boilers with pressure from one hundred (100) pounds
 18 to three hundred (300) pounds per square inch \$20

19 (d) Boilers with pressure over three hundred (300)
 20 pounds per square inch \$30

21 (e) Miniature boilers with pressure not in excess of
 22 one hundred (100) pounds per square inch \$10

23 (f) Steam traction \$ 5

24 (g) Operating certificate \$ 4

25 In case of the failure of the owner, manager or person

1 in charge of any boiler to pay such fee to the ~~industrial~~
 2 ~~accident-board~~ division, the ~~board~~ division shall initiate
 3 the necessary legal action to collect ~~said~~ the fee. Failure
 4 of any person to immediately ~~aside~~ with results of such
 5 ~~board~~ division action shall be deemed guilty of a
 6 misdemeanor and punished as provided by section 69-1507.

7 (2) Whenever, upon request of the owner or operator of
 8 any boiler it is necessary for the inspector to make a
 9 special trip for the inspection of the boiler, the mileage
 10 and per diem allowed by law, in addition to the fees herein
 11 prescribed, shall be charged and collected by the ~~industrial~~
 12 ~~accident-board~~ division.

13 (3) Applicants for engineer's license shall pay fees
 14 according to the class of license for which application is
 15 made, as specified in the following schedule:

16 (a) First class	\$30
17 (b) Second class	\$20
18 (c) Third class	\$12
19 (d) Low pressure	\$ 8
20 (e) Traction	\$12
21 (f) Renewal of license	\$ 4
22 (g) Replacement of lost certificate	\$ 2

23 (4) Each application shall be accompanied by a payment
 24 equal to fifty per cent (50%) of the license fee for which
 25 application is being made; said payment shall be forfeited

1 in the event the applicant fails to appear for the
 2 examination at the scheduled time or fails to pass the
 3 examination.

4 In case of the failure of any applicant to successfully
 5 pass an examination, forty-five (45) days must elapse before
 6 he can again be examined for license."

7 Section 31. Section 69-1513, R.C.M. 1947, is amended
 8 to read as follows:

9 "69-1513. Review of license rejection. If any person
 10 who has applied for a license under the provisions of this
 11 article, and has been rejected, feels aggrieved, he may at
 12 any time after the lapse of ten days, and within forty-five
 13 (45) days after the date of his rejection, in writing set
 14 forth the causes of his grievance and request a ~~board~~
 15 division review. Such request must be addressed to the ~~board~~
 16 division and shall be signed by the rejected applicant.
 17 Within two days after receiving such request, ~~it is the duty~~
 18 ~~of--the--board--to~~ the division shall notify the applicant in
 19 writing that on a certain day, which shall not be less than
 20 five nor more than thirty (30) days after the date the ~~board~~
 21 division receives ~~said~~ the written request, the ~~committee~~
 22 division shall review and evaluate the application. The
 23 applicant may appear in person at ~~said~~ the review if he so
 24 desires. At least two days before the day set for the review
 25 the applicant may designate in writing to the ~~board~~ division

1 the name of an engineer holding a valid license of equal or
2 higher grade with the one applied for, and such engineer may
3 present himself in behalf of the applicant upon the day and
4 at the hour fixed for the review."

5 Section 32. Section 69-1514, R.C.M. 1947, is amended
6 to read as follows:

7 "69-1514. Board Division decision. After said the
8 review is completed, and if ~~a--majority--of~~ the ~~committee~~
9 division decides that such the applicant is entitled to the
10 license he has applied for, the board division shall without
11 delay issue a license accordingly, but if ~~a--majority--of~~ the
12 ~~committee~~ division rejects the applicant, it is a final
13 rejection, and he must not be granted another examination
14 for the space of forty-five (45) days after such last
15 rejection, when he may again apply as provided by section
16 69-1512."

17 Section 33. Section 69-1515, R.C.M. 1947, is amended
18 to read as follows:

19 "69-1515. Boilers exempted from provisions -- duty of
20 owner of traction engine -- notice of purchase of boiler.
21 (1) This act shall not apply to boilers under federal
22 control. The provisions of this act requiring inspections,
23 inspection fees and certificates shall not apply to steam
24 heating boilers operated at not over fifteen (15) pounds per
25 square inch gauge pressure in private residences or

1 apartments of six (6) or less families or to hot water
2 heating or supply boilers operated at not over fifty (50)
3 pounds per square inch gauge pressure and temperatures not
4 over two hundred fifty degrees Fahrenheit (250° F) when in
5 private residences or apartments of six (6) or less
6 families. Locomotives, commonly known as dinkey engines,
7 used in operating logging or mining railroads, or any
8 similar work where such locomotives are owned, leased or
9 operated by any individual, company, or corporation and are
10 used in the business of such individual, company, or
11 corporation, and not for general commercial purposes, shall
12 be classed as traction engines and be subject to inspection
13 as are other traction engines, and the persons operating or
14 firing such dinkey locomotives shall be required to hold
15 traction licenses. No persons operating any of the engines
16 or boilers hereinbefore exempted from the operation of this
17 article shall be required to procure license from the board
18 division.

19 (2) Any person purchasing any boiler whether traction
20 or stationary shall be entitled to receive from the seller
21 the certificates of inspection issued on such boiler and any
22 person purchasing any boiler, whether traction or
23 stationary, not exempted by the provisions of this section,
24 shall, within ten (10) days after such purchase, report the
25 fact of such purchase to the board division and shall notify

1 the board division as to where ~~said~~ the boiler will be
 2 installed and operated. Any person failing to comply with
 3 the provisions of this section shall be deemed guilty of a
 4 misdemeanor. All other boilers and steam engines, except as
 5 herein exempted, come under the provisions of this article
 6 and persons operating same are required to hold the proper
 7 grade of license."

8 Section 34. Section 69-1517, R.C.M. 1947, is amended
 9 to read as follows:

10 "69-1517. Operation of boiler or steam engine without
 11 license. It is unlawful for any person in this state to
 12 operate a stationary boiler or steam engine, or any boiler
 13 or steam engine other than engines and boilers exempted by
 14 the provisions of section 69-1515, without a license granted
 15 under the provisions of this article. The owner, renter, or
 16 user of any engine or boiler is equally liable for the
 17 violation of this section. But in case of accident,
 18 sickness, or any unforeseen prevention of the licensed
 19 engineer employed by any owner, renter, or user of an engine
 20 or boiler, the owner, renter, or user may, for fifteen days
 21 employ any person of the age of eighteen years or over whom
 22 he may consider competent to run the engine or boiler,
 23 although such person so employed may not be the holder of an
 24 engineer's license, he shall have reasonable qualifications
 25 acceptable to the board division. The person so employing

1 the unlicensed engineer shall immediately notify the board
 2 division. But no owner, renter, or user of boilers or steam
 3 machinery shall be allowed to so employ unlicensed engineers
 4 for more than fifteen days in any one calendar year. And it
 5 shall be unlawful, except as stated in this section, for any
 6 person, firm, or corporation to employ any person not duly
 7 licensed as an engineer, within the meaning of this act, to
 8 run or operate any of the boilers or engines subject to the
 9 provisions of this act."

10 Section 35. Section 69-1601, R.C.M. 1947, is amended
 11 to read as follows:

12 "69-1601. Operators of hoisting engines must procure
 13 licenses. (1) It shall be unlawful for any person to operate
 14 any hoisting engine driven by any power when used in
 15 lowering or hoisting personnel in industrial operations or
 16 on construction projects, or any air compressor operated by
 17 any power without first obtaining a license therefor from
 18 the board division as herein provided. Except that in
 19 emergencies the provisions of section 69-1517 relating to
 20 the employment of unlicensed engineers shall apply to the
 21 operation of the engines and machinery named herein.

22 (2) First-class hoisting engineers shall be licensed to
 23 operate hoisting engines driven by any power and unlimited
 24 horsepower used in the lowering or hoisting of personnel in
 25 industrial operations or on construction projects.

1 (3) Second-class hoisting engineers shall be licensed
 2 to operate hoisting engines driven by any power and not in
 3 excess of one hundred (100) brake horsepower used in the
 4 lowering or hoisting of personnel in industrial operations
 5 or on construction projects."

6 Section 36. Section 69-1602, R.C.M. 1947, is amended
 7 to read as follows:

8 "69-1602. Application and fee for license -- renewal
 9 and revocation of license. Application for such licenses
 10 shall be made to the board division in the same manner, and
 11 the same fee shall be charged therefor as now required by
 12 law for obtaining a license to operate steam engines and
 13 boilers, and such license shall be given for a period of one
 14 year from the date of issuance thereof, and may be renewed
 15 in the same manner provided by law for the renewal of a
 16 license to operate steam engines or boilers; provided, that
 17 the board division shall have the right to revoke any
 18 license issued under the provisions of this act for any of
 19 the reasons for which the board division could revoke a
 20 license to operate steam engines and boilers."

21 Section 37. Section 69-1604, R.C.M. 1947, is amended
 22 to read as follows:

23 "69-1604. First and second-class licenses --
 24 qualifications of applicant. (1) Each applicant for a
 25 hoisting engineer's license shall meet the following minimum

1 requirements for the class of license for which application
 2 is being made. Each applicant for any classification must be
 3 physically and mentally capable of performing the required
 4 duties for the class of license for which application is
 5 being made.

6 (a) Applicants for second-class hoisting engineer's
 7 license shall have no less than two years' experience in the
 8 actual operation of hoisting equipment in this
 9 classification under an engineer holding a valid
 10 second-class or first-class license and successfully pass a
 11 written examination prescribed by the board division and has
 12 passed his eighteenth (18th) birthday and is found to be
 13 competent to operate hoisting equipment in this
 14 classification shall be granted a second-class hoisting
 15 engineer's license.

16 (b) Applicants for first-class hoisting engineer's
 17 license shall:

18 (1) Have no less than three years' experience in the
 19 actual operation of hoisting equipment in this
 20 classification under an engineer holding a valid first-class
 21 license and successfully pass a written examination
 22 prescribed by the board division and has passed his
 23 eighteenth (18th) birthday and is found to be competent to
 24 operate hoisting equipment in this classification shall be
 25 granted a first-class hoisting engineer's license; or

1 (2) Hold a valid second-class license and have no less
 2 than six (6) months' experience in the actual operation of
 3 hoisting equipment in this classification under an engineer
 4 holding a valid first-class license and successfully pass a
 5 written examination prescribed by the board division and has
 6 passed his eighteenth (18th) birthday and is found to be
 7 competent to operate hoisting equipment in this
 8 classification shall be granted a first-class hoisting
 9 engineer's license.

10 (c) Applicants for first or second-class hoisting
 11 engineer's license holding a valid license in that
 12 classification from another state with licensing
 13 requirements equal to or exceeding the foregoing minimum
 14 requirements for the state of Montana and successfully pass
 15 a written examination prescribed by the board division and
 16 is found to be competent to operate hoisting machinery in
 17 that classification shall be granted a license in that
 18 classification.

19 (d) Applicants for first or second-class hoisting
 20 engineer's license holding a valid first or second-class
 21 engineer's license for the operation of boilers, steam
 22 machinery and hoisting engines for the state of Montana
 23 prior to enactment of this act shall, upon application
 24 during a period not to exceed twelve (12) months after
 25 enactment of this act, be granted a hoisting engineer's

license in that classification."

2 Section 38. Section 71-1001, R.C.M. 1947, is amended
 3 to read as follows:

4 "71-1001. Definitions. (a) "Payments" means money
 5 payments to persons having silicosis as herein defined.

6 (b) "Silicosis" means a fibrotic condition of the lungs
 7 due to the inhalation of silica dust.

8 (c) "Examining board" shall mean well-qualified
 9 physician or physicians, as designated by the ~~industrial~~
 10 accident-board division of workers' compensation."

11 Section 39. Section 71-1002, R.C.M. 1947, is amended
 12 to read as follows:

13 "71-1002. Administration. ~~(a) The industrial accident~~
 14 ~~board of the state of Montana is hereby authorized and~~
 15 ~~charged with the general supervision of this chapter under~~
 16 ~~the powers, duties and functions as prescribed herein as~~
 17 ~~amended. The division of workers' compensation shall~~
 18 administer this chapter. The division shall:

19 ~~All powers, duties and functions previously vested in~~
 20 ~~the state department of public welfare in relation to this~~
 21 ~~chapter are hereby transferred to the industrial accident~~
 22 ~~board of the state of Montana.~~

23 ~~(b) Any powers, duties or functions previously vested~~
 24 ~~in the county departments of public welfare in relation to~~
 25 ~~this chapter are hereby transferred to the industrial~~

1 ~~accident-board-of-the-state-of-Montana;~~

2 ~~(e)-(1) The-industrial-accident-board-of-the-state--of~~
 3 ~~Montana--shall--formulate~~ Formulate a plan and ~~promulgate~~
 4 ~~regulations~~ adopt rules for the operation of this chapter.

5 ~~(f)-(2) The-industrial-accident-board-shall-co-operate~~
 6 Cooperate with the federal government in all matters of
 7 immediate concern pertaining to silicosis.

8 ~~(g)--(3) The--industrial--accident-board-shall-publish~~
 9 Publish an annual report and interim reports as may be
 10 necessary or required or asked for by the governor.

11 ~~(i)--(4) The-industrial-accident-board-shall-designate~~
 12 Designate the procedure to be followed in securing a
 13 competent medical examination for the purposes of
 14 determining silicosis in each individual applicant.

15 ~~(j)-(5) The-industrial-accident-board-shall--designate~~
 16 Designate suitable physicians or physician, well qualified
 17 to examine applicants for aid under this chapter.

18 ~~(k)-(6) The-industrial-accident-board--shall--pay~~ Pay
 19 the actual transportation expenses of any applicant from the
 20 place of his residence in the state to the place of
 21 examination and return, from fund appropriated to the ~~board~~
 22 division for that purpose.

23 ~~(l)--(7) The--industrial--accident-board-shall-develop~~
 24 Develop and co-operate with other agencies in developing
 25 measures for the prevention of silicosis."

1 Section 40. Section 71-1005, R.C.M. 1947, is amended
 2 to read as follows:

3 "71-1005. Application for payment. Application for
 4 payment under this chapter shall be made by the person
 5 seeking such payment to the ~~industrial--accident--board~~
 6 division. The application shall be in writing or reduced to
 7 writing in the manner and upon the form prescribed by the
 8 ~~industrial-accident-board~~ division. The application form may
 9 be filled in and written by a person authorized by the
 10 ~~industrial-accident-board~~ division. If the applicant is
 11 unable to sign his or her name on the application, a duly
 12 witnessed mark may be used."

13 Section 41. Section 71-1006, R.C.M. 1947, is amended
 14 to read as follows:

15 "71-1006. Investigation of applications. Whenever the
 16 ~~industrial--accident--board~~ division under this chapter
 17 receives an application for a payment an investigation and
 18 record shall be promptly made of the validity of the claim.
 19 The object of such investigation shall be to ascertain
 20 whether or not the applicant is entitled to a payment under
 21 the provision of this chapter, and such other information as
 22 may be required by the rules of the ~~industrial-accident~~
 23 ~~board~~ division. The investigation of such applicant shall be
 24 conducted by representatives of the ~~industrial--accident~~
 25 ~~board~~ division. The physicians or physician designated by

1 ~~the industrial-accident-board~~ division as herein provided
 2 shall constitute an examining board for such clinical,
 3 pathological, X-ray and Roentgen examinations as in the
 4 opinion of the examining board may be necessary to determine
 5 whether or not the applicant has silicosis, as herein
 6 defined. A certified report of such examination from the
 7 examining board of physicians or physician must be attached
 8 to the investigation report."

9 Section 42. Section 71-1007, R.C.M. 1947, is amended
 10 to read as follows:

11 "71-1007. Making payments. Upon the completion of such
 12 investigation the ~~industrial-accident-board~~ division shall
 13 determine whether or not the applicant is entitled to a
 14 payment under this chapter. The board division shall then
 15 notify the applicant of its decision."

16 Section 43. Section 92-1302, R.C.M. 1947, is amended
 17 to read as follows:

18 "92-1302. Administration of act. This act shall be
 19 administered by the ~~industrial-accident-board-of--the--state~~
 20 ~~of-Montana~~ division of workers' compensation. ~~The-members-of~~
 21 ~~the--industrial--accident-board--shall-receive-no-additional~~
 22 ~~compensation-for-administering--this--act--The--actual--and~~
 23 ~~necessary--traveling--expenses--of--the-members-of-the-board~~
 24 ~~while-on-business-of-administering-this-act--shall--be--paid~~
 25 ~~from--the--occupational--disease-compensation-account-in-the~~

1 ~~agency-fund.~~

2 Section 44. Section 92-1303, R.C.M. 1947, is amended
 3 to read as follows:

4 "92-1303. Definitions. Except as in this section and
 5 elsewhere in this act expressly set forth, the definitions
 6 contained in the ~~Workmen's~~ Workers' Compensation Act shall
 7 apply to terms and words herein contained.

8 ~~It--(1)~~ "Weekly wage" means the average of the weekly
 9 earnings of the employee in the employ of his employer
 10 against whom compensation is awarded during the period of
 11 one year prior to the termination of his employment with
 12 such employer, or during such lesser period in such year as
 13 he the employee has been in the employ of his employer. In
 14 case the employee is absent from employment during the
 15 period as a result of the occupational disease for which
 16 compensation is claimed, then the week or weeks in which the
 17 absence occurs shall not be included in the computation of
 18 the average weekly wage. If the period provided in this
 19 section for computation of the average weekly wage does not
 20 include four weeks, then the average weekly wage shall be
 21 such as, having regard to the previous wage of the employee,
 22 or of other employees of the same or most similar class
 23 working in the same or most similar employment in the same
 24 or neighboring locality, reasonably represents the weekly
 25 earning capacity of the disabled employee in the employment

1 in which he is working at the time of his disablement.

2 ~~2~~--(2) "Award" means the finding or decision of the
3 board division as to the amount of compensation due any
4 disabled employee or the dependents of any deceased
5 employee.

6 ~~3~~--(3) ~~"Board"~~ ~~means the industrial accident board of~~
7 ~~the state of Montana~~ "Division" or board means the division
8 of workers' compensation provided for in section 82A-1004.

9 ~~4~~--(4) "Compensation" means the payments and benefits
10 provided in this act.

11 ~~5~~--(5) "Disablement" means the event of becoming
12 physically incapacitated by reason of an occupational
13 disease as defined in this act from performing any work for
14 remuneration or profit. "Silicosis," as defined in this act,
15 when complicated by active pulmonary tuberculosis, shall be
16 presumed to be total disablement. "Disability," "disabled,"
17 "total disability," or "totally disabled" shall be
18 synonymous with "disablement," but they shall have no
19 reference to "partial permanent disability." Provided that
20 in the event of death or disability due to pneumoconiosis
21 the following shall apply:

22 ~~a~~--(a) If a miner who is suffering or has suffered
23 from pneumoconiosis was employed for ten (10) years or more
24 in one (1) or more coal mines there shall be a rebuttable
25 presumption that his pneumoconiosis arose out of such

1 employment.

2 ~~b~~--(b) If a deceased miner was employed for ten (10)
3 years or more in one (1) or more coal mines and died from a
4 respirable disease there shall be a rebuttable presumption
5 that his death was due to pneumoconiosis.

6 ~~c~~--(c) If a miner is suffering or suffered from a
7 chronic dust disease of the lung which (1) when diagnosed by
8 chest roentgenogram yields one (1) or more large opacities
9 (greater than one centimeter in diameter) and would be
10 classified in category A, B, or C in the international
11 classification of radiographs of the pneumoconioses by the
12 international labor organization, (2) when diagnosed by
13 biopsy or autopsy, yields massive lesions in the lung, or
14 (3) when diagnosis is made by other means, would be a
15 condition which would reasonably be expected to yield
16 results described in clause (1) or (2) if diagnosis had been
17 made in the manner prescribed in clause (1) or (2) then
18 there shall be an irrebuttable presumption that he is
19 totally disabled due to pneumoconiosis or that his death was
20 due to pneumoconiosis, as the case may be.

21 ~~6~~--(6) The terms "employee," "workman," and
22 "operative," as used herein, shall mean:

23 Every person in the service of the state, and of a
24 county, city, town, municipal corporation, or school
25 district, including the regular members of lawfully

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1 constituted police and fire departments of cities and towns.

2 Every person in the service of any employer subject to
3 this act as hereinafter defined or to whom such employer is
4 required to secure compensation under this act, including
5 aliens and minors legally or illegally permitted to work for
6 hire, but not including a person whose employment is casual
7 and is not in the usual course of trade, business, or
8 occupation of the employer, and not including agricultural
9 workers and domestic servants unless the employer shall so
10 elect.

11 ~~7~~--(7) "Beneficiary" means and shall include a
12 surviving wife or husband and a surviving child or children
13 under the age of eighteen (18) years and an invalid child or
14 invalid children over the age of eighteen (18) years, or if
15 no surviving wife or husband then a surviving child or
16 children under the age of eighteen (18) years and an invalid
17 child or invalid children over the age of eighteen (18)
18 years; provided, however, that no invalid child over the age
19 of eighteen (18) years shall be considered a beneficiary
20 unless dependent upon the decedent for support at the time
21 of disablement.

22 ~~8~~--(8) "Major dependent" means if there be no
23 beneficiary as defined in a preceding section, the father or
24 mother, or the survivor of them, if actually dependent upon
25 the decedent at the time of his disablement, then to the

1 extent of such dependency, not to exceed, however, the
2 maximum compensation provided for in this act.

3 ~~9~~--(9) "Minor dependent" means if there be no
4 beneficiary or major dependent as defined in the preceding
5 section the brothers and sisters under the age of eighteen
6 years, provided, however, that no invalid brother or invalid
7 sister over the age of eighteen years shall be a "minor
8 dependent" unless actually dependent upon the decedent at
9 the time of ~~his~~ the decedent's disablement. Minor dependents
10 shall be awarded compensations to the extent of such
11 dependency, not to exceed, however, the maximum compensation
12 provided for in this act.

13 ~~10~~--(10) "Invalid" means one who is physically or
14 mentally incapacitated.

15 ~~11~~--(11) "Child" shall include a posthumous child, a
16 stepchild, a child legally adopted prior to the disablement,
17 an illegitimate child legitimized prior to the disablement.

18 ~~12~~--(12) "Week" means six (6) working days, but
19 includes Sundays.

20 ~~13~~--(13) "Wages" means the average daily wages received
21 by the employee at the time of the disablement for the usual
22 hours of employment in a day, and overtime is not to be
23 considered.

24 ~~14~~--(14) "Wife" or "widow" means only a wife or widow
25 living with, or legally entitled to be supported by the

1 deceased at the time of the disablement.

2 ~~15--(15)~~ "Husband" or "widower" means only a husband or
3 widower incapable of supporting himself, and living with, or
4 legally entitled to be supported by the deceased at the time
5 of her disablement.

6 ~~16--"Commissioner"--means-one-(1)-of-the-members-of--the~~
7 ~~industrial-accident-board.~~

8 ~~17--"Appointed--member-of-the-board"--means-that-member~~
9 ~~of-the-industrial-accident-board-appointed-by-the--governor.~~

10 ~~18--(16)~~ "Order" shall mean and include any decision,
11 rule, regulation, direction, requirement, or standard of the
12 board division, or any other determination arrived at or
13 decision made by such board division, excepting general or
14 local orders as herein specified.

15 ~~19--(17)~~ "Payroll," "annual payroll" or "annual payroll
16 for the preceding year," means the average annual payroll of
17 the employer for the preceding calendar year, or, if the
18 employer shall not have operated a sufficient or any length
19 of time during such calendar year, twelve (12) times the
20 average monthly payroll for the current year; provided, that
21 an estimate may be made by the board division for any
22 employer starting in business where no average payrolls are
23 available, such estimate to be adjusted by additional
24 payment by the employer or refund by the board division, as
25 the case may actually be on December 31st of such current

1 year.

2 ~~20--(18)~~ "Year," unless otherwise specified, means
3 calendar year. "Fiscal year" means the period of time
4 between the first day of July and the thirtieth (30th) day
5 of the succeeding June.

6 ~~21--(19)~~ "Insurer" means any insurance company
7 authorized to transact business in this state insuring any
8 employer under this act.

9 ~~22--(20)~~ "Casual employment" means employment not in
10 the usual course of trade, business, profession, or
11 occupation of the employer.

12 ~~23--(21)~~ The term "physician" shall include "surgeon,"
13 and in either case shall mean one authorized by law to
14 practice ~~his-profession~~ in this state.

15 ~~24--Wherever-the-singular-is-used-the-plural--shall--be~~
16 ~~included,-and-wherever-the-plural-is-used-the-singular-shall~~
17 ~~be-included.~~

18 ~~25--Wherever-the-masculine-gender-is-used,-the-feminine~~
19 ~~and-neuter-shall-be-included.~~

20 ~~26--(22)~~ For the purpose of this act "silicosis" is
21 defined as a chronic disease of the lungs caused by the
22 prolonged inhalation of silicon dioxide (SiO₂) characterized
23 by small discrete nodules of fibrous tissue similarly
24 disseminated throughout both lungs, causing characteristic
25 X-ray pattern, and by variable clinical manifestations.

1 ~~27~~-(23) For the purpose of this act "pneumoconiosis" is
2 defined as a chronic dust disease of the lung arising out of
3 employment in coal mines, and includes anthracosis, coal
4 workers' pneumoconiosis, silicosis, or anthracosilicosis
5 arising out of such employment.

6 ~~27~~--(24) "Workshift" means the work for which an
7 employee is paid a day's wages."

8 ~~26~~--"Workmen's-Compensation-Act"--means--the--Workmen's
9 Compensation-Act-of-the-state-of-Montana:

-End-

SECOND READING

MISSING

1 House BILL NO. 551
 2 INTRODUCED BY W. Baith

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION
 5 AND GENERAL REVISION OF THE LAWS RELATING TO THE MONTANA
 6 SAFETY ACT; METAL AND NONMETALLIC MINE SAFETY LAWS; BOILER
 7 LAWS; PAYMENT OF SILICOSIS BENEFITS, AND THE OCCUPATIONAL
 8 DISEASE ACT; AMENDING SECTIONS 41-1709, 41-1713 THROUGH
 9 41-1729, 41-1733, 50-101, 50-102, 50-108, 50-118, 50-119,
 10 69-1501, 69-1503, 69-1507, 69-1509, 69-1510, 69-1512,
 11 69-1513, 69-1514, 69-1515, 69-1517, 69-1601, 69-1602,
 12 69-1604, 71-1001, 71-1002, 71-1005, 71-1006, 71-1007,
 13 92-1302, 92-1303, R.C.M. 1947."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 41-1709, R.C.M. 1947, is amended to
 17 read as follows:

18 "41-1709. Definitions. Unless context requires
 19 otherwise, in this act:

20 (1) ~~"Board" means the industrial accident board of the~~
 21 ~~state of Montana~~ "Division" means the division of workers'
 22 compensation of the department of labor and industry
 23 provided for in section 82A-1004.

24 (2) "Employer" is defined as in section ~~92-410~~
 25 92-410.1, R.C.M. 1947.

1 (3) "Code" means a standard body of rules for safety
 2 formulated, adopted and issued by the board division under
 3 the provisions of this act.

4 (4) "Employee" and "~~workmen-worker~~" are defined as in
 5 section 92-411, R.C.M. 1947.

6 (5) "Amendment" means such modification or change in a
 7 code as shall be intended to be of universal or general
 8 application.

9 (6) "Variation" means a special, limited modification
 10 or change in the code which is applicable only to the
 11 particular place of employment of the employer or person
 12 petitioning for such modification or change."

13 Section 2. Section 41-1713, R.C.M. 1947, is amended to
 14 read as follows:

15 "~~41-1713. Board's Division's powers ----duty--to~~
 16 ~~establish department of safety under a safety--director --~~
 17 ~~rule-making power -- subpoena and other powers. In the~~
 18 ~~administration of this act the board division:~~

19 (1) Is vested with full power and jurisdiction over,
 20 and shall have such supervision of, every employment and
 21 place of employment in this state as may be necessary to
 22 enforce and administer all laws and all lawful orders
 23 requiring such employment and places of employment to be
 24 safe and requiring the protection of the life and safety of
 25 every employee in such employment or place of employment.

1 (2) Shall ~~establish--a department of safety under the~~
 2 ~~supervision of a safety director, to be appointed by the~~
 3 ~~board, to~~ carry out the provisions of this act. The safety
 4 ~~director~~ bureau chief shall be a person with at least two
 5 (2) years' experience or training in the field of industrial
 6 safety.

7 (3) May ~~make, establish, promulgate~~ adopt and enforce
 8 all necessary and reasonable rules and provisions for the
 9 purpose of carrying this act into effect and in reference to
 10 the investigation of all violations of this act and fix and
 11 set the time and place for all hearings which may be
 12 necessary or expedient for the purpose of carrying the
 13 provisions of this act into effect.

14 (4) May on its own motion or at the request of others,
 15 subpoena witnesses, administer oaths, take depositions and
 16 fix the fees and mileage of witnesses and compel the
 17 attendance of witnesses and the production of papers, books,
 18 accounts, documents and testimony in any inquiry,
 19 investigation, hearing or proceeding in any part of this
 20 state, and the board division shall provide for defraying
 21 the expenses thereof."

22 Section 3. Section 41-1714, R.C.M. 1947, is amended to
 23 read as follows:

24 "41-1714. Compelling witnesses to appear in response
 25 to subpoena -- contempt. (1) The board division or any

1 member thereof, before whom testimony is to be given or
 2 produced, in the case of refusal of any witness to attend or
 3 testify or produce any papers required by such subpoena, may
 4 in applying to the district court in and for the county in
 5 which the proceeding is pending show that the witness has
 6 been subpoenaed in the manner prescribed and the witness has
 7 failed or refused to attend or produce the papers required
 8 by the subpoena or has refused to answer questions
 9 propounded to him in the course of such proceeding, and ask
 10 the court to compel the witness to attend and testify or
 11 produce such papers before the board division.

12 (2) The court, upon such application, shall enter an
 13 order directing the witness to appear before the court at a
 14 time and place to be fixed by the court then and there to
 15 show cause why he the witness has not attended and testified
 16 or produced the papers before the board division or any
 17 member thereof.

18 (3) A copy of the order shall be served upon the
 19 witness.

20 (4) If it is apparent to the court that the subpoena
 21 was regularly issued by the board division or member
 22 thereof, the court thereupon shall enter an order that the
 23 witness appear before the board division or member thereof
 24 at a time and place to be fixed in such order, and testify
 25 and produce the required papers and upon failure to obey the

1 order the witness shall be dealt with as for contempt of
2 court."

3 Section 4. Section 41-1715, R.C.M. 1947, is amended to
4 read as follows:

5 "41-1715. Board's Division's power to prescribe safety
6 devices and fix and order safety standards. The board
7 division may, after hearing had upon its own motion or upon
8 complaint, by safety orders, rules or otherwise:

9 (1) Declare and prescribe what safety devices,
10 safeguards or other means or methods of protection are well
11 adapted to render the employees of every employment and
12 place of employment safe as required by law.

13 (2) Fix reasonable standards and prescribe, modify and
14 enforce such reasonable orders for the adoption,
15 installation, use, maintenance and operation of safety
16 devices, safeguards and other means or methods of
17 protection, to be as nearly uniform as possible, as may be
18 necessary to carry out all laws and lawful orders relative
19 to the protection of the life and safety of the employees
20 and places of employment.

21 (3) Fix and order such reasonable standards for the
22 construction, repair and maintenance of places of employment
23 and equipment as shall render them safe.

24 (4) Require the performance of any other act which the
25 protection of the life and safety of employees in

1 employments and places of employment may demand."

2 Section 5. Section 41-1716, R.C.M. 1947, is amended to
3 read as follows:

4 "41-1716. Notice of hearing on rules and codes. Upon
5 the fixing of a time and place for the holding of a public
6 hearing for the purpose of considering and issuing rules and
7 codes, as authorized in this act, the board division shall
8 cause a notice of the hearing to be published in one or more
9 daily newspapers of general circulation published in this
10 state and in such other papers of general circulation in
11 this state as the board division may deem expedient. The
12 notice shall contain a brief statement of the time, place
13 and purpose of the hearing. No defect or inaccuracy in the
14 notice or in the publication thereof shall invalidate any
15 rule or code issued or adopted by the board division after
16 the hearing."

17 Section 6. Section 41-1717, R.C.M. 1947, is amended to
18 read as follows:

19 "41-1717. Order directing additions, repairs, and
20 improvements. Whenever the board division, after a hearing
21 had upon its own motion or upon complaint, finds that an
22 employment or place of employment is not safe, or that the
23 practices or methods or operations or processes employed or
24 used in connection therewith are unsafe, or do not afford
25 adequate protection to the life and safety of the employees

1 in such employments and place of employment, the ~~board~~
 2 division shall make and enter and serve such order relative
 3 thereto as may be necessary to render such employment or
 4 place of employment safe and protect the life and safety of
 5 employees in such employment and places of employment. The
 6 ~~board~~ division may in the order direct that such additions,
 7 repairs, improvements or changes be made and such safety
 8 devices and safeguards be furnished, provided and used, as
 9 are reasonably required to render such employment or places
 10 of employment safe, in the manner and within the time
 11 specified in the order."

12 Section 7. Section 41-1718, R.C.M. 1947, is amended to
 13 read as follows:

14 "41-1718. Notice of violation of safety code, order or
 15 rule -- penalties for violations -- hearings -- injunction
 16 authorized. (1) The ~~board or authorized representative~~
 17 ~~thereof with the approval of the board or the safety~~
 18 ~~director,~~ division upon finding any violation of any duly
 19 promulgated adopted safety code, order or rule involving
 20 failure to install or maintain any safety appliance, device
 21 or safeguard required by such safety order, code or rule,
 22 may prohibit the further use of the machine, equipment, or
 23 apparatus constituting such violation, and when such use is
 24 prohibited shall post notice in an appropriate place in
 25 plain view of any person likely to use the same calling

1 attention to the unsafe condition, defect, or lack of
 2 safeguard and the fact that the further use thereof is
 3 prohibited.

4 (2) The notice required by subsection (1) of this
 5 section shall not be removed until the required safety
 6 appliance, device or safeguard complies with the requirement
 7 of the safety order or safety code.

8 (3) Every person who, after the notice required by
 9 subsection (1) of this section is posted as provided in that
 10 subsection, uses or operates any place of employment,
 11 machine, device, apparatus or equipment referred to in
 12 subsection (1) of this section before it is made safe and
 13 the required safeguards or safety appliances or devices are
 14 provided, or who defaces or destroys or removes any notice
 15 required by subsection (1) of this section without the
 16 authority of the board division, or who fails or refuses to
 17 file a report of accident as required by section 92-808,
 18 R.C.M. 1947, is guilty of a misdemeanor and, in addition to
 19 the punishment provided for misdemeanors, is subject to a
 20 civil penalty in an amount of not more than one thousand
 21 dollars (\$1,000). This civil penalty may be imposed and
 22 collected by the board division in an action brought in the
 23 name of the state of Montana in the county in which the
 24 employer resides or in which he employs ~~workmen~~ workers. Any
 25 penalty collected under this subsection shall be paid into

1 the industrial accident administrative earmarked revenue
2 account.

3 (4) Any person aggrieved by an order prohibiting the
4 use of the machine, equipment, apparatus or place of
5 employment as provided for in this section may request a
6 hearing before the board division within twenty (20) days
7 after entry of such order. The board division shall then
8 affirm, modify or revoke the order and all procedures of
9 this act relative to entry of orders, rehearing and appeal
10 shall apply.

11 (5) In addition to all other remedies provided in this
12 act, the board division may bring an action to enjoin any
13 violation of any duly ~~promulgated~~ adopted safety order, code
14 or rule."

15 Section 8. Section 41-1719, R.C.M. 1947, is amended to
16 read as follows:

17 "41-1719. Time allowed for compliance with order. The
18 board division shall grant such time as may be reasonably
19 necessary for compliance with any order, and any person
20 affected by the order may petition the board division for an
21 extension of time, which the board division shall grant if
22 it finds the extension of time necessary."

23 Section 9. Section 41-1720, R.C.M. 1947, is amended to
24 read as follows:

25 "41-1720. Order of closure or for cessation of work

1 where place of employment an immediate menace to life or
2 safety. The ~~board-or-authorized-representative-thereof-with~~
3 ~~the-approval-of-the-board-or-the-safety--director,~~ division
4 may order any place of employment closed, or the work
5 therein to cease if it is found that the place of employment
6 is in such an unsafe condition as to constitute an immediate
7 menace to the life or safety of the ~~workmen~~ workers employed
8 therein. Any such order of closure or for cessation of work
9 shall be expressly limited to only that portion of the
10 plant, installation or facility as is directly and
11 immediately affected by the unsafe condition constituting an
12 immediate menace to the life and safety of the ~~workmen~~
13 workers employed therein. Upon issuance of any such order,
14 the ~~board-or-safety-director~~ division shall fix a place and
15 time, not later than twenty-four (24) hours thereafter, for
16 a hearing to be held before the board division. Not more
17 than twenty-four (24) hours after the commencement of the
18 hearing, and without adjournment thereof, the board division
19 shall affirm, modify, or set aside the order. Nothing in
20 this section shall empower the ~~safety-director~~ division to
21 determine that any employment or place of employment is in
22 an unsafe condition on the basis of the number or
23 qualifications of employees operating such employment or
24 place of employment unless a specific rule adopted after
25 public hearing is violated. Provided that for those

1 employments or places of employment for which no code has
 2 been adopted and where it is found by the ~~safety-director~~
 3 division that such place of employment is in such an unsafe
 4 condition as to constitute an immediate menace to the life
 5 or safety of the ~~workmen workers~~ there employed, the ~~safety~~
 6 ~~director~~ division may order that portion of the plant,
 7 installation or facility as is directly and immediately
 8 affected by such unsafe condition closed for a period not to
 9 exceed four (4) hours unless such period be extended by
 10 order of the board division."

11 Section 10. Section 41-1721, R.C.M. 1947, is amended
 12 to read as follows:

13 "41-1721. Judicial review of ~~board's~~ divisions
 14 orders, rules or decisions. (1) The orders of the board
 15 division, its rules, findings and decisions, made and
 16 entered under the provisions of this act, may be reviewed by
 17 the courts within the time and in the manner specified in
 18 this section and not otherwise.

19 (2) Within thirty (30) days after an application for
 20 rehearing is denied, or, if the application is granted,
 21 within thirty (30) days after rendition of the decision on
 22 the rehearing, any party affected thereby may appeal to the
 23 district court for the county in which is situated the place
 24 of employment complained of for the purpose of having the
 25 lawfulness of the original order, or decision, or the order

1 or decision on rehearing inquired into and determined.

2 (3) To give the district court jurisdiction it is
 3 sufficient that a notice be filed with the clerk of the
 4 court to the effect that an appeal is taken to the district
 5 court from the order or decision of the board division and
 6 describing the order or decision sufficiently for purposes
 7 of identification. The notice shall be signed by the party
 8 appealing or his attorney and a copy thereof shall be served
 9 by certified mail upon the board division. Within ten (10)
 10 days after the receipt of the notice, the board division
 11 shall file with the clerk of court the record of proceedings
 12 before the board division, including a transcript of all the
 13 evidence adduced upon the hearing and any rehearing before
 14 the board division. The district court, on application for
 15 good cause shown, may extend the time within which the board
 16 division shall file the record, transcript and evidence. The
 17 cause shall be tried in the same manner as a civil action,
 18 provided that no new or additional evidence may be
 19 introduced in the court, but the cause shall be heard on the
 20 record to the court as certified to it by the board
 21 division.

22 (4) The appeal shall not be extended further than to
 23 determine whether or not:

24 (a) The board division acted without or in excess of
 25 its powers, or in violation of the law;

1 (b) The order or decision was procured by fraud;

2 (c) The order, decision or rule is unreasonable;

3 (d) If findings of fact are made, the finding of fact
4 supports the order or decision under review.

5 (5) An appeal may be taken from the decree of the
6 district court to the supreme court as in all other civil
7 cases."

8 Section 11. Section 41-1722, R.C.M. 1947, is amended
9 to read as follows:

10 "41-1722. Application for rehearing of order,
11 decision, or rule of board division. Any party aggrieved
12 directly or indirectly by any final order, decision or rule
13 of the board division made or entered pursuant to this act
14 may apply to the board division within twenty (20) days
15 after the order of the board division for rehearing in
16 respect to any matters determined or covered by such final
17 order, decision or rule, and specified in the application,
18 for hearing within the time and in the manner prescribed in
19 this act."

20 Section 12. Section 41-1723, R.C.M. 1947, is amended
21 to read as follows:

22 "41-1723. Application for rehearing -- contents --
23 waiver -- copies to adverse parties -- procedure where no
24 adverse parties. (1) The application for rehearing shall set
25 forth specifically and in full detail the grounds upon which

1 the applicant considers the final order, decision or rule is
2 unjust or unlawful, and every issue to be considered by the
3 board division.

4 (2) The applicant for rehearing shall be deemed to have
5 finally waived all objections, irregularities and
6 illegalities concerning the matters upon which rehearing is
7 sought other than those set forth in the application.

8 (3) A copy of the application for rehearing shall be
9 served immediately on all adverse parties, who may file an
10 answer thereto within ten (10) days after being served.

11 (4) If there are no adverse parties, the application
12 may be heard ex parte, or the board division may require the
13 application for rehearing to be served on such parties as
14 may be designated by the board division."

15 Section 13. Section 41-1724, R.C.M. 1947, is amended
16 to read as follows:

17 "41-1724. Resolution of issues on rehearing -- notice
18 -- disposition. (1) Upon the filing of the application for
19 rehearing, if the issues raised thereby have theretofore
20 been adequately considered by the board division, it may
21 determine the same by confirming, without hearing, its
22 previous determination, or if a rehearing is necessary to
23 determine one or more of the issues raised, the board
24 division shall order a rehearing thereon and consider and
25 determine the matters raised by such application.

1 (2) Notice of the time and place of the rehearing shall
2 be given to the applicant, the adverse parties and such
3 other persons as the board division may order.

4 (3) If after the rehearing and the consideration of all
5 the facts, including those arising since the making of the
6 order or decision involved, the board division shall be of
7 the opinion that all or any part of the original order or
8 decision is in any respect unjust or unwarranted, or should
9 be changed, the board division shall abrogate, change or
10 modify the same.

11 (4) An order or decision made after the rehearing,
12 abrogating, changing or modifying the original order or
13 decision shall have the same force and effect as an original
14 order or decision but shall not affect any right or the
15 enforcement of any right arising from or by virtue of the
16 original order or decision unless so ordered by the board
17 division.

18 (5) An application for rehearing is considered denied
19 by the board division unless it has been acted upon within
20 thirty (30) days from the date of filing; provided that the
21 board division may, upon good cause being shown therefor,
22 extend the time within which it may act upon an application
23 for rehearing for not exceeding an additional thirty (30)
24 days."

25 Section 14. Section 41-1725, R.C.M. 1947, is amended

1 to read as follows:

2 "41-1725. Periodic inspections of hazardous places of
3 employment -- report. (1) The board division shall inspect
4 from time to time all the places of employment defined in
5 the Montana ~~Workmen's~~ Workers' Compensation Act as being
6 hazardous and the machinery and appliances therein contained
7 for the purpose of determining whether they conform to law.

8 (2) A report of such periodic inspection shall be filed
9 in the office of the board division and a copy thereof given
10 the employer. Such report shall not be open to public
11 inspection, or made public except on order of the board
12 division, or by the ~~board or a member of the board~~ division
13 in the course of a hearing or in the course of a hearing or
14 proceeding."

15 Section 15. Section 41-1726, R.C.M. 1947, is amended
16 to read as follows:

17 "41-1726. ~~workmen~~ workers to notify employers of
18 safety violations -- complaint to board division --
19 investigation. (1) A ~~workman~~ worker shall notify ~~his~~ the
20 worker's employer of any violation of law or regulation
21 pertaining to safety of places of employment when the
22 violation comes to the knowledge of the workman worker.

23 (2) If the employer fails to remedy the violation, the
24 ~~workman~~ worker may complain in writing to the board division
25 of the violation.

1 (3) Upon receiving the complaint the board division
 2 shall forthwith inquire or make an inspection as to the
 3 safety of the place of employment. A copy of the report of
 4 inspection shall be given to the complainant."

5 Section 16. Section 41-1727, R.C.M. 1947, is amended
 6 to read as follows:

7 "41-1727. Code-making power. (1) ~~In-addition-to-such~~
 8 ~~other-powers-and-duties-as-may-be-conferred-upon-it-by-law,~~
 9 ~~the-board--shall--have-the-power-to-promulgate~~ The division
 10 may adopt, amend, repeal and enforce rules for the
 11 prevention of accidents to be known as "safety codes" in
 12 every employment and place of employment, including the
 13 repair and maintenance of such places of employment, to
 14 render them safe. In the performance of its duties the board
 15 division may appoint advisory committees to deal with
 16 specified industries composed of equal numbers of employers
 17 and employees; and others to suggest safety codes or
 18 amendments thereto. All such safety codes and rules shall,
 19 when adopted, be not inconsistent with the then existing
 20 widely accepted codes of such engineering bodies as the
 21 American Society of Mechanical Engineers, the American
 22 Standards Association, the American Society of Safety
 23 Engineers, the United States of America Standards Institute,
 24 the National Fire Protection Association, and, in addition,
 25 agencies of the federal government with responsibilities for

1 administering worker safety programs, and other accepted
 2 codes. Any amendments made to such codes by the board
 3 division shall be such that when amended such code shall be
 4 consistent with the widely accepted safety codes as then
 5 existing. All codes and all amendments thereto and repeals
 6 thereof shall take effect thirty (30) days after certified
 7 copies thereof shall be filed in the office of the secretary
 8 of state.

9 (2) Every code adopted and every amendment or repeal
 10 thereof shall be published in such manner as the board
 11 division may determine. A printed list of all titles of all
 12 codes including amendments thereof issued and adopted by the
 13 board division under the provisions of this act, together
 14 with the dates of adoption thereof, shall be published from
 15 time to time."

16 Section 17. Section 41-1728, R.C.M. 1947, is amended
 17 to read as follows:

18 "41-1728. Variations. Any employer may consult with
 19 the board division for advice and assistance in complying
 20 with the provisions of this act or any codes adopted
 21 hereunder. In case of practical difficulties, the board
 22 division may grant variations from particular provisions of
 23 the code and permit the use of other or different devices or
 24 methods, ~~provided, however, that~~ However, such variations
 25 shall be granted only when it is clear that the reasonable

1 safety of the workers in said the plant or place of
 2 employment is not thereby endangered. In any case where the
 3 board division shall decline or refuse to grant any request
 4 for variations on the ground that the safety of the workers
 5 involved would be endangered, the employer may request a
 6 rehearing as specified in this act. A properly indexed
 7 record of all variations made shall be kept in the office of
 8 the board division and be open to public inspection."

9 Section 18. Section 41-1729, R.C.M. 1947, is amended
 10 to read as follows:

11 "41-1729. General research and review powers of board
 12 division -- power to appoint advisers. The board division
 13 may: (1) Develop greater knowledge and interest in the
 14 causes and prevention of industrial accidents; occupational
 15 diseases and related subjects through:

16 (a) Research, conferences, lectures and uses of public
 17 communications media,

18 (b) Collection and dissemination of accident
 19 statistics, and

20 (c) Development of staff competent in the review of
 21 safety codes.

22 (2) Appoint advisers who shall be compensated by the
 23 board division if necessary, and who shall assist the board
 24 division in establishing standards of safety. The board
 25 division may adopt and incorporate in its orders such safety

1 recommendations as it may receive from such advisers."

2 Section 19. Section 41-1733, R.C.M. 1947, is amended
 3 to read as follows:

4 "41-1733. Occupational health hazards. The board
 5 division shall report occupational health hazards discovered
 6 in its investigations and inspection of places of employment
 7 to the ~~state--board--of--health~~ department of health and
 8 environmental sciences and shall co-operate with the ~~state~~
 9 ~~board-of--health~~ department of health and environmental
 10 sciences in carrying out its duties as specified in Title
 11 69, chapter 42, R.C.M. 1947."

12 Section 20. Section 50-101, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-101. Inspectors of metal and nonmetallic mines --
 15 employment. The ~~industrial--accident~~ board division of
 16 workers' compensation shall employ an adequate number of
 17 qualified metal and nonmetallic mine inspectors necessary
 18 for the enforcement of this act and shall prescribe their
 19 powers, duties and responsibilities."

20 Section 21. Section 50-102, R.C.M. 1947, is amended to
 21 read as follows:

22 "50-102. Inspections and investigations -- access to
 23 mine -- order to close mine or abate violation -- notice --
 24 hearing and review. (a) The board division is authorized at
 25 any time to cause to be made such inspections and

1 investigations as it shall deem necessary in surface and
 2 underground mines which are subject to this act (1) for the
 3 purpose of obtaining, utilizing, and disseminating
 4 information relating to health and safety conditions in such
 5 mines, the causes of accidents involving bodily injury or
 6 loss of life, or the causes of occupational diseases
 7 originating therein, and (2) for the purpose of determining
 8 whether or not there is compliance with a health and safety
 9 standard or order issued under this act.

10 (b) For the purpose of making any inspection or
 11 investigation authorized by this act, authorized
 12 representatives of the board division shall have the right
 13 of entry to, upon, or through any mine which is subject to
 14 this act.

15 (c) If, upon any inspection of a mine which is subject
 16 to this act authorized representatives of the board division
 17 find that the conditions or practices in the mine are such
 18 that a danger exists which could reasonably be expected to
 19 cause death or serious physical harm immediately or before
 20 the imminence of such danger can be eliminated, such
 21 representatives shall determine the extent of the area of
 22 such mine throughout which the danger exists, and thereupon
 23 issue an order requiring the operator of such mine to cause
 24 all persons, except the persons designated below, whose
 25 presence in such area is necessary to eliminate the danger

1 described in such order, to be withdrawn from, and to be
 2 debarred from entering such area:

3 (1) Any person whose presence in such area is necessary
 4 in the judgment of the operator of the mine, to eliminate
 5 the danger described in the order.

6 (2) Any public official whose official duties require
 7 him to enter such area.

8 (3) Any legal or technical consultant, or any
 9 representative of the employees of the mine, who is a person
 10 qualified to make mine examinations, or is accompanied by
 11 such a person, and whose presence in such area is necessary,
 12 in the judgment of the operator of the mine, for the proper
 13 investigation of the conditions described in the order.

14 (d) If, upon any such inspection or investigation, an
 15 authorized representative finds that there has been a
 16 failure to comply with a mandatory standard which is
 17 applicable to such mine, but that such failure to comply has
 18 not created a danger that could reasonably be expected to
 19 cause death or serious physical harm in such mine
 20 immediately or before the imminence of such danger can be
 21 eliminated, he shall find what would be a reasonable period
 22 of time within which such violation should be totally abated
 23 and thereupon issue a notice fixing a reasonable time for
 24 the abatement of the violation. If, upon the expiration of
 25 such period of time as originally fixed or extended, the

1 authorized representative finds that such violation has not
 2 been totally abated, and if he also finds that such period
 3 of time should not be further extended, he shall also find
 4 the extent of the area which is affected by such violation;
 5 thereupon, the board division shall make an order requiring
 6 the operator of such mine to cause all persons in such area,
 7 excepting the following persons whose presence in such area
 8 is necessary to abate the violation described in the order,
 9 to be withdrawn from, and to be debarred from entering such
 10 area:

11 (1) Any person whose presence in such area is
 12 necessary, in the judgment of the operator of the mine, to
 13 abate the violation described in the order.

14 (2) Any public official whose official duties require
 15 him to enter such area.

16 (3) Any legal or technical consultant, or any
 17 representative of the employees of the mine who is a person
 18 qualified to make examinations, or is accompanied by such a
 19 person, and whose presence in such area is necessary, in the
 20 judgment of the operator of the mine, for the proper
 21 investigation of the conditions described in the order.

22 (e) Findings and orders issued pursuant to this section
 23 shall contain a detailed description of the conditions or
 24 practices which cause and constitute a situation of imminent
 25 danger or a violation of a mandatory standard, and a

1 description of the area of the mine throughout which persons
 2 must be withdrawn and debarred.

3 (f) Each finding made and notice or order issued under
 4 this section shall be given promptly to the operator of the
 5 mine to which it pertains by the person making such finding
 6 or order, and all such findings, orders, and notices shall
 7 be in writing, and shall be signed by the person making
 8 them. A notice or order issued by an authorized
 9 representative pursuant to this section may be annulled,
 10 canceled, or revised by the authorized representative, and
 11 in case of a board division order, the board division may
 12 annul, cancel or revise the order.

13 (g) The order of the duly authorized representative of
 14 the board division shall remain in effect, but shall
 15 immediately be subject to review as provided in this act.

16 (h) An operator notified of an order made pursuant to
 17 section 50-102 (c) may apply to the board division for a
 18 hearing, revision, or annulment of such order. Whenever the
 19 board division after such a hearing upon complaint, or upon
 20 its own motion, finds that danger throughout the area of
 21 such mine as set out in such order existed at the time of
 22 making the inspection, it shall make an order denying a
 23 revision or annulment; but, if it finds that such danger did
 24 not exist throughout the area of such mine, it shall make an
 25 order consistent with its findings, revising or annulling

1 the order under review.

2 (i) An operator notified of an order made pursuant to
3 section 50-102 (d) may apply to the board division for a
4 hearing or revision of such order. If the board division
5 finds that there was no violation, it shall make an order
6 annulling the order under review. If the board division
7 finds that there was such a violation, but such violation
8 has since been abated, it shall make an order annulling the
9 order under review. If the board division finds that such
10 violation was not totally abated, it shall make an order
11 consistent with its findings.

12 (j) In view of the urgent need for prompt decisions of
13 matters submitted to the board division under section
14 50-102, all actions which the board division or its
15 authorized representatives are required to take under this
16 section shall be taken as rapidly as practical, consistent
17 with adequate consideration of the issues involved."

18 Section 22. Section 50-108, R.C.M. 1947, is amended to
19 read as follows:

20 "50-108. To what mines act is applicable. This act
21 shall apply to all mines (except coal and lignite) and
22 individuals, owners, lessors, lessees, agents, partnerships,
23 corporations, managers, operators, or employers operating
24 any surface or underground metal or nonmetallic mines in
25 this state. These individuals, owners, lessors, lessees,

1 agents, partnerships, corporations, managers, operators, or
2 employers operating any surface or underground metal or
3 nonmetallic mines (excluding coal and lignite) shall report
4 the same to the board division, state the name of the mine,
5 the location of the same, the name of the company, person,
6 or persons owning or operating the same, post-office
7 address, and number of men persons employed."

8 Section 23. Section 50-118, R.C.M. 1947, is amended to
9 read as follows:

10 "50-118. Violation of the act -- penalties. (a)
11 Whenever an operator (1) violates or fails or refuses to
12 comply with any order, rule, or regulation issued under this
13 act, or (2) interferes with, hinders, or delays the board
14 division or its authorized representatives in carrying out
15 any duties under this act, or (3) refuses to admit an
16 authorized representative of the board division to any mine
17 which is subject to this act, or (4) refuses to permit the
18 inspection or investigation of any mine which is subject to
19 this act, or an accident, injury, or occupational disease
20 occurring in or connected with such a mine, or (5) refuses
21 to furnish the board division any information or report
22 requested by the board division and which may reasonably be
23 necessary to carry out the provisions of this act, a civil
24 action for preventive relief, including, but not limited to,
25 an application for a permanent or temporary injunction,

1 restraining order, or other order, may be instituted by the
 2 board division in the district court for the county in which
 3 the mine in question is located or in which the mine
 4 operator has its principal office.

5 (b) Any person who knowingly (1) violates or fails or
 6 refuses to comply with any order, rule, or regulation issued
 7 under this act, or (2) interferes with, hinders, or delays
 8 the board division or its authorized representatives in
 9 carrying out any duties under this act, or (3) refuses to
 10 admit an authorized representative of the board division to
 11 any mine which is subject to this act, or (4) refuses to
 12 permit the inspection or investigation of any mine which is
 13 subject to this act, or of an accident, injury, or
 14 occupational disease occurring in or connected with such a
 15 mine, or (5) refuses to furnish the board division any
 16 information or report requested by the board division and
 17 which may reasonably be necessary to carry out the
 18 provisions of this act, shall be guilty of a misdemeanor,
 19 and shall upon conviction thereof be punished for each such
 20 offense by a fine of not less than one hundred dollars
 21 (\$100), or more than three thousand dollars (\$3,000), or by
 22 imprisonment in the county jail not exceeding six (6)
 23 months, or both. In any instance in which such offense is
 24 committed by a corporation, any officer or authorized
 25 representative of such corporation who knowingly permits

1 such offense to be committed shall, upon conviction, be
 2 subject to the same fine or imprisonment, or both."

3 Section 24. Section 50-119, R.C.M. 1947, is amended to
 4 read as follows:

5 "50-119. Definitions. "Authorized representative"
 6 means mine inspector or any other person employed or
 7 authorized by the ~~industrial--~~ accident board division to
 8 perform any and all duties under this act. "~~Board~~"
 9 "Division" means the ~~industrial-accident-board~~ division of
 10 workers' compensation of the state of Montana. "Corporation"
 11 means a body formed and authorized by law to act as a single
 12 person although constituted by one or more persons and
 13 legally endowed with various rights and duties including the
 14 capacity of succession. "Employee" means every person in
 15 this state, including a contractor other than an
 16 "independent contractor," who is in the service of an
 17 employer as hereinafter defined in or about any mine, mill,
 18 smelter, excavation, or quarry under any appointment or
 19 contract of hire, express or implied, oral or written,
 20 whether lawfully or unlawfully employed and whether the
 21 employment is casual or otherwise. "Employer" means every
 22 person, firm, partnership, corporation, or association,
 23 including an independent contractor, who has any person in
 24 service in or about any mine, mill, smelter, excavation, or
 25 quarry under any appointment or contract of hire, express or

1 implied, oral or written. "Inspector" means a person or
 2 persons employed by the ~~industrial-accident board~~ division
 3 to inspect metallic and nonmetallic mines, mills, smelters,
 4 or quarries as provided in this act. "Mine" means any mine
 5 (or excavation) when clay, metallic ore, mineral, gypsum, or
 6 rock is dug or mined whether on surface or underground,
 7 where metal-bearing ores or nonmetallic mineral commodities
 8 (exclusive of coal or lignite) are dug or mined whether at
 9 the surface or underground. "Notice" means a written notice,
 10 work order or correction notice issued by an authorized
 11 representative of the board division, which notice specifies
 12 a violation(s) and directs or recommends corrective measures
 13 and may specify a definite date or time in which to abate
 14 said violation(s). "Occupational Health" means any of those
 15 health conditions that occur as a result of employment in a
 16 mine. "Order" means and includes any decision, rule,
 17 regulation, direction, requirement, or standard set,
 18 adopted, or issued by the board division, or any other
 19 determination or decision made by the board division."

20 Section 25. Section 69-1501, R.C.M. 1947, is amended
 21 to read as follows:

22 "~~69-1501. Advisory---committee-----functions-----~~
 23 ~~appointment-and-terms-of-members-----traveling-expenses----~~
 24 Boiler rules and regulations -- state inspectors of boilers,
 25 appointment, term and compensation -- special boiler

1 inspectors. ~~(1)---There---is---hereby---created---to---advise---the~~
 2 ~~industrial---accident-board-an-advisory-committee-which-shall~~
 3 ~~hereafter-be-referred-to-as---the---committee,---consisting---of~~
 4 ~~three---(3)---members---who-shall-be-appointed-by-the-governor,~~
 5 ~~one-for-two-(2)-years, one-for-three-(3)-years-and---one---for~~
 6 ~~four---(4)-years. At-the-expiration-of-their-respective-terms~~
 7 ~~or-when-vacancies-occur-they-or-their-successors---identified~~
 8 ~~with---the---same---interest-respectively-shall-be-appointed-by~~
 9 ~~the-governor-for-terms-of-four---(4)---years---each.---Of---these~~
 10 ~~appointed---members---one---(1)---shall-be-a-Montana-first-class~~
 11 ~~steam-licensed-operating-engineer---of-boilers---employed-in~~
 12 ~~that-capacity-at-the-time-of-his-appointment, one-(1)-shall~~
 13 ~~be-commissioned-by-the-national-board-of-boilers---and~~
 14 ~~pressure-vessels-inspectors-and-shall-represent-the-boiler~~
 15 ~~insurance-companies-licensed-to-do-business---in---the---state,~~
 16 ~~and---one---(1)---shall---be---a---Montana-registered-professional~~
 17 ~~mechanical-engineer. The-committee-shall-elect-one---(1)---of~~
 18 ~~its-members-as-chairman-and-shall-meet-when-ever-required.~~

19 The-members-of-the-committee-shall-serve-without-salary
 20 but-shall-receive-actual-travel-expenses-in-the-same-manner
 21 as-other-state-officers.

22 The-committee-shall-act-in-a-technical---advisory
 23 capacity---to---the---industrial---accident---board-and (1) The
 24 division of workers' compensation shall formulate
 25 definitions, rules and regulations for the safe

1 construction, installation, operation, inspection and repair
 2 of equipment covered by this act. The definitions, rules and
 3 regulations so formulated shall follow generally accepted
 4 nationwide engineering standards as published by the
 5 American society of mechanical engineers.

6 (2) Appointment, term and compensation of boiler
 7 inspectors. The ~~industrial--accident board~~ division shall
 8 appoint state inspectors of boilers and shall prescribe
 9 their duties, term of office and fix their compensation.

10 (3) In addition to the state boiler inspectors the
 11 ~~industrial--accident board~~ division shall issue to the
 12 inspectors of boiler insurance companies authorized to do
 13 business in the state, commissions, certificates or other
 14 recognition as special boiler inspectors and shall accept
 15 the inspection reports of such special inspectors as
 16 equivalent to those of the state inspectors, provided that
 17 each such special inspector shall hold a certificate as
 18 boiler inspector issued by the national board of boiler and
 19 pressure vessels inspectors. Such special inspectors shall
 20 receive no salary or expenses from the state nor shall the
 21 state collect inspection fees for inspections made by such
 22 special inspectors."

23 Section 26. Section 69-1503, R.C.M. 1947, is amended
 24 to read as follows:

25 "69-1503. Inspection of boilers -- boiler

1 installations. (1) The inspector of boilers must inspect all
 2 boilers and steam generators before the same are used, and
 3 all persons who bring into this state, for operation in this
 4 state, any boiler or boilers must notify the ~~board~~ division
 5 stating the number and kind of boilers, and where they are
 6 to be located and operated in this state, and must secure
 7 from the ~~board~~ division a certificate of inspection before
 8 ~~said~~ boilers are placed in operation, except in the case of
 9 new boilers, which must be inspected within ninety (90) days
 10 after they are put in use, and all boilers must be inspected
 11 at least once in every year, except boilers exempt under
 12 provisions of section 69-1515. Upon written application,
 13 longer inspection intervals may be authorized by the ~~board~~
 14 division. Any owner, operator or user who opens a boiler or
 15 boilers between inspections for repair or other reasons must
 16 notify the ~~board~~ division of such action and such boiler or
 17 boilers shall at the discretion of the ~~board~~ division be
 18 inspected by the state or special boiler inspector before
 19 the boiler or boilers may be placed back in operation. Any
 20 person failing to give notice to the ~~board~~ division as
 21 herein provided, or who operates such boilers without a
 22 certificate from the ~~board~~ division, shall be punished by a
 23 fine of not less than one hundred dollars (\$100) nor more
 24 than five hundred dollars (\$500) for each offense, or by
 25 imprisonment in the county jail for not less than thirty

1 (30) nor more than ninety (90) days, or by both such fine
2 and imprisonment.

3 (2) When necessary, the boiler inspector shall subject
4 boilers, except those exempted by 69-1515, to hydrostatic
5 pressure, which hydrostatic pressure shall not exceed one
6 hundred fifty per cent (150%) of the steam pressure allowed
7 on the boilers, providing there are no such leaks on such
8 boilers which prevent the inspector from applying such
9 hydrostatic pressure. And the inspector must satisfy himself
10 by a thorough interior and exterior examination that the
11 boilers are well-made and of good and suitable material;
12 that the openings for the passage of water and steam,
13 respectively, and all pipes and tubes exposed to heat, are
14 of the proper dimensions and free from obstructions; that
15 the flues are circular in shape; that the fire line of the
16 furnace is at least two (2) inches below prescribed minimum
17 water line of the boilers; that the arrangements for
18 delivering the feed water are such that the boilers cannot
19 be injured thereby, and that such boilers and the steam
20 connections may be safely employed without danger to life.

21 (3) New boiler installations. No boiler which does not
22 conform to the rules ~~and regulations formulated~~ adopted by
23 the committee division governing new construction and
24 installation shall be installed and operated in this state
25 after twelve (12) months from the date upon which the first

1 rules ~~and regulations~~ under this act pertaining to new
2 construction and installation shall have become effective,
3 unless the boiler is of special design or construction, and
4 is not covered by the rules ~~and regulations~~, nor is in any
5 way inconsistent with such rules ~~and regulations~~, in which
6 case a special installation and operating permit may at its
7 discretion be granted by the committee division."

8 Section 27. Section 69-1507, R.C.M. 1947, is amended
9 to read as follows:

10 "69-1507. Duty of owner to permit inspection -- ~~board~~
11 division action -- costs and expenses. It is the duty of the
12 owners, engineers, or managers of steam or water boilers to
13 allow the inspector free access to the same. In case the
14 owner, operators, or manager of any boiler is notified by
15 the inspector to have ~~said the~~ boiler ready for inspection
16 on a certain day, and fails to have such boiler ready for
17 inspection at such time, the inspector shall notify the
18 ~~board~~ division to gain access to ~~said the~~ boiler. Any person
19 failing to immediately comply with ~~board~~ division directed
20 access to ~~said the~~ boiler shall be deemed guilty of a
21 misdemeanor, and upon conviction thereof shall be punished
22 by a fine of not less than one hundred dollars nor more than
23 five hundred dollars, or by imprisonment in the county jail
24 for not less than two months nor more than six months, or by
25 both such fine and imprisonment. The owner, engineer or

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1 manager of any boiler who has refused access resulting in a
 2 ~~board~~ division order must pay all transportation and hotel
 3 expenses of the inspector who makes the inspection directed
 4 by such order, in addition to the inspection fee provided by
 5 law. It shall be the duty of the engineer operating any
 6 boiler or boilers to assist the inspectors in their
 7 examination of the same, and point out any defects known to
 8 him in the boilers or machinery under his charge. Any
 9 engineer not complying with this section shall have his
 10 license revoked or suspended."

11 Section 28. Section 69-1509, R.C.M. 1947, is amended
 12 to read as follows:

13 "69-1509. Classification and licensing of engineers.

14 (1) Engineers entrusted with the operation, care and
 15 management of steam or water boilers and steam machinery as
 16 specified in the preceding section must be divided into four
 17 classes, namely, first-class engineers, second-class
 18 engineers, third-class engineers, and low-pressure
 19 engineers.

20 (2) Licenses for the operation of steam or water
 21 boilers and steam machinery shall be divided into four
 22 classifications in accordance with the following:

23 (a) First-class engineers shall be licensed to operate
 24 all classes, pressures, and temperatures of steam and water
 25 boilers and steam driven machinery with the exception of

1 traction and hoisting engines.

2 (b) Second-class engineers shall be licensed to operate
 3 steam boilers operating not in excess of two hundred fifty
 4 (250) pounds per square inch gauge saturated steam pressure
 5 or water boilers operating not in excess of three hundred
 6 seventy-five (375) pounds per square inch gauge pressure and
 7 four hundred fifty degrees Fahrenheit (450°F) temperature,
 8 and steam driven machinery not to exceed one hundred (100)
 9 horsepower per unit with the exception of traction and
 10 hoisting engines.

11 (c) Third-class engineers shall be licensed to operate
 12 steam boilers operating not in excess of one hundred (100)
 13 pounds per square inch gauge saturated steam pressure or
 14 water boilers operating not in excess of one hundred sixty
 15 (160) pounds per square inch gauge pressure and three
 16 hundred fifty degrees Fahrenheit (350°F) temperature.

17 (d) Low-pressure engineers shall be licensed to operate
 18 steam boilers operating not in excess of fifteen (15) pounds
 19 per square inch gauge pressure or water boilers operating
 20 not in excess of fifty (50) pounds per square inch gauge
 21 pressure and two hundred fifty degrees Fahrenheit (250°F)
 22 temperature.

23 (3) Each applicant for an engineer's license shall meet
 24 the following minimum requirements for the class of
 25 engineer's license for which application is being made. Each

1 applicant for any classification must be physically and
 2 mentally capable of performing the required duties for the
 3 class of engineer's license for which application is being
 4 made.

5 (a) Applicants for low-pressure engineer's license
 6 shall have no less than three (3) months' full-time
 7 experience in the actual operation of a boiler in this
 8 classification and successfully pass a written examination
 9 prescribed by the board division and has passed his
 10 eighteenth (18th) birthday and is found to be competent to
 11 operate a boiler or boilers in this classification shall be
 12 granted a low-pressure engineer's license.

13 (b) Applicants for third-class engineer's license shall
 14 have no less than six (6) months' full-time experience in
 15 the actual operation of a boiler in this classification,
 16 under an engineer holding a valid third-class or higher
 17 license, and successfully pass a written examination
 18 prescribed by the board division and has passed his
 19 eighteenth (18th) birthday and is found to be competent to
 20 operate a boiler or boilers in this classification shall be
 21 granted a third-class engineer's license.

22 (c) Applicants for second-class engineer's license
 23 shall have:

24 (1) No less than two (2) years' full-time experience in
 25 the actual operation of a boiler and steam driven machinery

1 in this classification, under an engineer holding a valid
 2 second-class or first-class license, and successfully pass a
 3 written examination prescribed by the board division and has
 4 passed his eighteenth (18th) birthday and is found to be
 5 competent to operate a boiler or boilers and steam driven
 6 machinery in this classification shall be granted a
 7 second-class engineer's license; or

8 (2) Hold a valid third-class engineer's license and
 9 have no less than one (1) year's full-time experience in the
 10 actual operation of a boiler and steam driven machinery in
 11 this classification, under an engineer holding a valid
 12 second-class or first-class license, and successfully pass a
 13 written examination prescribed by the board division and has
 14 passed his eighteenth (18th) birthday and is found to be
 15 competent to operate a boiler or boilers and steam driven
 16 machinery in this classification shall be granted a
 17 second-class engineer's license.

18 (d) Applicants for first-class engineer's license shall
 19 have:

20 (1) No less than three (3) years' full-time experience
 21 in the actual operation of a boiler and steam driven
 22 machinery in this classification, under an engineer holding
 23 a valid first-class license, and successfully pass a written
 24 examination prescribed by the board division and has passed
 25 his eighteenth (18th) birthday and is found to be competent

1 to operate a boiler or boilers and steam driven machinery in
2 this classification, shall be granted a first-class
3 engineer's license; or

4 (2) Hold a valid second-class engineer's license and
5 have no less than one (1) year's full-time experience in the
6 actual operation of a boiler and steam driven machinery in
7 this classification, under an engineer holding a valid
8 first-class license, and successfully pass a written
9 examination prescribed by the board division and has passed
10 his eighteenth (18th) birthday and is found to be competent
11 to operate a boiler or boilers and steam driven machinery in
12 this classification shall be granted a first-class
13 engineer's license; or,

14 (3) Hold a valid third-class engineer's license and
15 have no less than two (2) year's full-time experience in the
16 actual operation of a boiler and steam driven machinery in
17 this classification, under an engineer holding a valid
18 first-class license, and successfully pass a written
19 examination prescribed by the board division and has passed
20 his eighteenth (18th) birthday and is found to be competent
21 to operate a boiler or boilers and steam driven machinery in
22 this classification shall be granted a first-class
23 engineer's license.

24 (e) Allowable exceptions or variances to the foregoing
25 minimum requirements are as follows:

1 (1) Applicants for engineer's license in any
2 classification holding a valid license in that
3 classification from another state with licensing
4 requirements equal to or exceeding the foregoing minimum
5 requirements for the state of Montana and successfully pass
6 a written examination prescribed by the board division and
7 is found to be competent to operate a boiler or boilers and
8 steam driven machinery in that classification shall be
9 granted a license in that classification.

10 (2) Operating experience in a classification
11 satisfactory to the board division, accumulated in United
12 States military services or the merchant marine service may
13 be accepted in lieu of the operating experience required for
14 licensing of engineers in each of the foregoing
15 classifications.

16 (3) Applicants with training in the actual operation of
17 steam or water boilers and steam machinery who have been
18 certified as having satisfactorily completed a prescribed
19 training course from a recognized vocational-technical
20 training school or center or other board division approved
21 institution or training program in the classification for
22 which he is applying may at the discretion of the board
23 division be credited with a maximum of six (6) months'
24 experience toward first, second, or third-class engineer's
25 license.

1 (4) None of the licenses in this section above named
 2 shall entitle the holder thereof to operate a traction
 3 engine, but all persons who are entrusted with the care and
 4 management of traction engines, or boilers on wheels, are
 5 required to pass an examination as to their competency to
 6 operate such class of machinery and to procure a license to
 7 be known as a traction license. Such traction license shall
 8 not entitle the holder thereof to operate any other class of
 9 steam machinery specified in the preceding section.
 10 Applicants for a traction engineer's license shall have no
 11 less than six (6) months' full-time experience in the
 12 operation of steam traction engines and successfully pass a
 13 written examination prescribed by the board division and has
 14 passed his eighteenth (18th) birthday and is found to be
 15 competent to operate a traction engine shall be granted a
 16 traction engineer's license. The board division at its
 17 discretion may waive the experience requirement for
 18 operators of traction engines which are maintained and
 19 operated as a hobby for the restoration and show purposes of
 20 antique equipment."

21 Section 29. Section 69-1510, R.C.M. 1947, is amended
 22 to read as follows:

23 "69-1510. Complaints and revocation of license.
 24 Whenever complaint is made against an engineer holding a
 25 license that he through negligence, want of skill, or

1 inattention to duty, permitted his boiler(s) to burn or
 2 otherwise become in bad condition, or that he has been found
 3 intoxicated or under the influence of drugs while on duty,
 4 it is the duty of the board division to make a thorough
 5 investigation of the charge, and upon satisfactory proof of
 6 such charge to revoke the license of ~~said~~ the engineer."

7 Section 30. Section 69-1512, R.C.M. 1947, is amended
 8 to read as follows:

9 "69-1512. Fees for inspection or examination. (1) All
 10 fees for inspection are to be paid to the ~~industrial~~
 11 ~~accident--~~board division in accordance with the following
 12 schedule based on safety valve setting:

- 13 (a) Boilers with pressure under thirty (30) pounds per
 14 square inch \$10
- 15 (b) Boilers with pressure from thirty (30) pounds to
 16 one hundred (100) pounds per square inch \$15
- 17 (c) Boilers with pressure from one hundred (100) pounds
 18 to three hundred (300) pounds per square inch \$20
- 19 (d) Boilers with pressure over three hundred (300)
 20 pounds per square inch \$30
- 21 (e) Miniature boilers with pressure not in excess of
 22 one hundred (100) pounds per square inch \$10
- 23 (f) Steam traction \$ 5
- 24 (g) Operating certificate \$ 4
- 25 In case of the failure of the owner, manager or person

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1 in charge of any boiler to pay such fee to the ~~industrial~~
 2 ~~accident-board~~ division, the ~~board~~ division shall initiate
 3 the necessary legal action to collect ~~said~~ the fee. Failure
 4 of any person to immediately abide with results of such
 5 ~~board~~ division action shall be deemed guilty of a
 6 misdemeanor and punished as provided by section 69-1507.

7 (2) Whenever, upon request of the owner or operator of
 8 any boiler if is necessary for the inspector to make a
 9 special trip for the inspection of the boiler, the mileage
 10 and per diem allowed by law, in addition to the fees herein
 11 prescribed, shall be charged and collected by the ~~industrial~~
 12 ~~accident-board~~ division.

13 (3) Applicants for engineer's license shall pay fees
 14 according to the class of license for which application is
 15 made, as specified in the following schedule:

16 (a) First class	\$30
17 (b) Second class	\$20
18 (c) Third class	\$12
19 (d) Low pressure	\$ 8
20 (e) Traction	\$12
21 (f) Renewal of license	\$ 4
22 (g) Replacement of lost certificate	\$ 2

23 (4) Each application shall be accompanied by a payment
 24 equal to fifty per cent (50%) of the license fee for which
 25 application is being made; said payment shall be forfeited

1 in the event the applicant fails to appear for the
 2 examination at the scheduled time or fails to pass the
 3 examination.

4 In case of the failure of any applicant to successfully
 5 pass an examination, forty-five (45) days must elapse before
 6 he can again be examined for license."

7 Section 31. Section 69-1513, R.C.M. 1947, is amended
 8 to read as follows:

9 "69-1513. Review of license rejection. If any person
 10 who has applied for a license under the provisions of this
 11 article, and has been rejected, feels aggrieved, he may at
 12 any time after the lapse of ten days, and within forty-five
 13 (45) days after the date of his rejection, in writing set
 14 forth the causes of his grievance and request a ~~board~~
 15 division review. Such request must be addressed to the ~~board~~
 16 division and shall be signed by the rejected applicant.
 17 Within two days after receiving such request, ~~it-is-the-duty~~
 18 ~~of--the--board-to~~ the division shall notify the applicant in
 19 writing that on a certain day, which shall not be less than
 20 five nor more than thirty (30) days after the date the ~~board~~
 21 division receives ~~said~~ the written request, the ~~committee~~
 22 division shall review and evaluate the application. The
 23 applicant may appear in person at ~~said~~ the review if he so
 24 desires. At least two days before the day set for the review
 25 the applicant may designate in writing to the ~~board~~ division

1 the name of an engineer holding a valid license of equal or
2 higher grade with the one applied for, and such engineer may
3 present himself in behalf of the applicant upon the day and
4 at the hour fixed for the review."

5 Section 32. Section 69-1514, R.C.M. 1947, is amended
6 to read as follows:

7 "69-1514. Board Division decision. After ~~said~~ the
8 review is completed, and if ~~a--majority--of~~ the committee
9 division decides that ~~such the~~ applicant is entitled to the
10 license he has applied for, the board division shall without
11 delay issue a license accordingly, but if ~~a--majority--of~~ the
12 committee division rejects the applicant, it is a final
13 rejection, and he must not be granted another examination
14 for the space of forty-five (45) days after such last
15 rejection, when he may again apply as provided by section
16 69-1512."

17 Section 33. Section 69-1515, R.C.M. 1947, is amended
18 to read as follows:

19 "69-1515. Boilers exempted from provisions -- duty of
20 owner of traction engine -- notice of purchase of boiler.

21 (1) This act shall not apply to boilers under federal
22 control. The provisions of this act requiring inspections,
23 inspection fees and certificates shall not apply to steam
24 heating boilers operated at not over fifteen (15) pounds per
25 square inch gauge pressure in private residences or

1 apartments of six (6) or less families or to hot water
2 heating or supply boilers operated at not over fifty (50)
3 pounds per square inch gauge pressure and temperatures not
4 over two hundred fifty degrees Fahrenheit (250° F) when in
5 private residences or apartments of six (6) or less
6 families. Locomotives, commonly known as dinkey engines,
7 used in operating logging or mining railroads, or any
8 similar work where such locomotives are owned, leased or
9 operated by any individual, company, or corporation and are
10 used in the business of such individual, company, or
11 corporation, and not for general commercial purposes, shall
12 be classed as traction engines and be subject to inspection
13 as are other traction engines, and the persons operating or
14 firing such dinkey locomotives shall be required to hold
15 traction licenses. No persons operating any of the engines
16 or boilers hereinbefore exempted from the operation of this
17 article shall be required to procure license from the board
18 division.

19 (2) Any person purchasing any boiler whether traction
20 or stationary shall be entitled to receive from the seller
21 the certificates of inspection issued on such boiler and any
22 person purchasing any boiler, whether traction or
23 stationary, not exempted by the provisions of this section,
24 shall, within ten (10) days after such purchase, report the
25 fact of such purchase to the board division and shall notify

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1 the board division as to where ~~said~~ the boiler will be
 2 installed and operated. ~~Any~~ person failing to comply with
 3 the provisions of this section shall be deemed guilty of a
 4 misdemeanor. All other boilers and steam engines, except as
 5 herein exempted, come under the provisions of this article
 6 and persons operating same ~~are~~ required to hold the proper
 7 grade of license."

8 Section 34. Section 69-1517, R.C.M. 1947, is amended
 9 to read as follows:

10 "69-1517. Operation of boiler or steam engine without
 11 license. It is unlawful for any person in this state to
 12 operate a stationary boiler or steam engine, or any boiler
 13 or steam engine other than engines and boilers exempted by
 14 the provisions of section 69-1515, without a license granted
 15 under the provisions of this article. The owner, renter, or
 16 user of any engine or boiler is equally liable for the
 17 violation of this section. But in case of accident,
 18 sickness, or any unforeseen prevention of the licensed
 19 engineer employed by any owner, renter, or user of an engine
 20 or boiler, the owner, renter, or user may, for fifteen days
 21 employ any person of the age of eighteen years or over whom
 22 he may consider competent to run the engine or boiler,
 23 although such person so employed may not be the holder of an
 24 engineer's license, he shall have reasonable qualifications
 25 acceptable to the board division. The person so employing

1 the unlicensed engineer shall immediately notify the board
 2 division. But no owner, renter, or user of boilers or steam
 3 machinery shall be allowed to so employ unlicensed engineers
 4 for more than fifteen days in any one calendar year. And it
 5 shall be unlawful, except as stated in this section, for any
 6 person, firm, or corporation to employ any person not duly
 7 licensed as an engineer, within the meaning of this act, to
 8 run or operate any of the boilers or engines subject to the
 9 provisions of this act."

10 Section 35. Section 69-1601, R.C.M. 1947, is amended
 11 to read as follows:

12 "69-1601. Operators of hoisting engines must procure
 13 licenses. (1) It shall be unlawful for any person to operate
 14 any hoisting engine driven by any power when used in
 15 lowering or hoisting personnel in industrial operations or
 16 on construction projects, or any air compressor operated by
 17 any power without first obtaining a license therefor from
 18 the board division as herein provided. Except that in
 19 emergencies the provisions of section 69-1517 relating to
 20 the employment of unlicensed engineers shall apply to the
 21 operation of the engines and machinery named herein.

22 (2) First-class hoisting engineers shall be licensed to
 23 operate hoisting engines driven by any power and unlimited
 24 horsepower used in the lowering or hoisting of personnel in
 25 industrial operations or on construction projects.

1 (3) Second-class hoisting engineers shall be licensed
 2 to operate hoisting engines driven by any power and not in
 3 excess of one hundred (100) brake horsepower used in the
 4 lowering or hoisting of personnel in industrial operations
 5 or on construction projects."

6 Section 36. Section 69-1602, R.C.M. 1947, is amended
 7 to read as follows:

8 "69-1602. Application and fee for license -- renewal
 9 and revocation of license. Application for such licenses
 10 shall be made to the board division in the same manner, and
 11 the same fee shall be charged therefor as now required by
 12 law for obtaining a license to operate steam engines and
 13 boilers, and such license shall be given for a period of one
 14 year from the date of issuance thereof, and may be renewed
 15 in the same manner provided by law for the renewal of a
 16 license to operate steam engines or boilers; provided, that
 17 the board division shall have the right to revoke any
 18 license issued under the provisions of this act for any of
 19 the reasons for which the board division could revoke a
 20 license to operate steam engines and boilers."

21 Section 37. Section 69-1604, R.C.M. 1947, is amended
 22 to read as follows:

23 "69-1604. First and second-class licenses --
 24 qualifications of applicant. (1) Each applicant for a
 25 hoisting engineer's license shall meet the following minimum

1 requirements for the class of license for which application
 2 is being made. Each applicant for any classification must be
 3 physically and mentally capable of performing the required
 4 duties for the class of license for which application is
 5 being made.

6 (a) Applicants for second-class hoisting engineer's
 7 license shall have no less than two years' experience in the
 8 actual operation of hoisting equipment in this
 9 classification under an engineer holding a valid
 10 second-class or first-class license and successfully pass a
 11 written examination prescribed by the board division and has
 12 passed his eighteenth (18th) birthday and is found to be
 13 competent to operate hoisting equipment in this
 14 classification shall be granted a second-class hoisting
 15 engineer's license.

16 (b) Applicants for first-class hoisting engineer's
 17 license shall:

18 (1) Have no less than three years' experience in the
 19 actual operation of hoisting equipment in this
 20 classification under an engineer holding a valid first-class
 21 license and successfully pass a written examination
 22 prescribed by the board division and has passed his
 23 eighteenth (18th) birthday and is found to be competent to
 24 operate hoisting equipment in this classification shall be
 25 granted a first-class hoisting engineer's license; or

1 (2) Hold a valid second-class license and have no less
 2 than six (6) months' experience in the actual operation of
 3 hoisting equipment in this classification under an engineer
 4 holding a valid first-class license and successfully pass a
 5 written examination prescribed by the board division and has
 6 passed his eighteenth (18th) birthday and is found to be
 7 competent to operate hoisting equipment in this
 8 classification shall be granted a first-class hoisting
 9 engineer's license.

10 (c) Applicants for first or second-class hoisting
 11 engineer's license holding a valid license in that
 12 classification from another state with licensing
 13 requirements equal to or exceeding the foregoing minimum
 14 requirements for the state of Montana and successfully pass
 15 a written examination prescribed by the board division and
 16 is found to be competent to operate hoisting machinery in
 17 that classification shall be granted a license in that
 18 classification.

19 (d) Applicants for first or second-class hoisting
 20 engineer's license holding a valid first or second-class
 21 engineer's license for the operation of boilers, steam
 22 machinery and hoisting engines for the state of Montana
 23 prior to enactment of this act shall, upon application
 24 during a period not to exceed twelve (12) months after
 25 enactment of this act, be granted a hoisting engineer's

1 license in that classification."

2 Section 38. Section 71-1001, R.C.M. 1947, is amended
 3 to read as follows:

4 "71-1001. Definitions. (a) "Payments" means money
 5 payments to persons having silicosis as herein defined.

6 (b) "Silicosis" means a fibrotic condition of the lungs
 7 due to the inhalation of silica dust.

8 (c) "Examining board" shall mean well-qualified
 9 physician or physicians, as designated by the industrial
 10 accident-board division of workers' compensation."

11 Section 39. Section 71-1002, R.C.M. 1947, is amended
 12 to read as follows:

13 "71-1002. Administration. ~~(a) The industrial accident~~
 14 ~~board of the state of Montana is hereby authorized and~~
 15 ~~charged with the general supervision of this chapter under~~
 16 ~~the powers, duties and functions as prescribed herein as~~
 17 ~~amended.~~ The division of workers' compensation shall
 18 administer this chapter. The division shall:

19 ~~All powers, duties and functions previously vested in~~
 20 ~~the state department of public welfare in relation to this~~
 21 ~~chapter are hereby transferred to the industrial accident~~
 22 ~~board of the state of Montana.~~

23 ~~(b) Any powers, duties or functions previously vested~~
 24 ~~in the county departments of public welfare in relation to~~
 25 ~~this chapter are hereby transferred to the industrial~~

1 ~~accident-board-of-the-state-of-Montana-~~

2 ~~(e)-(1) The-industrial-accident-board-of-the-state-of~~
3 ~~Montana--shall--formulate~~ Formulate a plan and ~~promulgate~~
4 ~~regulations~~ adopt rules for the operation of this chapter.

5 ~~(f)-(2) The-industrial-accident-board-shall-co-operate~~
6 Cooperate with the federal government in all matters of
7 immediate concern pertaining to silicosis.

8 ~~(g)-(3) The--industrial--accident-board-shall-publish~~
9 Publish an annual report and interim reports as may be
10 necessary or required or asked for by the governor.

11 ~~(i)-(4) The-industrial-accident-board-shall-designate~~
12 Designate the procedure to be followed in securing a
13 competent medical examination for the purposes of
14 determining silicosis in each individual applicant.

15 ~~(j)-(5) The-industrial-accident-board-shall--designate~~
16 Designate suitable physicians or physician, well qualified
17 to examine applicants for aid under this chapter.

18 ~~(k)-(6) The-industrial-accident-board--shall--pay~~ Pay
19 the actual transportation expenses of any applicant from the
20 place of his residence in the state to the place of
21 examination and return, from fund appropriated to the ~~board~~
22 division for that purpose.

23 ~~(l)-(7) The--industrial--accident-board-shall-develop~~
24 Develop and co-operate with other agencies in developing
25 measures for the prevention of silicosis."

1 Section 40. Section 71-1005, R.C.M. 1947, is amended
2 to read as follows:

3 "71-1005. Application for payment. Application for
4 payment under this chapter shall be made by the person
5 seeking such payment to the ~~industrial--accident--board~~
6 division. The application shall be in writing or reduced to
7 writing in the manner and upon the form prescribed by the
8 ~~industrial-accident-board~~ division. The application form may
9 be filled in and written by a person authorized by the
10 ~~industrial-accident-board~~ division. If the applicant is
11 unable to sign his or her name on the application, a duly
12 witnessed mark may be used."

13 Section 41. Section 71-1006, R.C.M. 1947, is amended
14 to read as follows:

15 "71-1006. Investigation of applications. Whenever the
16 ~~industrial--accident--board~~ division under this chapter
17 receives an application for a payment an investigation and
18 record shall be promptly made of the validity of the claim.
19 The object of such investigation shall be to ascertain
20 whether or not the applicant is entitled to a payment under
21 the provision of this chapter, and such other information as
22 may be required by the rules of the ~~industrial-accident~~
23 ~~board~~ division. The investigation of such applicant shall be
24 conducted by representatives of the ~~industrial--accident~~
25 ~~board~~ division. The physicians or physician designated by

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1 the ~~industrial-accident-board~~ division as herein provided
 2 shall constitute an examining board for such clinical,
 3 pathological, X-ray and Roentgen examinations as in the
 4 opinion of the examining board may be necessary to determine
 5 whether or not the applicant has silicosis, as herein
 6 defined. A certified report of such examination from the
 7 examining board of physicians or physician must be attached
 8 to the investigation report."

9 Section 42. Section 71-1007, R.C.M. 1947, is amended
 10 to read as follows:

11 "71-1007. Making payments. Upon the completion of such
 12 investigation the ~~industrial-accident-board~~ division shall
 13 determine whether or not the applicant is entitled to a
 14 payment under this chapter. The ~~board~~ division shall then
 15 notify the applicant of its decision."

16 Section 43. Section 92-1302, R.C.M. 1947, is amended
 17 to read as follows:

18 "92-1302. Administration of act. This act shall be
 19 administered by the ~~industrial-accident-board-of--the--state~~
 20 ~~of-Montana~~ division of workers' compensation. ~~The-members-of~~
 21 ~~the--industrial--accident-board--shall-receive-no-additional~~
 22 ~~compensation-for-administering--this--act--The--actual--and~~
 23 ~~necessary--traveling--expenses--of--the-members-of-the-board~~
 24 ~~while-on-business-of-administering-this-act--shall--be--paid~~
 25 ~~from--the--occupational--disease-compensation-account-in-the~~

1 ~~agency-fund:~~

2 Section 44. Section 92-1303, R.C.M. 1947, is amended
 3 to read as follows:

4 "92-1303. Definitions. Except as in this section and
 5 elsewhere in this act expressly set forth, the definitions
 6 contained in the ~~Workmen's~~ Workers' Compensation Act shall
 7 apply to terms and words herein contained.

8 ~~It--(1)~~ "Weekly wage" means the average of the weekly
 9 earnings of the employee in the employ of his employer
 10 against whom compensation is awarded during the period of
 11 one year prior to the termination of his employment with
 12 such employer, or during such lesser period in such year as
 13 ~~he~~ the employee has been in the employ of his employer. In
 14 case the employee is absent from employment during the
 15 period as a result of the occupational disease for which
 16 compensation is claimed, then the week or weeks in which the
 17 absence occurs shall not be included in the computation of
 18 the average weekly wage. If the period provided in this
 19 section for computation of the average weekly wage does not
 20 include four weeks, then the average weekly wage shall be
 21 such as, having regard to the previous wage of the employee,
 22 or of other employees of the same or most similar class
 23 working in the same or most similar employment in the same
 24 or neighboring locality, reasonably represents the weekly
 25 earning capacity of the disabled employee in the employment

1 in which he is working at the time of his disablement.

2 ~~2--~~(2) "Award" means the finding or decision of the
3 ~~board~~ division as to the amount of compensation due any
4 disabled employee or the dependents of any deceased
5 employee.

6 ~~3--~~(3) ~~"Board"-means-the-industrial-accident-board-of~~
7 ~~the-state-of-Montana~~ "Division" or board means the division
8 of workers' compensation provided for in section 82A-1004.

9 ~~4--~~(4) "Compensation" means the payments and benefits
10 provided in this act.

11 ~~5--~~(5) "Disablement" means the event of becoming
12 physically incapacitated by reason of an occupational
13 disease as defined in this act from performing any work for
14 remuneration or profit. "Silicosis," as defined in this act,
15 when complicated by active pulmonary tuberculosis, shall be
16 presumed to be total disablement. "Disability," "disabled,"
17 "total disability," or "totally disabled" shall be
18 synonymous with "disablement," but they shall have no
19 reference to "partial permanent disability." Provided that
20 in the event of death or disability due to pneumoconiosis
21 the following shall apply:

22 ~~a--~~(a) If a miner who is suffering or has suffered
23 from pneumoconiosis was employed for ten (10) years or more
24 in one (1) or more coal mines there shall be a rebuttable
25 presumption that his pneumoconiosis arose out of such

1 employment.

2 ~~b--~~(b) If a deceased miner was employed for ten (10)
3 years or more in one (1) or more coal mines and died from a
4 respirable disease there shall be a rebuttable presumption
5 that his death was due to pneumoconiosis.

6 ~~c--~~(c) If a miner is suffering or suffered from a
7 chronic dust disease of the lung which (1) when diagnosed by
8 chest. roentgenogram yields one (1) or more large opacities
9 (greater than one centimeter in diameter) and would be
10 classified in category A, B, or C in the international
11 classification of radiographs of the pneumoconioses by the
12 international labor organization, (2) when diagnosed by
13 biopsy or autopsy, yields massive lesions in the lung, or
14 (3) when diagnosis is made by other means, would be a
15 condition which would reasonably be expected to yield
16 results described in clause (1) or (2) if diagnosis had been
17 made in the manner prescribed in clause (1) or (2) then
18 there shall be an irrebuttable presumption that he is
19 totally disabled due to pneumoconiosis or that his death was
20 due to pneumoconiosis, as the case may be.

21 ~~6--~~(6) The terms "employee," "workman," and
22 "operative," as used herein, shall mean:

23 Every person in the service of the state, and of a
24 county, city, town, municipal corporation, or school
25 district, including the regular members of lawfully

1 constituted police and fire departments of cities and towns.

2 Every person in the service of any employer subject to
3 this act as hereinafter defined or to whom such employer is
4 required to secure compensation under this act, including
5 aliens and minors legally or illegally permitted to work for
6 hire, but not including a person whose employment is casual
7 and is not in the usual course of trade, business, or
8 occupation of the employer, and not including agricultural
9 workers and domestic servants unless the employer shall so
10 elect.

11 ~~7~~--(7) "Beneficiary" means and shall include a
12 surviving wife or husband and a surviving child or children
13 under the age of eighteen (18) years and an invalid child or
14 invalid children over the age of eighteen (18) years, or if
15 no surviving wife or husband then a surviving child or
16 children under the age of eighteen (18) years and an invalid
17 child or invalid children over the age of eighteen (18)
18 years; provided, however, that no invalid child over the age
19 of eighteen (18) years shall be considered a beneficiary
20 unless dependent upon the decedent for support at the time
21 of disablement.

22 ~~8~~--(8) "Major dependent" means if there be no
23 beneficiary as defined in a preceding section, the father or
24 mother, or the survivor of them, if actually dependent upon
25 the decedent at the time of his disablement, then to the

1 extent of such dependency, not to exceed, however, the
2 maximum compensation provided for in this act.

3 ~~9~~--(9) "Minor dependent" means if there be no
4 beneficiary or major dependent as defined in the preceding
5 section the brothers and sisters under the age of eighteen
6 years, provided, however, that no invalid brother or invalid
7 sister over the age of eighteen years shall be a "minor
8 dependent" unless actually dependent upon the decedent at
9 the time of ~~his~~ the decedent's disablement. Minor dependents
10 shall be awarded compensations to the extent of such
11 dependency, not to exceed, however, the maximum compensation
12 provided for in this act.

13 ~~10~~--(10) "Invalid" means one who is physically or
14 mentally incapacitated.

15 ~~11~~--(11) "Child" shall include a posthumous child, a
16 stepchild, a child legally adopted prior to the disablement,
17 an illegitimate child legitimized prior to the disablement.

18 ~~12~~--(12) "Week" means six (6) working days, but
19 includes Sundays.

20 ~~13~~--(13) "Wages" means the average daily wages received
21 by the employee at the time of the disablement for the usual
22 hours of employment in a day, and overtime is not to be
23 considered.

24 ~~14~~--(14) "Wife" or "widow" means only a wife or widow
25 living with, or legally entitled to be supported by the

1 deceased at the time of the disablement.

2 ~~15--(15)~~ "husband" or "widower" means only a husband or
3 widower incapable of supporting himself, and living with, or
4 legally entitled to be supported by the deceased at the time
5 of her disablement.

6 ~~16--"Commissioner"--means-one-(1)-of-the-members-of--the~~
7 ~~industrial-accident-board.~~

8 ~~17--"Appointed--member-of-the-board"--means-that-member~~
9 ~~of-the-industrial-accident-board-appointed-by-the-governor.~~

10 ~~18--(16)~~ "Order" shall mean and include any decision,
11 rule, regulation, direction, requirement, or standard of the
12 board division, or any other determination arrived at or
13 decision made by such board division, excepting general or
14 local orders as herein specified.

15 ~~19--(17)~~ "Payroll," "annual payroll" or "annual payroll
16 for the preceding year," means the average annual payroll of
17 the employer for the preceding calendar year, or, if the
18 employer shall not have operated a sufficient or any length
19 of time during such calendar year, twelve (12) times the
20 average monthly payroll for the current year; provided, that
21 an estimate may be made by the board division for any
22 employer starting in business where no average payrolls are
23 available, such estimate to be adjusted by additional
24 payment by the employer or refund by the board division, as
25 the case may actually be on December 31st of such current

1 year.

2 ~~20--(18)~~ "Year," unless otherwise specified, means
3 calendar year. "Fiscal year" means the period of time
4 between the first day of July and the thirtieth (30th) day
5 of the succeeding June.

6 ~~21--(19)~~ "Insurer" means any insurance company
7 authorized to transact business in this state insuring any
8 employer under this act.

9 ~~22--(20)~~ "Casual employment" means employment not in
10 the usual course of trade, business, profession, or
11 occupation of the employer.

12 ~~23--(21)~~ The term "physician" shall include "surgeon,"
13 and in either case shall mean one authorized by law to
14 practice his profession in this state.

15 ~~24--Wherever-the-singular-is-used-the-plural--shall--be~~
16 ~~included,-and-wherever-the-plural-is-used-the-singular-shall~~
17 ~~be-included.~~

18 ~~25--Wherever-the-masculine-gender-is-used,-the-feminine~~
19 ~~and-neuter-shall-be-included.~~

20 ~~26--(22)~~ For the purpose of this act "silicosis" is
21 defined as a chronic disease of the lungs caused by the
22 prolonged inhalation of silicon dioxide (SiO₂) characterized
23 by small discrete nodules of fibrous tissue similarly
24 disseminated throughout both lungs, causing characteristic
25 X-ray pattern, and by variable clinical manifestations.

1 ~~a-~~(23) For the purpose of this act "pneumoconiosis" is
2 defined as a chronic dust disease of the lung arising out of
3 employment in coal mines, and includes anthracosis, coal
4 workers' pneumoconiosis, silicosis, or anthracosilicosis
5 arising out of such employment.

6 ~~27-~~(24) "Workshift" means the work for which an
7 employee is paid a day's wages."

8 ~~26--"Workmen's Compensation Act"--means--the--Workmen's~~
9 ~~Compensation Act of the state of Montana.~~

-End-

1 HOUSE BILL NO. 551
2 INTRODUCED BY W. BAETH

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION
5 AND GENERAL REVISION OF THE LAWS RELATING TO THE MONTANA
6 SAFETY ACT; METAL AND NONMETALLIC MINE SAFETY LAWS; BOILER
7 LAWS; PAYMENT OF SILICOSIS BENEFITS, AND THE OCCUPATIONAL
8 DISEASE ACT; AMENDING SECTIONS 41-1709, 41-1713 THROUGH
9 41-1729, 41-1733, 50-101, 50-102, 50-108, 50-118, 50-119,
10 69-1501, 69-1503, 69-1507, 69-1509, 69-1510, 69-1512,
11 69-1513, 69-1514, 69-1515, 69-1517, 69-1601, 69-1602,
12 69-1604, 71-1001, 71-1002, 71-1005, 71-1006, 71-1007,
13 92-1302, 92-1303, R.C.M. 1947."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 41-1709, R.C.M. 1947, is amended to
17 read as follows:

18 "41-1709. Definitions. Unless context requires
19 otherwise, in this act:

20 (1) ~~"Board" means the industrial accident board of the~~
21 ~~state of Montana.~~ "Division" means the division of workers'
22 compensation of the department of labor and industry
23 provided for in section 82A-1004.

24 (2) "Employer" is defined as in section ~~92-410~~
25 92-410.1, R.C.M. 1947.

1 (3) "Code" means a standard body of rules for safety
2 formulated, adopted and issued by the ~~board~~ division under
3 the provisions of this act.

4 (4) "Employee" and ~~worker-worker~~ are defined as in
5 section 92-411, R.C.M. 1947.

6 (5) "Amendment" means such modification or change in a
7 code as shall be intended to be of universal or general
8 application.

9 (6) "Variation" means a special, limited modification
10 or change in the code which is applicable only to the
11 particular place of employment of the employer or person
12 petitioning for such modification or change."

13 Section 2. Section 41-1713, R.C.M. 1947, is amended to
14 read as follows:

15 "41-1713. ~~Board's~~ Division's powers ~~— duty to~~
16 ~~establish department of safety under a safety director~~ —
17 rule-making power — subpoena and other powers. In the
18 administration of this act the ~~board~~ division:

19 (1) is vested with full power and jurisdiction over,
20 and shall have such supervision of, every employment and
21 place of employment in this state as may be necessary to
22 enforce and administer all laws and all lawful orders
23 requiring such employment and places of employment to be
24 safe and requiring the protection of the life and safety of
25 every employee in such employment or place of employment.

1 (z) Shall ~~establish a department of safety under the~~
 2 ~~supervision of a safety director, to be appointed by the~~
 3 ~~board, to~~ carry out the provisions of this act. The safety
 4 ~~director bureau chief~~ shall be a person with at least two
 5 (2) years' experience or training in the field of industrial
 6 safety.

7 (3) May ~~make, establish, promulgate~~ adopt and enforce
 8 all necessary and reasonable rules and provisions for the
 9 purpose of carrying this act into effect and in reference to
 10 the investigation of all violations of this act and fix and
 11 set the time and place for all hearings which may be
 12 necessary or expedient for the purpose of carrying the
 13 provisions of this act into effect.

14 (4) May on its own motion or at the request of others,
 15 subpoena witnesses, administer oaths, take depositions and
 16 fix the fees and mileage of witnesses and compel the
 17 attendance of witnesses and the production of papers, books,
 18 accounts, documents and testimony in any inquiry,
 19 investigation, hearing or proceeding in any part of this
 20 state, and the ~~board~~ division shall provide for defraying
 21 the expenses thereof."

22 Section 3. Section 41-1714, R.C.M. 1947, is amended to
 23 read as follows:

24 "41-1714. Compelling witnesses to appear in response
 25 to subpoena — contempt. (1) The ~~board~~ division or any

1 member thereof, before whom testimony is to be given or
 2 produced, in the case of refusal of any witness to attend or
 3 testify or produce any papers required by such subpoena, may
 4 in applying to the district court in and for the county in
 5 which the proceeding is pending show that the witness has
 6 been subpoenaed in the manner prescribed and the witness has
 7 failed or refused to attend or produce the papers required
 8 by the subpoena or has refused to answer questions
 9 propounded to him in the course of such proceeding, and ask
 10 the court to compel the witness to attend and testify or
 11 produce such papers before the ~~board~~ division.

12 (2) The court, upon such application, shall enter an
 13 order directing the witness to appear before the court at a
 14 time and place to be fixed by the court then and there to
 15 show cause why ~~he~~ the witness has not attended and testified
 16 or produced the papers before the ~~board~~ division or any
 17 member thereof.

18 (3) A copy of the order shall be served upon the
 19 witness.

20 (4) If it is apparent to the court that the subpoena
 21 was regularly issued by the ~~board~~ division or member
 22 thereof, the court thereupon shall enter an order that the
 23 witness appear before the ~~board~~ division or member thereof
 24 at a time and place to be fixed in such order, and testify
 25 and produce the required papers and upon failure to obey the

1 order the witness shall be dealt with as for contempt of
2 court."

3 Section 4. Section 41-1715, R.C.M. 1947, is amended to
4 read as follows:

5 "41-1715. ~~Board's~~ Division's power to prescribe safety
6 devices and fix and order safety standards. The ~~board~~
7 division may, after hearing had upon its own motion or upon
8 complaint, by safety orders, rules or otherwise:

9 (1) Declare and prescribe what safety devices,
10 safeguards or other means or methods of protection are well
11 adapted to render the employees of every employment and
12 place of employment safe as required by law.

13 (2) Fix reasonable standards and prescribe, modify and
14 enforce such reasonable orders for the adoption,
15 installation, use, maintenance and operation of safety
16 devices, safeguards and other means or methods of
17 protection, to be as nearly uniform as possible, as may be
18 necessary to carry out all laws and lawful orders relative
19 to the protection of the life and safety of the employees
20 and places of employment.

21 (3) Fix and order such reasonable standards for the
22 construction, repair and maintenance of places of employment
23 and equipment as shall render them safe.

24 (4) Require the performance of any other act which the
25 protection of the life and safety of employees in

1 employments and places of employment may demand."

2 Section 5. Section 41-1716, R.C.M. 1947, is amended to
3 read as follows:

4 "41-1716. Notice of hearing on rules and codes. Upon
5 the fixing of a time and place for the holding of a public
6 hearing for the purpose of considering and issuing rules and
7 codes, as authorized in this act, the ~~board~~ division shall
8 cause a notice of the hearing to be published in one or more
9 daily newspapers of general circulation published in this
10 state and in such other papers of general circulation in
11 this state as the ~~board~~ division may deem expedient. The
12 notice shall contain a brief statement of the time, place
13 and purpose of the hearing. No defect or inaccuracy in the
14 notice or in the publication thereof shall invalidate any
15 rule or code issued or adopted by the ~~board~~ division after
16 the hearing."

17 Section 6. Section 41-1717, R.C.M. 1947, is amended to
18 read as follows:

19 "41-1717. Order directing additions, repairs, and
20 improvements. Whenever the ~~board~~ division, after a hearing
21 had upon its own motion or upon complaint, finds that an
22 employment or place of employment is not safe, or that the
23 practices or methods or operations or processes employed or
24 used in connection therewith are unsafe, or do not afford
25 adequate protection to the life and safety of the employees

1 in such employments and place of employment, the ~~board~~
 2 division shall make and enter and serve such order relative
 3 thereto as may be necessary to render such employment or
 4 place of employment safe and protect the life and safety of
 5 employees in such employment and places of employment. The
 6 ~~board~~ division may in the order direct that such additions,
 7 repairs, improvements or changes be made and such safety
 8 devices and safeguards be furnished, provided and used, as
 9 are reasonably required to render such employment or places
 10 of employment safe, in the manner and within the time
 11 specified in the order."

12 Section 7. Section 41-1718, R.C.M. 1947, is amended to
 13 read as follows:

14 "41-1718. Notice of violation of safety code, order or
 15 rule — penalties for violations — hearings — injunction
 16 authorized. (1) The ~~board or authorized representative~~
 17 ~~thereof with the approval of the board or the safety~~
 18 ~~director, division~~ upon finding any violation of any duly
 19 ~~promulgated~~ adopted safety code, order or rule involving
 20 failure to install or maintain any safety appliance, device
 21 or safeguard required by such safety order, code or rule,
 22 may prohibit the further use of the machine, equipment, or
 23 apparatus constituting such violation, and when such use is
 24 prohibited shall post notice in an appropriate place in
 25 plain view of any person likely to use the same calling

1 attention to the unsafe condition, defect, or lack of
 2 safeguard and the fact that the further use thereof is
 3 prohibited.

4 (2) The notice required by subsection (1) of this
 5 section shall not be removed until the required safety
 6 appliance, device or safeguard complies with the requirement
 7 of the safety order or safety code.

8 (3) Every person who, after the notice required by
 9 subsection (1) of this section is posted as provided in that
 10 subsection, uses or operates any place of employment,
 11 machine, device, apparatus or equipment referred to in
 12 subsection (1) of this section before it is made safe and
 13 the required safeguards or safety appliances or devices are
 14 provided, or who defaces or destroys or removes any notice
 15 required by subsection (1) of this section without the
 16 authority of the ~~board~~ division, or who fails or refuses to
 17 file a report of accident as required by section 92-808,
 18 R.C.M. 1947, is guilty of a misdemeanor and, in addition to
 19 the punishment provided for misdemeanors, is subject to a
 20 civil penalty in an amount of not more than one thousand
 21 dollars (\$1,000). This civil penalty may be imposed and
 22 collected by the ~~board~~ division in an action brought in the
 23 name of the state of Montana in the county in which the
 24 employer resides or in which he employs ~~workmen~~ workers. Any
 25 penalty collected under this subsection shall be paid into

1 the industrial accident administrative earmarked revenue
2 account.

3 (4) Any person aggrieved by an order prohibiting the
4 use of the machine, equipment, apparatus or place of
5 employment as provided for in this section may request a
6 hearing before the ~~board~~ division within twenty (20) days
7 after entry of such order. The ~~board~~ division shall then
8 affirm, modify or revoke the order and all procedures of
9 this act relative to entry of orders, rehearing and appeal
10 shall apply.

11 (5) In addition to all other remedies provided in this
12 act, the ~~board~~ division may bring an action to enjoin any
13 violation of any duly ~~promulgated~~ adopted safety order, code
14 or rule."

15 Section 8. Section 41-1719, K.C.M. 1947, is amended to
16 read as follows:

17 "41-1719. Time allowed for compliance with order. The
18 ~~board~~ division shall grant such time as may be reasonably
19 necessary for compliance with any order, and any person
20 affected by the order may petition the ~~board~~ division for an
21 extension of time, which the ~~board~~ division shall grant if
22 it finds the extension of time necessary."

23 Section 9. Section 41-1720, K.C.M. 1947, is amended to
24 read as follows:

25 "41-1720. Order of closure or for cessation of work

1 where place of employment an immediate menace to life or
2 safety. The ~~board or authorized representative thereof, with~~
3 ~~the approval of the board or the safety director,~~ division
4 may order any place of employment closed, or the work
5 therein to cease if it is found that the place of employment
6 is in such an unsafe condition as to constitute an immediate
7 menace to the life or safety of the ~~workmen~~ workers employed
8 therein. Any such order of closure or for cessation of work
9 shall be expressly limited to only that portion of the
10 plant, installation or facility as is directly and
11 immediately affected by the unsafe condition constituting an
12 immediate menace to the life and safety of the ~~workmen~~
13 workers employed therein. Upon issuance of any such order,
14 the ~~board or safety director~~ division shall fix a place and
15 time, not later than twenty-four (24) hours thereafter, for
16 a hearing to be held before the ~~board~~ division. Not more
17 than twenty-four (24) hours after the commencement of the
18 hearing, and without adjournment thereof, the ~~board~~ division
19 shall affirm, modify, or set aside the order. Nothing in
20 this section shall empower the ~~safety director~~ division to
21 determine that any employment or place of employment is in
22 an unsafe condition on the basis of the number or
23 qualifications of employees operating such employment or
24 place of employment unless a specific rule adopted after
25 public hearing is violated. Provided that for those

1 employments or places of employment for which no code has
 2 been adopted and where it is found by the ~~safety director~~
 3 division that such place of employment is in such an unsafe
 4 condition as to constitute an immediate menace to the life
 5 or safety of the ~~workmen~~ workers there employed, the ~~safety~~
 6 ~~director~~ division may order that portion of the plant,
 7 installation or facility as is directly and immediately
 8 affected by such unsafe condition closed for a period not to
 9 exceed four (4) hours unless such period be extended by
 10 order of the board division."

11 Section 10. Section 41-1721, h.c.m. 1947, is amended
 12 to read as follows:

13 "41-1721. Judicial review of ~~board's~~ divisions
 14 orders, rules or decisions. (1) The orders of the ~~board~~
 15 division, its rules, findings and decisions, made and
 16 entered under the provisions of this act, may be reviewed by
 17 the courts within the time and in the manner specified in
 18 this section and not otherwise.

19 (2) Within thirty (30) days after an application for
 20 rehearing is denied, or, if the application is granted,
 21 within thirty (30) days after rendition of the decision on
 22 the rehearing, any party affected thereby may appeal to the
 23 district court for the county in which is situated the place
 24 of employment complained of for the purpose of having the
 25 lawfulness of the original order, or decision, or the order

1 or decision on rehearing inquired into and determined.

2 (3) To give the district court jurisdiction it is
 3 sufficient that a notice be filed with the clerk of the
 4 court to the effect that an appeal is taken to the district
 5 court from the order or decision of the ~~board~~ division and
 6 describing the order or decision sufficiently for purposes
 7 of identification. The notice shall be signed by the party
 8 appealing or his attorney and a copy thereof shall be served
 9 by certified mail upon the ~~board~~ division. Within ten (10)
 10 days after the receipt of the notice, the ~~board~~ division
 11 shall file with the clerk of court the record of proceedings
 12 before the ~~board~~ division, including a transcript of all the
 13 evidence adduced upon the hearing and any rehearing before
 14 the ~~board~~ division. The district court, on application for
 15 good cause shown, may extend the time within which the ~~board~~
 16 division shall file the record, transcript and evidence. The
 17 cause shall be tried in the same manner as a civil action,
 18 provided that no new or additional evidence may be
 19 introduced in the court, but the cause shall be heard on the
 20 record to the court as certified to it by the ~~board~~
 21 division.

22 (4) The appeal shall not be extended further than to
 23 determine whether or not:

24 (a) The ~~board~~ division acted without or in excess of
 25 its powers, or in violation of the law;

- 1 (b) The order or decision was procured by fraud;
- 2 (c) The order, decision or rule is unreasonable;
- 3 (d) If findings of fact are made, the finding of fact
- 4 supports the order or decision under review.
- 5 (5) An appeal may be taken from the decree of the
- 6 district court to the supreme court as in all other civil
- 7 cases."

8 Section 11. Section 41-1722, K.C.B. 1947, is amended
9 to read as follows:

10 "41-1722. Application for rehearing of order,
11 decision, or rule of ~~board~~ division. Any party aggrieved
12 directly or indirectly by any final order, decision or rule
13 of the board division made or entered pursuant to this act
14 may apply to the board division within twenty (20) days
15 after the order of the board division for rehearing in
16 respect to any matters determined or covered by such final
17 order, decision or rule, and specified in the application,
18 for hearing within the time and in the manner prescribed in
19 this act."

20 Section 12. Section 41-1723, K.C.B. 1947, is amended
21 to read as follows:

22 "41-1723. Application for rehearing — contents —
23 waiver — copies to adverse parties — procedure where no
24 adverse parties. (1) The application for rehearing shall set
25 forth specifically and in full detail the grounds upon which

1 the applicant considers the final order, decision or rule is
2 unjust or unlawful, and every issue to be considered by the
3 board division.

4 (2) The applicant for rehearing shall be deemed to
5 have finally waived all objections, irregularities and
6 illegalities concerning the matters upon which rehearing is
7 sought other than those set forth in the application.

8 (3) A copy of the application for rehearing shall be
9 served immediately on all adverse parties, who may file an
10 answer thereto within ten (10) days after being served.

11 (4) If there are no adverse parties, the application
12 may be heard ex parte, or the board division may require the
13 application for rehearing to be served on such parties as
14 may be designated by the board division."

15 Section 13. Section 41-1724, K.C.B. 1947, is amended
16 to read as follows:

17 "41-1724. Resolution of issues on rehearing — notice
18 — disposition. (1) Upon the filing of the application for
19 rehearing, if the issues raised thereby have theretofore
20 been adequately considered by the board division, it may
21 determine the same by confirming, without hearing, its
22 previous determination, or if a rehearing is necessary to
23 determine one or more of the issues raised, the board
24 division shall order a rehearing thereon and consider and
25 determine the matters raised by such application.

1 (2) Notice of the time and place of the rehearing
2 shall be given to the applicant, the adverse parties and
3 such other persons as the board division may order.

4 (3) If after the rehearing and the consideration of
5 all the facts, including those arising since the making of
6 the order or decision involved, the board division shall be
7 of the opinion that all or any part of the original order or
8 decision is in any respect unjust or unwarranted, or should
9 be changed, the board division shall abrogate, change or
10 modify the same.

11 (4) An order or decision made after the rehearing,
12 abrogating, changing or modifying the original order or
13 decision shall have the same force and effect as an original
14 order or decision but shall not affect any right or the
15 enforcement of any right arising from or by virtue of the
16 original order or decision unless so ordered by the board
17 division.

18 (5) An application for rehearing is considered denied
19 by the board division unless it has been acted upon within
20 thirty (30) days from the date of filing; provided that the
21 board division may, upon good cause being shown therefor,
22 extend the time within which it may act upon an application
23 for rehearing for not exceeding an additional thirty (30)
24 days."

25 Section 14. Section 41-1725, R.C.M. 1947, is amended

1 to read as follows:

2 "41-1725. Periodic inspections of hazardous places of
3 employment — report. (1) The board division shall inspect
4 from time to time all the places of employment defined in
5 the Montana ~~Workmen's~~ Workers' Compensation Act as being
6 hazardous and the machinery and appliances therein contained
7 for the purpose of determining whether they conform to law.

8 (2) A report of such periodic inspection shall be
9 filed in the office of the board division and a copy thereof
10 given the employer. Such report shall not be open to public
11 inspection, or made public except on order of the board
12 division, or by the ~~board or a member of the board~~ division
13 in the course of a hearing or in the course of a hearing or
14 proceeding."

15 Section 15. Section 41-1726, R.C.M. 1947, is amended
16 to read as follows:

17 "41-1726. ~~Workmen~~ Workers to notify employers of
18 safety violations — complaint to board division —
19 investigation. (1) A ~~workman~~ worker shall notify ~~his~~ the
20 worker's employer of any violation of law or regulation
21 pertaining to safety of places of employment when the
22 violation comes to the knowledge of the ~~workman~~ worker.

23 (2) If the employer fails to remedy the violation, the
24 ~~workman~~ worker may complain in writing to the board division
25 of the violation.

1 (3) Upon receiving the complaint the ~~board~~ division
 2 shall forthwith inquire or make an inspection as to the
 3 safety of the place of employment. A copy of the report of
 4 inspection shall be given to the complainant."

5 Section 16. Section 41-1727, H.C.H. 1947, is amended
 6 to read as follows:

7 "41-1727. Code-making power. (1) ~~in addition to such~~
 8 ~~other powers and duties as may be conferred upon it by law,~~
 9 ~~the board shall have the power to promulgate~~ The division
 10 may adopt, amend, repeal and enforce rules for the
 11 prevention of accidents to be known as "safety codes" in
 12 every employment and place of employment, including the
 13 repair and maintenance of such places of employment, to
 14 render them safe. In the performance of its duties the ~~board~~
 15 division may appoint advisory committees to deal with
 16 specified industries composed of equal numbers of employers
 17 and employees; and others to suggest safety codes or
 18 amendments thereto. All such safety codes and rules shall,
 19 when adopted, be not inconsistent with the then existing
 20 widely accepted codes of such engineering bodies as the
 21 American Society of Mechanical Engineers, the American
 22 Standards Association, the American Society of Safety
 23 Engineers, the United States of America Standards Institute,
 24 the National Fire Protection Association, and, in addition,
 25 agencies of the federal government with responsibilities for

1 administering worker safety programs, and other accepted
 2 codes. Any amendments made to such codes by the ~~board~~
 3 division shall be such that when amended such code shall be
 4 consistent with the widely accepted safety codes as then
 5 existing. All codes and all amendments thereto and repeals
 6 thereof shall take effect thirty (30) days after certified
 7 copies thereof shall be filed in the office of the secretary
 8 of state.

9 (2) Every code adopted and every amendment or repeal
 10 thereof shall be published in such manner as the ~~board~~
 11 division may determine. A printed list of all titles of all
 12 codes including amendments thereof issued and adopted by the
 13 ~~board~~ division under the provisions of this act, together
 14 with the dates of adoption thereof, shall be published from
 15 time to time."

16 Section 17. Section 41-1728, H.C.H. 1947, is amended
 17 to read as follows:

18 "41-1728. Variations. Any employer may consult with
 19 the ~~board~~ division for advice and assistance in complying
 20 with the provisions of this act or any codes adopted
 21 hereunder. In case of practical difficulties, the ~~board~~
 22 division may grant variations from particular provisions of
 23 the code and permit the use of other or different devices or
 24 methods, ~~provided, however, that~~ however, such variations
 25 shall be granted only when it is clear that the reasonable

1 safety of the workers in ~~said~~ the plant or place of
 2 employment is not thereby endangered. In any case where the
 3 ~~board~~ division shall decline or refuse to grant any request
 4 for variations on the ground that the safety of the workers
 5 involved would be endangered, the employer may request a
 6 rehearing as specified in this act. A properly indexed
 7 record of all variations made shall be kept in the office of
 8 the ~~board~~ division and be open to public inspection."

9 Section 18. Section 41-1729, R.C.M. 1947, is amended
 10 to read as follows:

11 "41-1729. General research and review powers of ~~board~~
 12 division — power to appoint advisers. The ~~board~~ division
 13 may: (1) Develop greater knowledge and interest in the
 14 causes and prevention of industrial accidents, occupational
 15 diseases and related subjects through:

16 (a) Research, conferences, lectures and uses of public
 17 communications media,

18 (b) Collection and dissemination of accident
 19 statistics, and

20 (c) Development of staff competent in the review of
 21 safety codes.

22 (2) Appoint advisers who shall be compensated by the
 23 ~~board~~ division if necessary, and who shall assist the ~~board~~
 24 division in establishing standards of safety. The ~~board~~
 25 division may adopt and incorporate in its orders such safety

1 recommendations as it may receive from such advisers."

2 Section 19. Section 41-1733, R.C.M. 1947, is amended
 3 to read as follows:

4 "41-1733. Occupational health hazards. The ~~board~~
 5 division shall report occupational health hazards discovered
 6 in its investigations and inspection of places of employment
 7 to the ~~state board of health~~ department of health and
 8 environmental sciences and shall co-operate with the ~~state~~
 9 ~~board of health~~ department of health and environmental
 10 sciences in carrying out its duties as specified in Title
 11 69, chapter 42, R.C.M. 1947."

12 Section 20. Section 50-101, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-101. Inspectors of metal and nonmetallic mines —
 15 employment. The ~~industrial accident board division of~~
 16 workers' compensation shall employ an adequate number of
 17 qualified metal and nonmetallic mine inspectors necessary
 18 for the enforcement of this act and shall prescribe their
 19 powers, duties and responsibilities."

20 Section 21. Section 50-102, R.C.M. 1947, is amended to
 21 read as follows:

22 "50-102. Inspections and investigations — access to
 23 mine — order to close mine or abate violation — notice —
 24 hearing and review. (a) The ~~board~~ division is authorized at
 25 any time to cause to be made such inspections and

1 investigations as it shall deem necessary in surface and
 2 underground mines which are subject to this act (1) for the
 3 purpose of obtaining, utilizing, and disseminating
 4 information relating to health and safety conditions in such
 5 mines, the causes of accidents involving bodily injury or
 6 loss of life, or the causes of occupational diseases
 7 originating therein, and (2) for the purpose of determining
 8 whether or not there is compliance with a health and safety
 9 standard or order issued under this act.

10 (b) For the purpose of making any inspection or
 11 investigation authorized by this act, authorized
 12 representatives of the board division shall have the right
 13 of entry to, upon, or through any mine which is subject to
 14 this act.

15 (c) If, upon any inspection of a mine which is subject
 16 to this act authorized representatives of the board division
 17 find that the conditions or practices in the mine are such
 18 that a danger exists which could reasonably be expected to
 19 cause death or serious physical harm immediately or before
 20 the imminence of such danger can be eliminated, such
 21 representatives shall determine the extent of the area of
 22 such mine throughout which the danger exists, and thereupon
 23 issue an order requiring the operator of such mine to cause
 24 all persons, except the persons designated below, whose
 25 presence in such area is necessary to eliminate the danger

1 described in such order, to be withdrawn from, and to be
 2 debarred from entering such area:

3 (1) Any person whose presence in such area is
 4 necessary in the judgment of the operator of the mine, to
 5 eliminate the danger described in the order.

6 (2) Any public official whose official duties require
 7 him to enter such area.

8 (3) Any legal or technical consultant, or any
 9 representative of the employees of the mine, who is a person
 10 qualified to make mine examinations, or is accompanied by
 11 such a person, and whose presence in such area is necessary,
 12 in the judgment of the operator of the mine, for the proper
 13 investigation of the conditions described in the order.

14 (d) If, upon any such inspection or investigation, an
 15 authorized representative finds that there has been a
 16 failure to comply with a mandatory standard which is
 17 applicable to such mine, but that such failure to comply has
 18 not created a danger that could reasonably be expected to
 19 cause death or serious physical harm in such mine
 20 immediately or before the imminence of such danger can be
 21 eliminated, he shall find what would be a reasonable period
 22 of time within which such violation should be totally abated
 23 and thereupon issue a notice fixing a reasonable time for
 24 the abatement of the violation. If, upon the expiration of
 25 such period of time as originally fixed or extended, the

1 authorized representative finds that such violation has not
 2 been totally abated, and if he also finds that such period
 3 of time should not be further extended, he shall also find
 4 the extent of the area which is affected by such violation;
 5 thereupon, the ~~board~~ division shall make an order requiring
 6 the operator of such mine to cause all persons in such area,
 7 excepting the following persons whose presence in such area
 8 is necessary to abate the violation described in the order,
 9 to be withdrawn from, and to be debarred from entering such
 10 area:

11 (1) Any person whose presence in such area is
 12 necessary, in the judgment of the operator of the mine, to
 13 abate the violation described in the order.

14 (2) Any public official whose official duties require
 15 him to enter such area.

16 (3) Any legal or technical consultant, or any
 17 representative of the employees of the mine who is a person
 18 qualified to make examinations, or is accompanied by such a
 19 person, and whose presence in such area is necessary, in the
 20 judgment of the operator of the mine, for the proper
 21 investigation of the conditions described in the order.

22 (e) Findings and orders issued pursuant to this
 23 section shall contain a detailed description of the
 24 conditions or practices which cause and constitute a
 25 situation of imminent danger or a violation of a mandatory

1 standard, and a description of the area of the mine
 2 throughout which persons must be withdrawn and debarred.

3 (f) Each finding made and notice or order issued under
 4 this section shall be given promptly to the operator of the
 5 mine to which it pertains by the person making such finding
 6 or order, and all such findings, orders, and notices shall
 7 be in writing, and shall be signed by the person making
 8 them. A notice or order issued by an authorized
 9 representative pursuant to this section may be annulled,
 10 canceled, or revised by the authorized representative, and
 11 in case of a ~~board~~ division order, the ~~board~~ division may
 12 annul, cancel or revise the order.

13 (g) The order of the duly authorized representative of
 14 the ~~board~~ division shall remain in effect, but shall
 15 immediately be subject to review as provided in this act.

16 (h) An operator notified of an order made pursuant to
 17 section 56-102 (c) may apply to the ~~board~~ division for a
 18 hearing, revision, or annulment of such order. Whenever the
 19 ~~board~~ division after such a hearing upon complaint, or upon
 20 its own action, finds that danger throughout the area of
 21 such mine as set out in such order existed at the time of
 22 making the inspection, it shall make an order denying a
 23 revision or annulment; but, if it finds that such danger did
 24 not exist throughout the area of such mine, it shall make an
 25 order consistent with its findings, revising or annulling

1 the order under review.

2 (i) An operator notified of an order made pursuant to
 3 section 50-102 (d) may apply to the ~~board~~ division for a
 4 hearing or revision of such order. If the ~~board~~ division
 5 finds that there was no violation, it shall make an order
 6 annulling the order under review. If the ~~board~~ division
 7 finds that there was such a violation, but such violation
 8 has since been abated, it shall make an order annulling the
 9 order under review. If the ~~board~~ division finds that such
 10 violation was not totally abated, it shall make an order
 11 consistent with its findings.

12 (j) In view of the urgent need for prompt decisions of
 13 matters submitted to the ~~board~~ division under section
 14 50-102, all actions which the ~~board~~ division or its
 15 authorized representatives are required to take under this
 16 section shall be taken as rapidly as practical, consistent
 17 with adequate consideration of the issues involved."

18 Section 22. Section 50-108, H.C.H. 1947, is amended to
 19 read as follows:

20 "50-108. To what mines act is applicable. This act
 21 shall apply to all mines (except coal and lignite) and
 22 individuals, owners, lessors, lessees, agents, partnerships,
 23 corporations, managers, operators, or employers operating
 24 any surface or underground metal or nonmetallic mines in
 25 this state. These individuals, owners, lessors, lessees,

1 agents, partnerships, corporations, managers, operators, or
 2 employers operating any surface or underground metal or
 3 nonmetallic mines (excluding coal and lignite) shall report
 4 the same to the ~~board~~ division, state the name of the mine,
 5 the location of the same, the name of the company, person,
 6 or persons owning or operating the same, post-office
 7 address, and number of ~~men~~ persons employed."

8 Section 23. Section 50-118, H.C.H. 1947, is amended to
 9 read as follows:

10 "50-118. Violation of the act — penalties. (a)
 11 Whenever an operator (1) violates or fails or refuses to
 12 comply with any order, rule, or regulation issued under this
 13 act, or (2) interferes with, hinders, or delays the ~~board~~
 14 division or its authorized representatives in carrying out
 15 any duties under this act, or (3) refuses to admit an
 16 authorized representative of the ~~board~~ division to any mine
 17 which is subject to this act, or (4) refuses to permit the
 18 inspection or investigation of any mine which is subject to
 19 this act, or an accident, injury, or occupational disease
 20 occurring in or connected with such a mine, or (5) refuses
 21 to furnish the ~~board~~ division any information or report
 22 requested by the ~~board~~ division and which may reasonably be
 23 necessary to carry out the provisions of this act, a civil
 24 action for preventive relief, including, but not limited to,
 25 an application for a permanent or temporary injunction,

1 restraining order, or other order, may be instituted by the
2 ~~board~~ division in the district court for the county in which
3 the mine in question is located or in which the mine
4 operator has its principal office.

5 (b) Any person who knowingly (1) violates or fails or
6 refuses to comply with any order, rule, or regulation issued
7 under this act, or (2) interferes with, hinders, or delays
8 the ~~board~~ division or its authorized representatives in
9 carrying out any duties under this act, or (3) refuses to
10 admit an authorized representative of the ~~board~~ division to
11 any mine which is subject to this act, or (4) refuses to
12 permit the inspection or investigation of any mine which is
13 subject to this act, or of an accident, injury, or
14 occupational disease occurring in or connected with such a
15 mine, or (5) refuses to furnish the ~~board~~ division any
16 information or report requested by the ~~board~~ division and
17 which may reasonably be necessary to carry out the
18 provisions of this act, shall be guilty of a misdemeanor,
19 and shall upon conviction thereof be punished for each such
20 offense by a fine of not less than one hundred dollars
21 (\$100), or more than three thousand dollars (\$3,000), or by
22 imprisonment in the county jail not exceeding six (6)
23 months, or both. In any instance in which such offense is
24 committed by a corporation, any officer or authorized
25 representative of such corporation who knowingly permits

1 such offense to be committed shall, upon conviction, be
2 subject to the same fine or imprisonment, or both."

3 Section 24. Section 50-119, R.C.M. 1947, is amended to
4 read as follows:

5 "50-119. Definitions. "Authorized representative"
6 means mine inspector or any other person employed or
7 authorized by the ~~industrial-accident board~~ division to
8 perform any and all duties under this act. ~~"Board"~~
9 "Division" means the ~~industrial-accident board~~ division of
10 workers' compensation of the state of Montana. "Corporation"
11 means a body formed and authorized by law to act as a single
12 person although constituted by one or more persons and
13 legally endowed with various rights and duties including the
14 capacity of succession. "Employee" means every person in
15 this state, including a contractor other than an
16 "independent contractor," who is in the service of an
17 employer as hereinafter defined in or about any mine, mill,
18 smelter, excavation, or quarry under any appointment or
19 contract of hire, express or implied, oral or written,
20 whether lawfully or unlawfully employed and whether the
21 employment is casual or otherwise. "Employer" means every
22 person, firm, partnership, corporation, or association,
23 including an independent contractor, who has any person in
24 service in or about any mine, mill, smelter, excavation, or
25 quarry under any appointment or contract of hire, express or

1 implied, oral or written. "Inspector" means a person or
 2 persons employed by the ~~industrial accident board~~ division
 3 to inspect metallic and nonmetallic mines, mills, smelters,
 4 or quarries as provided in this act. "Mine" means any mine
 5 (or excavation) when clay, metallic ore, mineral, gypsum, or
 6 rock is dug or mined whether on surface or underground,
 7 where metal-bearing ores or nonmetallic mineral commodities
 8 (exclusive of coal or lignite) are dug or mined whether at
 9 the surface or underground. "Notice" means a written notice,
 10 work order or correction notice issued by an authorized
 11 representative of the ~~board~~ division, which notice specifies
 12 a violation(s) and directs or recommends corrective measures
 13 and may specify a definite date or time in which to abate
 14 said violation(s). "Occupational Health" means any of those
 15 health conditions that occur as a result of employment in a
 16 mine. "Order" means and includes any decision, rule,
 17 regulation, direction, requirement, or standard set,
 18 adopted, or issued by the ~~board~~ division, or any other
 19 determination or decision made by the ~~board~~ division."

20 Section 25. Section 69-1501, H.C.L. 1947, is amended
 21 to read as follows:

22 "~~69-1501. Advisory committee functions~~
 23 ~~appointment and terms of members~~ ~~traveling expenses~~
 24 boiler rules and regulations -- state inspectors of boilers,
 25 appointment, term and compensation -- special boiler

1 inspectors. ~~(1) There is hereby created to advise the~~
 2 ~~industrial accident board an advisory committee which shall~~
 3 ~~hereafter be referred to as the committee, consisting of~~
 4 ~~three (3) members who shall be appointed by the governor,~~
 5 ~~one for two (2) years, one for three (3) years and one for~~
 6 ~~four (4) years. At the expiration of their respective terms~~
 7 ~~or when vacancies occur they or their successors identified~~
 8 ~~with the same interest respectively shall be appointed by~~
 9 ~~the governor for terms of four (4) years each. Of these~~
 10 ~~appointed members one (1) shall be a Montana first class~~
 11 ~~steam licensed operating engineer of boilers employed in~~
 12 ~~that capacity at the time of his appointment, one (1) shall~~
 13 ~~be commissioned by the national board of boilers and~~
 14 ~~pressure vessels inspectors and shall represent the boiler~~
 15 ~~insurance companies licensed to do business in the state,~~
 16 ~~and one (1) shall be a Montana registered professional~~
 17 ~~mechanical engineer. The committee shall elect one (1) of~~
 18 ~~its members as chairman and shall meet whenever required.~~

19 ~~The members of the committee shall serve without salary~~
 20 ~~but shall receive actual travel expenses in the same manner~~
 21 ~~as other state officers.~~

22 ~~The committee shall act in a technical advisory~~
 23 ~~capacity to the industrial accident board and (1) The~~
 24 ~~division of workers' compensation shall formulate~~
 25 definitions, rules and regulations for the safe

1 construction, installation, operation, inspection and repair
 2 of equipment covered by this act. The definitions, rules and
 3 regulations so formulated shall follow generally accepted
 4 nationwide engineering standards as published by the
 5 American society of mechanical engineers.

6 (2) Appointment, term and compensation of boiler
 7 inspectors. The ~~industrial-accident board~~ division shall
 8 appoint state inspectors of boilers and shall prescribe
 9 their duties, term of office and fix their compensation.

10 (3) In addition to the state boiler inspectors the
 11 ~~industrial-accident board~~ division shall issue to the
 12 inspectors of boiler insurance companies authorized to do
 13 business in the state, commissions, certificates or other
 14 recognition as special boiler inspectors and shall accept
 15 the inspection reports of such special inspectors as
 16 equivalent to those of the state inspectors, provided that
 17 each such special inspector shall hold a certificate as
 18 boiler inspector issued by the national board of boiler and
 19 pressure vessels inspectors. Such special inspectors shall
 20 receive no salary or expenses from the state nor shall the
 21 state collect inspection fees for inspections made by such
 22 special inspectors."

23 Section 26. Section 69-1503, R.C.M. 1947, is amended
 24 to read as follows:

25 "69-1503. Inspection of boilers — boiler

1 installations. (1) The inspector of boilers must inspect all
 2 boilers and steam generators before the same are used, and
 3 all persons who bring into this state, for operation in this
 4 state, any boiler or boilers must notify the ~~board~~ division
 5 stating the number and kind of boilers, and where they are
 6 to be located and operated in this state, and must secure
 7 from the ~~board~~ division a certificate of inspection before
 8 ~~said~~ boilers are placed in operation, except in the case of
 9 new boilers, which must be inspected within ninety (90) days
 10 after they are put in use, and all boilers must be inspected
 11 at least once in every year, except boilers exempt under
 12 provisions of section 69-1515. Upon written application,
 13 longer inspection intervals may be authorized by the ~~board~~
 14 division. Any owner, operator or user who opens a boiler or
 15 boilers between inspections for repair or other reasons must
 16 notify the ~~board~~ division of such action and such boiler or
 17 boilers shall at the discretion of the ~~board~~ division be
 18 inspected by the state or special boiler inspector before
 19 the boiler or boilers may be placed back in operation. Any
 20 person failing to give notice to the ~~board~~ division as
 21 herein provided, or who operates such boilers without a
 22 certificate from the ~~board~~ division, shall be punished by a
 23 fine of not less than one hundred dollars (\$100) nor more
 24 than five hundred dollars (\$500) for each offense, or by
 25 imprisonment in the county jail for not less than thirty

1 (30) nor more than ninety (90) days, or by both such fine
2 and imprisonment.

3 (2) When necessary, the boiler inspector shall subject
4 boilers, except those exempted by 69-1515, to hydrostatic
5 pressure, which hydrostatic pressure shall not exceed one
6 hundred fifty per cent (150%) of the steam pressure allowed
7 on the boilers, providing there are no such leaks on such
8 boilers which prevent the inspector from applying such
9 hydrostatic pressure. And the inspector must satisfy himself
10 by a thorough interior and exterior examination that the
11 boilers are well-made and of good and suitable material;
12 that the openings for the passage of water and steam,
13 respectively, and all pipes and tubes exposed to heat, are
14 of the proper dimensions and free from obstructions; that
15 the flues are circular in shape; that the fire line of the
16 furnace is at least two (2) inches below prescribed minimum
17 water line of the boilers; that the arrangements for
18 delivering the feed water are such that the boilers cannot
19 be injured thereby, and that such boilers and the steam
20 connections may be safely employed without danger to life.

21 (3) New boiler installations. No boiler which does not
22 conform to the rules ~~and regulations formulated~~ adopted by
23 the committee division governing new construction and
24 installation shall be installed and operated in this state
25 after twelve (12) months from the date upon which the first

1 rules ~~and regulations~~ under this act pertaining to new
2 construction and installation shall have become effective,
3 unless the boiler is of special design or construction, and
4 is not covered by the rules ~~and regulations~~, nor is in any
5 way inconsistent with such rules ~~and regulations~~, in which
6 case a special installation and operating permit may at its
7 discretion be granted by the committee division."

8 Section 27. Section 69-1507, R.C.M. 1947, is amended
9 to read as follows:

10 "69-1507. Duty of owner to permit inspection — ~~board~~
11 division action — costs and expenses. It is the duty of the
12 owners, engineers, or managers of steam or water boilers to
13 allow the inspector free access to the same. In case the
14 owner, operators, or manager of any boiler is notified by
15 the inspector to have ~~said~~ the boiler ready for inspection
16 on a certain day, and fails to have such boiler ready for
17 inspection at such time, the inspector shall notify the
18 ~~board~~ division to gain access to ~~said~~ the boiler. Any person
19 failing to immediately comply with ~~board~~ division directed
20 access to ~~said~~ the boiler shall be deemed guilty of a
21 misdemeanor, and upon conviction thereof shall be punished
22 by a fine of not less than one hundred dollars nor more than
23 five hundred dollars, or by imprisonment in the county jail
24 for not less than two months nor more than six months, or by
25 both such fine and imprisonment. The owner, engineer or

1 manager of any boiler who has refused access resulting in a
 2 ~~board~~ division order must pay all transportation and motel
 3 expenses of the inspector who makes the inspection directed
 4 by such order, in addition to the inspection fee provided by
 5 law. It shall be the duty of the engineer operating any
 6 boiler or boilers to assist the inspectors in their
 7 examination of the same, and point out any defects known to
 8 him in the boilers or machinery under his charge. Any
 9 engineer not complying with this section shall have his
 10 license revoked or suspended.*

11 Section 28. Section 69-1509, H.C.H. 1947, is amended
 12 to read as follows:

13 *69-1509. Classification and licensing of engineers.

14 (1) Engineers entrusted with the operation, care and
 15 management of steam or water boilers and steam machinery as
 16 specified in the preceding section must be divided into four
 17 classes, namely, first-class engineers, second-class
 18 engineers, third-class engineers, and low-pressure
 19 engineers.

20 (2) Licenses for the operation of steam or water
 21 boilers and steam machinery shall be divided into four
 22 classifications in accordance with the following:

23 (a) First-class engineers shall be licensed to operate
 24 all classes, pressures, and temperatures of steam and water
 25 boilers and steam driven machinery with the exception of

1 traction and hoisting engines.

2 (b) Second-class engineers shall be licensed to
 3 operate steam boilers operating not in excess of two hundred
 4 fifty (250) pounds per square inch gauge saturated steam
 5 pressure or water boilers operating not in excess of three
 6 hundred seventy-five (375) pounds per square inch gauge
 7 pressure and four hundred fifty degrees Fahrenheit (450°F)
 8 temperature, and steam driven machinery not to exceed one
 9 hundred (100) horsepower per unit with the exception of
 10 traction and hoisting engines.

11 (c) Third-class engineers shall be licensed to operate
 12 steam boilers operating not in excess of one hundred (100)
 13 pounds per square inch gauge saturated steam pressure or
 14 water boilers operating not in excess of one hundred sixty
 15 (160) pounds per square inch gauge pressure and three
 16 hundred fifty degrees Fahrenheit (350°F) temperature.

17 (d) Low-pressure engineers shall be licensed to
 18 operate steam boilers operating not in excess of fifteen
 19 (15) pounds per square inch gauge pressure or water boilers
 20 operating not in excess of fifty (50) pounds per square inch
 21 gauge pressure and two hundred fifty degrees Fahrenheit
 22 (250°F) temperature.

23 (3) Each applicant for an engineer's license shall
 24 meet the following minimum requirements for the class of
 25 engineer's license for which application is being made. Each

1 applicant for any classification must be physically and
 2 mentally capable of performing the required duties for the
 3 class of engineer's license for which application is being
 4 made.

5 (a) Applicants for low-pressure engineer's license
 6 shall have no less than three (3) months' full-time
 7 experience in the actual operation of a boiler in this
 8 classification and successfully pass a written examination
 9 prescribed by the board division and has passed his
 10 eighteenth (18th) birthday and is found to be competent to
 11 operate a boiler or boilers in this classification shall be
 12 granted a low-pressure engineer's license.

13 (b) Applicants for third-class engineer's license
 14 shall have no less than six (6) months' full-time experience
 15 in the actual operation of a boiler in this classification,
 16 under an engineer holding a valid third-class or higher
 17 license, and successfully pass a written examination
 18 prescribed by the board division and has passed his
 19 eighteenth (18th) birthday and is found to be competent to
 20 operate a boiler or boilers in this classification shall be
 21 granted a third-class engineer's license.

22 (c) Applicants for second-class engineer's license
 23 shall have:

24 (1) No less than two (2) years' full-time experience
 25 in the actual operation of a boiler and steam driven

1 machinery in this classification, under an engineer holding
 2 a valid second-class or first-class license, and
 3 successfully pass a written examination prescribed by the
 4 board division and has passed his eighteenth (18th) birthday
 5 and is found to be competent to operate a boiler or boilers
 6 and steam driven machinery in this classification shall be
 7 granted a second-class engineer's license; or

8 (2) Hold a valid third-class engineer's license and
 9 have no less than one (1) year's full-time experience in the
 10 actual operation of a boiler and steam driven machinery in
 11 this classification, under an engineer holding a valid
 12 second-class or first-class license, and successfully pass a
 13 written examination prescribed by the board division and has
 14 passed his eighteenth (18th) birthday and is found to be
 15 competent to operate a boiler or boilers and steam driven
 16 machinery in this classification shall be granted a
 17 second-class engineer's license.

18 (d) Applicants for first-class engineer's license
 19 shall have:

20 (1) No less than three (3) years' full-time experience
 21 in the actual operation of a boiler and steam driven
 22 machinery in this classification, under an engineer holding
 23 a valid first-class license, and successfully pass a written
 24 examination prescribed by the board division and has passed
 25 his eighteenth (18th) birthday and is found to be competent

1 to operate a boiler or boilers and steam driven machinery in
2 this classification, shall be granted a first-class
3 engineer's license; or

4 (2) Hold a valid second-class engineer's license and
5 have no less than one (1) year's full-time experience in the
6 actual operation of a boiler and steam driven machinery in
7 this classification, under an engineer holding a valid
8 first-class license, and successfully pass a written
9 examination prescribed by the board division and has passed
10 his eighteenth (18th) birthday and is found to be competent
11 to operate a boiler or boilers and steam driven machinery in
12 this classification shall be granted a first-class
13 engineer's license; or,

14 (3) Hold a valid third-class engineer's license and
15 have no less than two (2) year's full-time experience in the
16 actual operation of a boiler and steam driven machinery in
17 this classification, under an engineer holding a valid
18 first-class license, and successfully pass a written
19 examination prescribed by the board division and has passed
20 his eighteenth (18th) birthday and is found to be competent
21 to operate a boiler or boilers and steam driven machinery in
22 this classification shall be granted a first-class
23 engineer's license.

24 (e) Allowable exceptions or variances to the foregoing
25 minimum requirements are as follows:

1 (1) Applicants for engineer's license in any
2 classification holding a valid license in that
3 classification from another state with licensing
4 requirements equal to or exceeding the foregoing minimum
5 requirements for the state of Montana and successfully pass
6 a written examination prescribed by the board division and
7 is found to be competent to operate a boiler or boilers and
8 steam driven machinery in that classification shall be
9 granted a license in that classification.

10 (2) Operating experience in a classification
11 satisfactory to the board division, accumulated in United
12 States military services or the merchant marine service may
13 be accepted in lieu of the operating experience required for
14 licensing of engineers in each of the foregoing
15 classifications.

16 (3) Applicants with training in the actual operation
17 of steam or water boilers and steam machinery who have been
18 certified as having satisfactorily completed a prescribed
19 training course from a recognized vocational-technical
20 training school or center or other board division approved
21 institution or training program in the classification for
22 which he is applying may at the discretion of the board
23 division be credited with a maximum of six (6) months'
24 experience toward first, second, or third-class engineer's
25 license.

1 (4) None of the licenses in this section above named
 2 shall entitle the holder thereof to operate a traction
 3 engine, but all persons who are entrusted with the care and
 4 management of traction engines, or boilers on wheels, are
 5 required to pass an examination as to their competency to
 6 operate such class of machinery and to procure a license to
 7 be known as a traction license. Such traction license shall
 8 not entitle the holder thereof to operate any other class of
 9 steam machinery specified in the preceding section.
 10 Applicants for a traction engineer's license shall have no
 11 less than six (6) months' full-time experience in the
 12 operation of steam traction engines and successfully pass a
 13 written examination prescribed by the board division and has
 14 passed his eighteenth (18th) birthday and is found to be
 15 competent to operate a traction engine shall be granted a
 16 traction engineer's license. The board division at its
 17 discretion may waive the experience requirement for
 18 operators of traction engines which are maintained and
 19 operated as a hobby for the restoration and show purposes of
 20 antique equipment."

21 Section 29. Section 69-1510, R.C.M. 1947, is amended
 22 to read as follows:

23 *69-1510. Complaints and revocation of license.
 24 Whenever complaint is made against an engineer holding a
 25 license that he through negligence, want of skill, or

1 inattention to duty, permitted his boiler(s) to burn or
 2 otherwise become in bad condition, or that he has been found
 3 intoxicated or under the influence of drugs while on duty,
 4 it is the duty of the board division to make a thorough
 5 investigation of the charge, and upon satisfactory proof of
 6 such charge to revoke the license of said the engineer."

7 Section 30. Section 69-1512, R.C.M. 1947, is amended
 8 to read as follows:

9 *69-1512. Fees for inspection or examination. (1) All
 10 fees for inspection are to be paid to the industrial
 11 accident-board division in accordance with the following
 12 schedule based on safety valve setting:

- 13 (a) Boilers with pressure under thirty (30) pounds per
 14 square inch \$10
- 15 (b) Boilers with pressure from thirty (30) pounds to
 16 one hundred (100) pounds per square inch \$15
- 17 (c) Boilers with pressure from one hundred (100)
 18 pounds to three hundred (300) pounds per square inch \$20
- 19 (d) Boilers with pressure over three hundred (300)
 20 pounds per square inch \$30
- 21 (e) Miniature boilers with pressure not in excess of
 22 one hundred (100) pounds per square inch \$10
- 23 (x) Steam traction \$ 5
- 24 (y) Operating certificate \$ 4
- 25 In case of the failure of the owner, manager or person

1 in charge of any boiler to pay such fee to the ~~industrial~~
 2 ~~accident board~~ division, the ~~board~~ division shall initiate
 3 the necessary legal action to collect ~~said~~ the fee. Failure
 4 of any person to immediately abide with results of such
 5 ~~board~~ division action shall be deemed guilty of a
 6 misdemeanor and punished as provided by section 69-1507.

7 (2) whenever, upon request of the owner or operator of
 8 any boiler it is necessary for the inspector to make a
 9 special trip for the inspection of the boiler, the mileage
 10 and per diem allowed by law, in addition to the fees herein
 11 prescribed, shall be charged and collected by the ~~industrial~~
 12 ~~accident board~~ division.

13 (3) Applicants for engineer's license shall pay fees
 14 according to the class of license for which application is
 15 made, as specified in the following schedule:

16	(a) First class	\$30
17	(b) Second class	\$20
18	(c) Third class	\$12
19	(d) Low pressure	\$ 8
20	(e) Traction	\$12
21	(f) Renewal of license	\$ 4
22	(g) Replacement of lost certificate	\$ 2

23 (4) Each application shall be accompanied by a payment
 24 equal to fifty per cent (50%) of the license fee for which
 25 application is being made; said payment shall be forfeited

1 in the event the applicant fails to appear for the
 2 examination at the scheduled time or fails to pass the
 3 examination.

4 In case of the failure of any applicant to successfully
 5 pass an examination, forty-five (45) days must elapse before
 6 he can again be examined for license."

7 Section 31. Section 69-1513, E.C.C. 1947, is amended
 8 to read as follows:

9 "69-1513. Review of license rejection. If any person
 10 who has applied for a license under the provisions of this
 11 article, and has been rejected, feels aggrieved, he may at
 12 any time after the lapse of ten days, and within forty-five
 13 (45) days after the date of his rejection, in writing set
 14 forth the causes of his grievance and request a ~~board~~
 15 division review. Such request must be addressed to the ~~board~~
 16 division and shall be signed by the rejected applicant.
 17 Within two days after receiving such request, ~~it is the duty~~
 18 ~~of the board to~~ the division shall notify the applicant in
 19 writing that on a certain day, which shall not be less than
 20 five nor more than thirty (30) days after the date the ~~board~~
 21 division receives ~~said~~ the written request, the ~~committee~~
 22 division shall review and evaluate the application. The
 23 applicant may appear in person at ~~said~~ the review if he so
 24 desires. At least two days before the day set for the review
 25 the applicant may designate in writing to the ~~board~~ division

1 the name of an engineer holding a valid license of equal or
 2 higher grade with the one applied for, and such engineer may
 3 present himself in behalf of the applicant upon the day and
 4 at the hour fixed for the review."

5 Section 32. Section 69-1514, R.C.M. 1947, is amended
 6 to read as follows:

7 "69-1514. ~~Board~~ Division decision. After ~~said~~ the
 8 review is completed, and if a ~~majority~~ of the ~~committee~~
 9 division decides that ~~such~~ the applicant is entitled to the
 10 license he has applied for, the ~~board~~ division shall without
 11 delay issue a license accordingly, but if a ~~majority~~ of the
 12 ~~committee~~ division rejects the applicant, it is a final
 13 rejection, and he must not be granted another examination
 14 for the space of forty-five (45) days after such last
 15 rejection, when he may again apply as provided by section
 16 69-1512."

17 Section 33. Section 69-1515, R.C.M. 1947, is amended
 18 to read as follows:

19 "69-1515. Boilers exempted from provisions — duty of
 20 owner of traction engine — notice of purchase of boiler.
 21 (1) This act shall not apply to boilers under federal
 22 control. The provisions of this act requiring inspections,
 23 inspection fees and certificates shall not apply to steam
 24 heating boilers operated at not over fifteen (15) pounds per
 25 square inch gauge pressure in private residences or

1 apartments of six (6) or less families or to hot water
 2 heating or supply boilers operated at not over fifty (50)
 3 pounds per square inch gauge pressure and temperatures not
 4 over two hundred fifty degrees Fahrenheit (250° F) when in
 5 private residences or apartments of six (6) or less
 6 families. Locomotives, commonly known as dinkey engines,
 7 used in operating logging or mining railroads, or any
 8 similar work where such locomotives are owned, leased or
 9 operated by any individual, company, or corporation and are
 10 used in the business of such individual, company, or
 11 corporation, and not for general commercial purposes, shall
 12 be classed as traction engines and be subject to inspection
 13 as are other traction engines, and the persons operating or
 14 firing such dinkey locomotives shall be required to hold
 15 traction licenses. No persons operating any of the engines
 16 or boilers hereinbefore exempted from the operation of this
 17 article shall be required to procure license from the ~~board~~
 18 division.

19 (2) Any person purchasing any boiler whether traction
 20 or stationary shall be entitled to receive from the seller
 21 the certificates of inspection issued on such boiler and any
 22 person purchasing any boiler, whether traction or
 23 stationary, not exempted by the provisions of this section,
 24 shall, within ten (10) days after such purchase, report the
 25 fact of such purchase to the ~~board~~ division and shall notify

1 the board division as to where said the boiler will be
 2 installed and operated. Any person failing to comply with
 3 the provisions of this section shall be deemed guilty of a
 4 misdemeanor. All other boilers and steam engines, except as
 5 herein exempted, come under the provisions of this article
 6 and persons operating same are required to hold the proper
 7 grade of license.*

8 Section 34. Section 69-1517, R.C.M. 1947, is amended
 9 to read as follows:

10 "69-1517. Operation of boiler or steam engine without
 11 license. It is unlawful for any person in this state to
 12 operate a stationary boiler or steam engine, or any boiler
 13 or steam engine other than engines and boilers exempted by
 14 the provisions of section 69-1515, without a license granted
 15 under the provisions of this article. The owner, renter, or
 16 user of any engine or boiler is equally liable for the
 17 violation of this section. But in case of accident,
 18 sickness, or any unforeseen prevention of the licensed
 19 engineer employed by any owner, renter, or user of an engine
 20 or boiler, the owner, renter, or user may, for fifteen days
 21 employ any person of the age of eighteen years or over whom
 22 he may consider competent to run the engine or boiler,
 23 although such person so employed may not be the holder of an
 24 engineer's license, he shall have reasonable qualifications
 25 acceptable to the board division. The person so employing

1 the unlicensed engineer shall immediately notify the board
 2 division. But no owner, renter, or user of boilers or steam
 3 machinery shall be allowed to so employ unlicensed engineers
 4 for more than fifteen days in any one calendar year. And it
 5 shall be unlawful, except as stated in this section, for any
 6 person, firm, or corporation to employ any person not duly
 7 licensed as an engineer, within the meaning of this act, to
 8 run or operate any of the boilers or engines subject to the
 9 provisions of this act.*

10 Section 35. Section 69-1601, R.C.M. 1947, is amended
 11 to read as follows:

12 "69-1601. Operators of hoisting engines must procure
 13 licenses. (1) It shall be unlawful for any person to operate
 14 any hoisting engine driven by any power when used in
 15 lowering or hoisting personnel in industrial operations or
 16 on construction projects, or any air compressor operated by
 17 any power without first obtaining a license therefor from
 18 the board division as herein provided. Except that in
 19 emergencies the provisions of section 69-1517 relating to
 20 the employment of unlicensed engineers shall apply to the
 21 operation of the engines and machinery named herein.

22 (2) First-class hoisting engineers shall be licensed
 23 to operate hoisting engines driven by any power and
 24 unlimited horsepower used in the lowering or hoisting of
 25 personnel in industrial operations or on construction

1 projects.

2 (3) Second-class hoisting engineers shall be licensed
 3 to operate hoisting engines driven by any power and not in
 4 excess of one hundred (100) brake horsepower used in the
 5 lowering or hoisting of personnel in industrial operations
 6 or on construction projects."

7 Section 36. Section 69-1602, H.C.M. 1947, is amended
 8 to read as follows:

9 "69-1602. Application and fee for license — renewal
 10 and revocation of license. Application for such licenses
 1 shall be made to the board division in the same manner, and
 2 the same fee shall be charged therefor as now required by
 3 law for obtaining a license to operate steam engines and
 4 boilers, and such license shall be given for a period of one
 5 year from the date of issuance thereof, and may be renewed
 6 in the same manner provided by law for the renewal of a
 7 license to operate steam engines or boilers; provided, that
 8 the board division shall have the right to revoke any
 9 license issued under the provisions of this act for any of
 10 the reasons for which the board division could revoke a
 11 license to operate steam engines and boilers."

12 Section 37. Section 69-1604, H.C.M. 1947, is amended
 13 to read as follows:

14 "69-1604. First and second-class licenses —
 15 qualifications of applicant. (1) Each applicant for a

1 hoisting engineer's license shall meet the following minimum
 2 requirements for the class of license for which application
 3 is being made. Each applicant for any classification must be
 4 physically and mentally capable of performing the required
 5 duties for the class of license for which application is
 6 being made.

7 (a) Applicants for second-class hoisting engineer's
 8 license shall have no less than two years' experience in the
 9 actual operation of hoisting equipment in this
 10 classification under an engineer holding a valid
 11 second-class or first-class license and successfully pass a
 12 written examination prescribed by the board division and has
 13 passed his eighteenth (18th) birthday and is found to be
 14 competent to operate hoisting equipment in this
 15 classification shall be granted a second-class hoisting
 16 engineer's license.

17 (b) Applicants for first-class hoisting engineer's
 18 license shall:

19 (1) Have no less than three years' experience in the
 20 actual operation of hoisting equipment in this
 21 classification under an engineer holding a valid first-class
 22 license and successfully pass a written examination
 23 prescribed by the board division and has passed his
 24 eighteenth (18th) birthday and is found to be competent to
 25 operate hoisting equipment in this classification shall be

1 granted a first-class hoisting engineer's license; or

2 (2) Hold a valid second-class license and have no less
3 than six (b) months' experience in the actual operation of
4 hoisting equipment in this classification under an engineer
5 holding a valid first-class license and successfully pass a
6 written examination prescribed by the board division and has
7 passed his eighteenth (18th) birthday and is found to be
8 competent to operate hoisting equipment in this
9 classification shall be granted a first-class hoisting
10 engineer's license.

11 (c) Applicants for first or second-class hoisting
12 engineer's license holding a valid license in that
13 classification from another state with licensing
14 requirements equal to or exceeding the foregoing minimum
15 requirements for the state of Montana and successfully pass
16 a written examination prescribed by the board division and
17 is found to be competent to operate hoisting machinery in
18 that classification shall be granted a license in that
19 classification.

20 (d) Applicants for first or second-class hoisting
21 engineer's license holding a valid first or second-class
22 engineer's license for the operation of boilers, steam
23 machinery and hoisting engines for the state of Montana
24 prior to enactment of this act shall, upon application
25 during a period not to exceed twelve (12) months after

1 enactment of this act, be granted a hoisting engineer's
2 license in that classification."

3 Section 38. Section 71-1001, H.C.M. 1947, is amended
4 to read as follows:

5 "71-1001. Definitions. (a) "Payments" means money
6 payments to persons having silicosis as herein defined.

7 (b) "Silicosis" means a fibrotic condition of the
8 lungs due to the inhalation of silica dust.

9 (c) "Examining board" shall mean well-qualified
10 physician or physicians, as designated by the industrial
11 accident board division of workers' compensation."

12 Section 39. Section 71-1002, H.C.M. 1947, is amended
13 to read as follows:

14 "71-1002. Administration. ~~(a) The industrial accident
15 board of the state of Montana is hereby authorized and
16 charged with the general supervision of this chapter under
17 the powers, duties and functions as prescribed herein as
18 amended. The division of workers' compensation shall
19 administer this chapter. The division shall:~~

20 ~~All powers, duties and functions previously vested in
21 the state department of public welfare in relation to this
22 chapter are hereby transferred to the industrial accident
23 board of the state of Montana.~~

24 ~~(b) Any powers, duties or functions previously vested
25 in the county departments of public welfare in relation to~~

~~this chapter are hereby transferred to the industrial accident board of the state of Montana.~~

~~(c)-(1) The industrial accident board of the state of Montana shall formulate~~ Formulate a plan and ~~promulgate regulations~~ adopt rules for the operation of this chapter.

~~(d)-(2) The industrial accident board shall co-operate~~ Cooperate with the federal government in all matters of immediate concern pertaining to silicosis.

~~(e)-(3) The industrial accident board shall publish~~ Publish an annual report and interim reports as may be necessary or required or asked for by the governor.

~~(f)-(4) The industrial accident board shall designate~~ Designate the procedure to be followed in securing a competent medical examination for the purposes of determining silicosis in each individual applicant.

~~(g)-(5) The industrial accident board shall designate~~ Designate suitable physicians or physician, well qualified to examine applicants for aid under this chapter.

~~(h)-(6) The industrial accident board shall pay~~ Pay the actual transportation expenses of any applicant from the place of his residence in the state to the place of examination and return, from fund appropriated to the ~~board~~ division for that purpose.

~~(i)-(7) The industrial accident board shall develop~~ Develop and co-operate with other agencies in developing

measures for the prevention of silicosis."

Section 40. Section 71-1005, R.C.M. 1947, is amended to read as follows:

"71-1005. Application for payment. Application for payment under this chapter shall be made by the person seeking such payment to the ~~industrial accident board~~ division. The application shall be in writing or reduced to writing in the manner and upon the form prescribed by the ~~industrial accident board~~ division. The application form may be filled in and written by a person authorized by the ~~industrial accident board~~ division. If the applicant is unable to sign his or her name on the application, a duly witnessed mark may be used."

Section 41. Section 71-1006, R.C.M. 1947, is amended to read as follows:

"71-1006. Investigation of applications. Whenever the ~~industrial accident board~~ division under this chapter receives an application for a payment an investigation and record shall be promptly made of the validity of the claim. The object of such investigation shall be to ascertain whether or not the applicant is entitled to a payment under the provision of this chapter, and such other information as may be required by the rules of the ~~industrial accident board~~ division. The investigation of such applicant shall be conducted by representatives of the ~~industrial accident~~

1 ~~board division~~. The physicians or physician designated by
 2 the ~~industrial accident board~~ division as herein provided
 3 shall constitute an examining board for such clinical,
 4 pathological, X-ray and koentgen examinations as in the
 5 opinion of the examining board may be necessary to determine
 6 whether or not the applicant has silicosis, as herein
 7 defined. A certified report of such examination from the
 8 examining board of physicians or physician must be attached
 9 to the investigation report."

10 Section 42. Section 71-1007, R.C.M. 1947, is amended
 11 to read as follows:

12 "71-1007. Making payments. Upon the completion of such
 13 investigation the ~~industrial accident board~~ division shall
 14 determine whether or not the applicant is entitled to a
 15 payment under this chapter. The ~~board~~ division shall then
 16 notify the applicant of its decision."

17 Section 43. Section 92-1302, R.C.M. 1947, is amended
 18 to read as follows:

19 "92-1302. Administration of act. This act shall be
 20 administered by the ~~industrial accident board of the state~~
 21 ~~of Montana~~ division of workers' compensation. ~~The members of~~
 22 ~~the industrial accident board shall receive no additional~~
 23 ~~compensation for administering this act. The actual and~~
 24 ~~necessary traveling expenses of the members of the board~~
 25 ~~while on business of administering this act shall be paid~~

1 ~~from the occupational disease compensation account in the~~
 2 ~~agency fund.~~

3 Section 44. Section 92-1303, R.C.M. 1947, is amended
 4 to read as follows:

5 "92-1303. Definitions. Except as in this section and
 6 elsewhere in this act expressly set forth, the definitions
 7 contained in the ~~workers' compensation~~ workers' Compensation Act shall
 8 apply to terms and words herein contained.

9 ~~1-11~~ "Weekly wage" means the average of the weekly
 10 earnings of the employee in the employ of his employer
 11 against whom compensation is awarded during the period of
 12 one year prior to the termination of his employment with
 13 such employer, or during such lesser period in such year as
 14 ~~he~~ the employee has been in the employ of his employer. In
 15 case the employee is absent from employment during the
 16 period as a result of the occupational disease for which
 17 compensation is claimed, then the week or weeks in which the
 18 absence occurs shall not be included in the computation of
 19 the average weekly wage. If the period provided in this
 20 section for computation of the average weekly wage does not
 21 include four weeks, then the average weekly wage shall be
 22 such as, having regard to the previous wage of the employee,
 23 or of other employees of the same or most similar class
 24 working in the same or most similar employment in the same
 25 or neighboring locality, reasonably represents the weekly

1 earning capacity of the disabled employee in the employment
2 in which he is working at the time of his disablement.

3 ~~2--(2)~~ "Award" means the finding or decision of the
4 ~~board~~ division as to the amount of compensation due any
5 disabled employee or the dependents of any deceased
6 employee.

7 ~~3--(3)~~ ~~"Board" means the industrial accident board of~~
8 ~~the state of Montana "Division" or board means the division~~
9 ~~of workers' compensation provided for in section 82A-1004.~~

0 ~~4--(4)~~ "Compensation" means the payments and benefits
1 provided in this act.

2 ~~5--(5)~~ "Disablement" means the event of becoming
3 physically incapacitated by reason of an occupational
4 disease as defined in this act from performing any work for
5 remuneration or profit. "Silicosis," as defined in this act,
6 when complicated by active pulmonary tuberculosis, shall be
7 presumed to be total disablement. "Disability," "disabled,"
8 "total disability," or "totally disabled" shall be
9 synonymous with "disablement," but they shall have no
0 reference to "partial permanent disability." Provided that
1 in the event of death or disability due to pneumoconiosis
2 the following shall apply:

3 ~~a--(a)~~ If a miner who is suffering or has suffered
4 from pneumoconiosis was employed for ten (10) years or more
5 in one (1) or more coal mines there shall be a rebuttable

1 presumption that his pneumoconiosis arose out of such
2 employment.

3 ~~b--(b)~~ If a deceased miner was employed for ten (10)
4 years or more in one (1) or more coal mines and died from a
5 respirable disease there shall be a rebuttable presumption
6 that his death was due to pneumoconiosis.

7 ~~c--(c)~~ If a miner is suffering or suffered from a
8 chronic dust disease of the lung which (1) when diagnosed by
9 chest roentgenogram yields one (1) or more large opacities
10 (greater than one centimeter in diameter) and would be
11 classified in category A, B, or C in the international
12 classification of radiographs of the pneumoconioses by the
13 international labor organization, (2) when diagnosed by
14 biopsy or autopsy, yields massive lesions in the lung, or
15 (3) when diagnosis is made by other means, would be a
16 condition which would reasonably be expected to yield
17 results described in clause (1) or (2) if diagnosis had been
18 made in the manner prescribed in clause (1) or (2) then
19 there shall be an irrebuttable presumption that he is
20 totally disabled due to pneumoconiosis or that his death was
21 due to pneumoconiosis, as the case may be.

22 ~~6--(6)~~ The terms "employee," "workman," and
23 "operative," as used herein, shall mean:

24 Every person in the service of the state, and of a
25 county, city, town, municipal corporation, or school

1 district, including the regular members of lawfully
 2 constituted police and fire departments of cities and towns.

3 Every person in the service of any employer subject to
 4 this act as hereinafter defined or to whom such employer is
 5 required to secure compensation under this act, including
 6 aliens and minors legally or illegally permitted to work for
 7 hire, but not including a person whose employment is casual
 8 and is not in the usual course of trade, business, or
 9 occupation of the employer, and not including agricultural
 10 workers and domestic servants unless the employer shall so
 11 elect.

12 ~~7.~~ (7) "Beneficiary" means and shall include a
 13 surviving wife or husband and a surviving child or children
 14 under the age of eighteen (18) years and an invalid child or
 15 invalid children over the age of eighteen (18) years, or if
 16 no surviving wife or husband then a surviving child or
 17 children under the age of eighteen (18) years and an invalid
 18 child or invalid children over the age of eighteen (18)
 19 years; provided, however, that no invalid child over the age
 20 of eighteen (18) years shall be considered a beneficiary
 21 unless dependent upon the decedent for support at the time
 22 of disablement.

23 ~~8.~~ (8) "Major dependent" means if there be no
 24 beneficiary as defined in a preceding section, the father or
 25 mother, or the survivor of them, if actually dependent upon

1 the decedent at the time of his disablement, to the
 2 extent of such dependency, not to exceed, however, the
 3 maximum compensation provided for in this act.

4 ~~9.~~ (9) "Minor dependent" means if there be no
 5 beneficiary or major dependent as defined in the preceding
 6 section the brothers and sisters under the age of eighteen
 7 years, provided, however, that no invalid brother or invalid
 8 sister over the age of eighteen years shall be a "minor
 9 dependent" unless actually dependent upon the decedent at
 10 the time of ~~his~~ the decedent's disablement. Minor dependents
 11 shall be awarded compensations to the extent of such
 12 dependency, not to exceed, however, the maximum compensation
 13 provided for in this act.

14 ~~10.~~ (10) "Invalid" means one who is physically or
 15 mentally incapacitated.

16 ~~11.~~ (11) "Child" shall include a posthumous child, a
 17 stepchild, a child legally adopted prior to the disablement,
 18 an illegitimate child legitimized prior to the disablement.

19 ~~12.~~ (12) "Week" means six (6) working days, but
 20 includes Sundays.

21 ~~13.~~ (13) "Wages" means the average daily wages received
 22 by the employee at the time of the disablement for the usual
 23 hours of employment in a day, and overtime is not to be
 24 considered.

25 ~~14.~~ (14) "Wife" or "widow" means only a wife or widow

1 living with, or legally entitled to be supported by the
2 deceased at the time of the disablement.

3 ~~15. (15)~~ "Husband" or "widower" means only a husband or
4 widower incapable of supporting himself, and living with, or
5 legally entitled to be supported by the deceased at the time
6 of her disablement.

7 ~~16. "Commissioner" means one (1) of the members of the~~
8 ~~industrial accident board.~~

9 ~~17. "Appointed member of the board" means that member~~
0 ~~of the industrial accident board appointed by the governor.~~

1 ~~18. (16)~~ "Order" shall mean and include any decision,
2 rule, regulation, direction, requirement, or standard of the
3 board division, or any other determination arrived at or
4 decision made by such board division, excepting general or
5 local orders as herein specified.

6 ~~19. (17)~~ "Payroll," "annual payroll" or "annual payroll
7 for the preceding year," means the average annual payroll of
8 the employer for the preceding calendar year, or, if the
9 employer shall not have operated a sufficient or any length
0 of time during such calendar year, twelve (12) times the
1 average monthly payroll for the current year; provided, that
2 an estimate may be made by the board division for any
3 employer starting in business where no average payrolls are
4 available, such estimate to be adjusted by additional
5 payment by the employer or refund by the board division, as

1 the case may actually be on December 31st of such current
2 year.

3 ~~20. (18)~~ "Year," unless otherwise specified, means
4 calendar year. "Fiscal year" means the period of time
5 between the first day of July and the thirtieth (30th) day
6 of the succeeding June.

7 ~~21. (19)~~ "Insurer" means any insurance company
8 authorized to transact business in this state insuring any
9 employer under this act.

10 ~~22. (20)~~ "Casual employment" means employment not in
11 the usual course of trade, business, profession, or
12 occupation of the employer.

13 ~~23. (21)~~ The term "physician" shall include "surgeon,"
14 and in either case shall mean one authorized by law to
15 practice his profession in this state.

16 ~~24. wherever the singular is used the plural shall be~~
17 ~~included, and wherever the plural is used the singular shall~~
18 ~~be included.~~

19 ~~25. wherever the masculine gender is used, the feminine~~
20 ~~and neuter shall be included.~~

21 ~~26. (22)~~ For the purpose of this act "silicosis" is
22 defined as a chronic disease of the lungs caused by the
23 prolonged inhalation of silicon dioxide (SiO₂) characterized
24 by small discrete nodules of fibrous tissue similarly
25 disseminated throughout both lungs, causing characteristic

1 X-ray pattern, and by variable clinical manifestations.

2 ~~23.~~ (23) For the purpose of this act "pneumoconiosis" is
3 defined as a chronic dust disease of the lung arising out of
4 employment in coal mines, and includes anthracosis, coal
5 workers' pneumoconiosis, silicosis, or anthracosilicosis
6 arising out of such employment.

7 ~~27.~~ (24) "Workshift" means the work for which an
8 employee is paid a day's wages."

9 ~~28. "Workmen's Compensation Act" means the Workmen's~~
10 ~~Compensation Act of the State of Montana.~~

-End-