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SENATE BILL NO. 329

INTRODUCED BY Colbey Norman Seibel

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 34-304, R.C.M. 1947, BY PROVIDING A THIRTY DOLLAR (\$30) LICENSE FEE FOR A HOTEL, MOTEL, TOURIST HOME, RETIREMENT HOME, OR ROOMING HOUSE AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH; AMENDING SECTION 34-305, R.C.M. 1947, BY PROVIDING FOR HEARING BEFORE THE DEPARTMENT; ADOPTING AN EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 34-304, R.C.M. 1947, is amended to read as follows:

"34-304. Fee--term of license. (a) There shall be paid to the department with each application for such license or for renewal of such license, an annual license fee of ~~ten dollars--(\$10)~~ thirty dollars (\$30). These fees shall be deposited with the state treasury to the credit of the general fund.

(b) Each license shall expire on December 31 following its date of issue, unless canceled for cause. Renewal may be obtained annually by paying the required annual license fee. Such license shall not be transferable nor be applicable to

any premises other than that for which originally issued.

(c) Before June 30 of each year, the department shall pay to a local board of health as established under section 69-4504, 69-4506, or 69-4507, R.C.M. 1947, a payment of twenty dollars (\$20) for each establishment that is licensed in the jurisdiction of that local board of health; provided, however, that there is a functioning local board of health, and the local board of health, local health officers, and sanitarians assist in the enforcement of the provisions of this chapter and the rules adopted under it.

(d) Before June of of each year, the local board of health shall submit to the department a list of the establishments in each jurisdiction that are licensed pursuant to this section. The funds received by the local board of health shall be deposited with the appropriate local fiscal authority and shall be in addition to the funds appropriated under section 69-4503, R.C.M. 1947."

Section 2. Section 34-305, R.C.M. 1947, is amended to read as follows:

"34-305. Cancellation or denial of license--procedure.

(1) The department may cancel a license if it finds, after proper investigation, that the licensee has violated this act or a rule effective under this act, and the licensee has failed or refused to remedy or correct the violation. Submission to the department of an acceptable plan of

1 correction within ten (10) days after receipt from the
 2 department of written notice of violation, and execution of
 3 an acceptable plan within the time prescribed in the written
 4 notice of approval of the plan by the department shall be a
 5 bar to prosecution for violation.

6 (2) A license may not be denied or canceled by the
 7 department without delivery to the applicant or licensee of
 8 a written statement of the grounds therefor or the charge
 9 involved and an opportunity to answer at a hearing before
 10 the board department to show cause, if any, why the license
 11 should not be denied or canceled. In such case, the licensee
 12 must make a written request to the board for a hearing
 13 within ten (10) days after notice of the grounds or charges
 14 has been received.

15 (3) When a multiple type establishment is licensed by
 16 the department, the denial or cancellation of the license
 17 may affect the entire establishment or only a portion of it
 18 as determined by the department (a multiple type
 19 establishment includes two or more of the following: hotel,
 20 motel, or tourist home).

21 (4) On cancellation of a license or the right to
 22 operate one or more of the multiple type establishments
 23 under same license, the license certificate shall be
 24 returned to the department for destruction or deletion of
 25 types of establishment as the department may direct in its

1 notice of cancellation.

2 (5) When the department furnishes evidence to the
 3 county attorney of a county in this state, the county
 4 attorney shall prosecute any person, firm, or corporation
 5 violating this act, or a rule effective under this act."

6 Section 3. There is a new R.C.M. section numbered
 7 34-305.1 that reads as follows:

8 34-305.1. Emergency enforcement remedy. (1) The
 9 department, local, county, or district health officer,
 10 sanitarian, or other authorized representative, if he finds
 11 after proper investigation of a hotel, motel, tourist home,
 12 retirement home, or rooming house subject to the provisions
 13 of this chapter, that the public health, safety, or welfare
 14 imperatively requires emergency action, may close the hotel,
 15 motel, tourist home, retirement home, or rooming house for a
 16 period not to exceed seventy-two (72) hours.

17 (2) When a local, county or district health officer or
 18 sanitarian closes a hotel, motel, tourist home, retirement
 19 home, or rooming house under this section, he shall
 20 immediately notify the department and recommend further
 21 action which may be taken under the provisions of this
 22 chapter.

23 (3) A hotel, motel, tourist home, retirement home, or
 24 rooming house closed under the provisions of this section
 25 shall remain closed until such time as the department,

1 local, county, or district health officer or sanitarian
2 determines that emergency action is no longer necessary, but
3 in no event may such closure exceed seventy-two (72) hours
4 except when other appropriate enforcement action has been
5 initiated.

6 Section 4. There is a new R.C.M. section to be
7 numbered 34-305.2 that reads as follows:

8 34-305.2. Injunctions. Notwithstanding any other
9 provision of this act, the department, local, county, or
10 district health officer or sanitarian may bring an action
11 for an injunction against the continuation of an alleged
12 violation that has been the basis for denial or cancellation
13 of a license by the department or against a person who fails
14 to comply with an emergency order.

15 Section 5. This act is effective January 1, 1976.

-End-

STATE OF MONTANA

REQUEST NO. 161-75

FISCAL NOTE

Form BD-15

In compliance with a written request received Feb. 3, 1975, there is hereby submitted a Fiscal Note for Senate Bill 329 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to increase the license fee for a hotel, motel, tourist home, retirement home or rooming house from \$10 to \$30; to provide that \$20 of the fee be paid to local Boards of Health; to adopt an emergency enforcement remedy; and to provide for injunction. The act is effective January 1, 1976.

ASSUMPTIONS:

1. The number of establishments to be surveyed, inspected, and licensed will increase at the rate of 3% per year; approximately 1065 in FY76 and 1097 in FY77.
2. The major portion of the licensing costs of hotels, motels and other facilities in the licensing system has been defrayed by funds other than the licensing fees at the state level. It is assumed there will be a continuation of this utilization of staff personnel in the proposed licensing program.
3. Processing grants to the counties will require an additional \$300 in personal services.

FISCAL IMPACT:

Revenue	FY 76 January 1 - June 30			FY 77		
	Current Law	Proposed law	Increase (decrease)	Current law	Proposed law	Increase (decrease)
License fee collections for deposit in Gen.Fund	\$ 5,325	\$15,975	\$10,650	\$10,970	\$32,910	\$21,940
Expenditure						
Personal Services	11,529	11,829	300	25,693	25,993	300
Operating Expenses	1,925	1,925	0	4,235	4,235	0
Local assistance	0	10,650	10,650	0	21,940	21,940
Total expenditures	13,454	24,404	10,950	29,928	52,168	22,240
Net Effect	\$(8,129)	\$(8,429)	\$(300)	\$(18,958)	\$(19,258)	\$ 300

CONCLUSION:

Enactment of SB 329 would result in an increase in revenue of \$32,590 from Jan. 1, 1976 to June 30, 1977, all of which increase would be paid to the local Boards of Health. Thus, there would be no impact on General Fund revenues. An additional \$600 expenditure would be incurred by the Department of Health and Environmental Sciences during the same time period.

LOCAL IMPACT:

Local Boards of Health would receive an estimated \$32,590 from Jan. 1, 1976 to June 30, 1977. This payment would provide funding to defray the cost of inspecting facilities, which is currently borne by property tax revenues.

Michael B. Stallings
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/8/75

Approved by Committee
on Public Health, Welfare
& Safety

1 SENATE BILL NO. 329

2 INTRODUCED BY COLBERG, NORMAN, SEIBEL

3
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19 ~~dollars--(\$10)~~ thirty dollars (\$30). These fees shall be
20 deposited with the state treasury to the credit of the
21 general fund.

22 (b) Each license shall expire on December 31 following
23 its date of issue, unless canceled for cause. Renewal may be
24 obtained annually by paying the required annual license fee.
25 Such license shall not be transferable nor be applicable to

1 any premises other than that for which originally issued.

2 (c) Before June 30 of each year, the department shall
3 pay to a local board of health as established under section
4 69-4504, 69-4506, or 69-4507, R.C.M. 1947, a payment of
5 twenty dollars (\$20) for each establishment that is licensed
6 in the jurisdiction of that local board of health; provided,
7 however, that there is a functioning local board of health,
8 and the local board of health, local health officers, and
9 sanitarians assist in the enforcement of the provisions of
10 this chapter and the rules adopted under it.

11 (d) Before June of of each year, the local board of
12 health shall submit to the department a list of the
13 establishments in each jurisdiction that are licensed
14 pursuant to this section. The funds received by the local
15 board of health shall be deposited with the appropriate
16 local fiscal authority and shall be in addition to the funds
17 appropriated under section 69-4508, R.C.M. 1947."

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25 Submission to the department of an acceptable plan of

SECOND READING

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2 department of written notice of violation, and execution of
3 an acceptable plan within the time prescribed in the written
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10 sanitarián, or other authorized representative, if he finds
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13 of this chapter, that the public health, safety, or welfare
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15 motel, tourist home, retirement home, or rooming house for a
16 period not to exceed seventy-two (72) hours.

17 (2) When a local, county or district health officer or
18 sanitarian closes a hotel, motel, tourist home, retirement
19 home, or rooming house under this section, he shall
20 immediately notify the department and recommend further
21 action which may be taken under the provisions of this
22 chapter.

23 (3) A hotel, motel, tourist home, retirement home, or
24 rooming house closed under the provisions of this section
25 shall remain closed until such time as the department,

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2 determines that emergency action is no longer necessary, but
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12 provision of this act, the department, local, county, or
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15 violation that has been the basis for denial or cancellation
16 of a license by the department or against a person who fails
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-End-

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16 the department, the denial or cancellation of the license
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9 Section 4. There is a new R.C.M. section to be
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15 violation that has been the basis for denial or cancellation
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17 to comply with an emergency order.

18 Section 5. This act is effective January 1, 1976.

-End-

COMMITTEE ON STATE ADMINISTRATION AMENDMENTS TO SENATE BILL 329

1. Amend title, page 1, line 5.
Following: "A"
Strike: "THIRTY"
Insert: "TWENTY"
2. Amend title, page 1, line 5.
Following: "DOLLAR"
Strike: "(\$30)"
Insert: "(\$20)"
3. Amend title, page 1, lines 7 & 8.
Following: "HOUSE"
Strike: "AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH"
4. Amend title, page 1, lines 9 & 10.
Following: "DEPARTMENT;"
Strike: "ADOPTING AN EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR
INJUNCTION;"
5. Amend page 1, section 1, line 19.
Following: "~~(\$10)~~"
Strike: "thirty"
Insert: "twenty"
6. Amend page 1, section 1, line 19.
Following: "dollars"
Strike: "(\$30)"
Insert: "(\$20)"
7. Amend page 2, section 1, subsection (c), lines 2 through 17.
Strike: subsections (c) and (d) in their entirety.
8. Amend page 4, section 3, lines 6 through 25 and page 5, lines 1
through 17.
Strike: sections 3 & 4 in their entirety.

AS SO AMENDED
BE CONCURRED IN

SENATE BILL NO. 329

INTRODUCED BY COLBERG, NORMAN, SEIBEL

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