LC 1052

ente BILL NO. 321 Alberg Norman 1 INTRODUCED BY 2 3

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 4 34-304, R.C.M. 1947, BY PROVIDING A THIRTY DOLLAR (\$30) 5 6 LICENSE FEE FOR A HOTEL, MOTEL, TOURIST HOME, RETIREMENT 7 HOME, OR ROOMING HOUSE AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH; AMENDING SECTION 34-305, R.C.M. 1947, BY 8 PROVIDING FOR HEARING BEFORE THE DEPARTMENT; ADOPTING AN 9 EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION; AND 10 11 PROVIDING A DELAYED EFFECTIVE DATE."

12

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

14 Section 1. Section 34-304, R.C.M. 1947, is amended to 15 read as follows:

16 "34-304. Fee--term of license. (a) There shall be paid 17 to the department with each application for such license or 18 for renewal of such license, an annual license fee of ten 19 dollars--(\$10) thirty dollars (\$30). These fees shall be 20 deposited with the state treasury to the credit of the 21 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

INTRODUCED BILL

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
б	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."
18	Section 2. Section 34-305, R.C.M. 1947, is amended to
19	read as follows:
20	"34-305. Cancellation or denial of licenseprocedure.
21	(1) The department may cancel a license if it finds, after
22	proper investigation, that the licensee has violated this
23	act or a rule effective under this act, and the licensee has
24	failed or refused to remedy or correct the violation.
25	Submission to the department of an acceptable plan of

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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 involved and an opportunity to answer at a hearing before 9 10 the beard department to show cause, if any, why the license 11 should not be denied or canceled. In such case, the licensee must make a written request to the board for a hearing 12 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).

(4) On cancellation of a license or the right to operate one or more of the multiple type establishments under same license, the license certificate shall be returned to the department for destruction or deletion of types of establishment as the department may direct in its 1 notice of cancellation.

2 (5) When the department furnishes evidence to the county attorney of a county in this state, the county 3 4 attorney shall prosecute any person, firm, or corporation violating this act, or a rule effective under this act." 5 6 Section 3. There is a new R.C.M. section numbered 7 34-305.1 that reads as follows: (1) The 8 34-305.1. Emergency enforcement remedy. 9 department, local, county, or district health officer, 10 sanitarian, or other authorized representative, if he finds 11 after proper investigation of a notel, 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 18 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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local, county, or district health officer or sanitarian
 determines that emergency action is no longer necessary, but
 in no event may such closure exceed seventy-two (72) hours
 except when other appropriate enforcement action has been
 initiated.

....

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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.

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-End-

LC 1052

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		
	License fee collections for deposit in Gen.Fund	Current Law	Proposed law	Increase (decrease)	Current law	Proposed law	Increase (decrease)
		\$ 5,325	\$15,975	<u>\$10,650</u>	<u>\$10,970</u>	\$32,910	<u>\$21,940</u>
	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
r	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)	\$(<u>300</u>)	\$ <u>(18,958</u>)	\$(19,258)	<u>\$ 300</u>)
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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.

BUDGET DIRECTOR

Office of Budget and Program Planning Date:

Approved by Committee on Public Health,Welfare & Safety

1	SENATE BILL NO. 329	1	any prem
2	INTRODUCED BY COLBERG, NORMAN, SEIBEL	2	<u>(c)</u>
3		3	pay to a
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION	4	69-4504,
5	34-304, R.C.M. 1947, BY PROVIDING A THIRTY DOLLAR (\$30)	5	twenty d
6	LICENSE FEE FOR A HOTEL, MOTEL, TOURIST HOME, RETIREMENT	6	in the
7	HOME, OR ROOMING HOUSE AND PARTICIPATION IN THE FEE BY LOCAL	7	however,
8	BOARDS OF HEALTH; AMENDING SECTION 34-305, R.C.M. 1947, BY	8	and the
9	PROVIDING FOR HEARING BEFORE THE DEPARTMENT; ADOPTING AN	9	sanitari
10	EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION; AND	10	this cha
11	PROVIDING A DELAYED EFFECTIVE DATE."	11	<u>(b)</u>
12		12	health
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	13	<u>establis</u>
14	Section 1. Section 34-304, R.C.M. 1947, is amended to	14	pursuant
15	read as follows:	15	board o
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17	to the department with each application for such license or	17	appropri
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19	dellars{\$l0} thirty dollars (\$30). These fees shall be	19	read as
20	deposited with the state treasury to the credit of the	20	* 34
21	general fund.	21	(1) The
22	(b) Each license shall expire on December 31 following	22	proper :
23	its date of issue, unless canceled for cause. Renewal may be	23	act or a
24	obtained annually by paying the required annual license fee.	24	failed
25	Such license shall not be transferable nor be applicable to	25	Submissi

mises other than that for which originally issued.) Before June 30 of each year, the department shall a local board of health as established under section , 69-4506, or 69-4507, R.C.M. 1947, a payment of dollars (\$20) for each establishment that is licensed jurisdiction of that local board of health; provided, , that there is a functioning local board of health, e local board of health, local health officers, and ians assist in the enforcement of the provisions of apter and the rules adopted under it.

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."
18	Section 2. Section 34-305, R.C.M. 1947, is amended to
19	read as follows:
20	"34-305. Cancellation or denial of licenseprocedure.
21	(1) The department may cancel a license if it finds, after
22	proper investigation, that the licensee has violated this
23	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 -2- SB 329

SECOND READING

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 beard 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.

(3) When a multiple type establishment is licensed by the department, the denial or cancellation of the license may affect the entire establishment or only a portion of it as determined by the department (a multiple type establishment includes two or more of the following: hotel, 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 -3- SB 329 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 imperatively requires emergency action, may close the hotel, 14 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.

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

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1 local, county, or district health officer or sanitarian 2 determines that emergency action is no longer necessary, but in no event may such closure exceed seventy-two (72) hours 3 4 except when other appropriate enforcement action has been 5 initiated. AN EMERGENCY CLOSING MAY BE CONSIDERED A "CONTESTED CASE" UNDER THE MONTANA ADMINISTRATIVE PROCEDURE 6 7 ACT AND THE LICENSEE IS ENTITLED TO A HEARING UNDER THAT 8 ACT.

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

11 34-305.2. Injunctions. Notwithstanding any other 12 provision of this act, the department, local, county, or 13 district health officer or sanitarian may bring an action 14 for an injunction against the continuation of an alleged 15 violation that has been the basis for denial or cancellation 16 of a license by the department or against a person who fails 17 to comply with an emergency order.

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

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1	SENATE BILL NO. 329	1	any premises other than that for which originally issued.
2	INTRODUCED BY COLBERG, NORMAN, SEIBEL	2	(c) Before June 30 of each year, the department shall
3		3	pay to a local board of health as established under section
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION	4	69-4504, 69-4506, or 69-4507, R.C.M. 1947, a payment of
5	34-304, R.C.M. 1947, BY PROVIDING A THIRTY DOLLAR (\$30)	5	twenty dollars (\$20) for each establishment that is licensed
6	LICENSE FEE FOR A HOTEL, MOTEL, TOURIST HOME, RETIREMENT	6	in the jurisdiction of that local board of health; provided,
7	HOME, OR ROOMING HOUSE AND PARTICIPATION IN THE FEE BY LOCAL	7	however, that there is a functioning local board of health,
8	BOARDS OF HEALTH; AMENDING SECTION 34-305, R.C.M. 1947, BY	8	and the local board of health, local health officers, and
9	PROVIDING FOR HEARING BEFORE THE DEPARTMENT; ADOPTING AN	9	sanitarians assist in the enforcement of the provisions of
10	EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION; AND	10	this chapter and the rules adopted under it.
11	PROVIDING A DELAYED EFFECTIVE DATE."	11	(d) Before June of of each year, the local board of
12		12	health shall submit to the department a list of the
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22	(b) Each license shall expire on December 31 following	22	proper investigation, that the licensee has violated this
23	its date of issue, unless canceled for cause. Renewal may be	23	act or a rule effective under this act, and the licensee has
24	obtained annually by paying the required annual license fee.	24	failed or refused to remedy or correct the violation.
25	Such license shall not be transferable nor be applicable to	25	Submission to the department of an acceptable plan of
			-2- SB 329

THIRD READING

б (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 licenses 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.

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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.

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SB 329

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10 numbered 34-305.2 that reads as follows:

11 34-305.2. Injunctions. Notwithstanding any other 12 provision of this act, the department, local, county, or 13 district health officer or sanitarian may bring an action 14 for an injunction against the continuation of an alleged 15 violation that has been the basis for denial or cancellation 16 of a license by the department or against a person who fails 17 to comply with an emergency order.

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

-End-

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HOUSE OF REPRESENTATIVES

March 15, 1975

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: "<u>thirty</u>" Insert: "<u>twenty</u>"
- 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 SB 0329/03

1	SENATE BILL NO. 329	1	any premises other than that for which originally issued.
2	INTRODUCED BY COLBERG, NORMAN, SEIBEL	2	(c) Before-June-30-of-each-yeary-the-departmentsh
3		3	pay-to-a-localboard-of-health-as-established-under-sect
4	A SILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION	4	69-4584,69-4586,er-69-4587,R.C.M1947,-a-payment
5	34-304, R.C.M. 1947, BY PROVIDING A PHIRPY TWENTY DOLLAR	5	twenty-dollars-{620}-for-cach-establishment-that-is-licen
б	$\{\{\{30\}\}$ (\$20) LICENSE FEE FOR A HOTEL, MOTEL, TOURIST HOME,	6	in-the-jurisdiction-of-that-local-board-of-health;-provid
7	RETIREMENT HOME, OR ROOMING HOUSE AND-PARTICIPATION-IN-THE	7	howevery-that-there-is-a-functioning-local-board-ofhead
8	PHE-BY-LOCAL-DOARDSOFHEALTH; AMENDING SECTION 34-305,	8	andthelocalboard-of-healthy-local-health-officersy-
9	R.C.M. 1947, BY PROVIDING FOR HEARING BEFORE THE DEPARTMENT;	9	sanitarians-assist-in-the-enforcement-of-theprovisions-
10	abopyinganemergencyenforcementremedyproviding-for	10	this-chapter-and-the-rules-adopted-under_it.
11	INJUNCTION; AND PROVIDING A DELAYED EFFECTIVE DATE."	11	{d}BeforeJuneofof-each-year7-the-local-board
12		12	healthshallsubmittothedepartmentalistof
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		25	Submission to the department of an acceptable plan

---Before-June-30-of-each-yeary-the-department--shall a-local--board-of-health-as-established-under-section ---69-45867--or--69-45877--R.C.M.--19477-a-payment-of dollars-(620)-for-cach-establishment-that-is-licensed jurisdiction-of-that-local-board-of-health;-provided; -that-there-is-a-functioning-local-board-of--health; e--local--board-of-healthy-local-health-officersy-and ians-assist-in-the-enforcement-of-the--provisions--of apter-and-the-rules-adopted-under-it. }--Before--June--of--of-each-yeary-the-local-board-of -shall--submit--to--the--department--a--list--of--the shments---in--cach--jurisdiction--that--are--licensed t-to-this-section---The-funds-received-by--the--local of--health--shall--be--deposited-with-the-appropriate iseal-authority-and-shall-be-in-addition-to-the-funds iated-under-section-69-45087-R-C.M.-1947." ction 2. Section 34-305, R.C.M. 1947, is amended to follows: 4-305. Cancellation or denial of license--procedure. e department may cancel a license if it finds, after investigation, that the licensee has violated this a rule effective under this act, and the licensee has or refused to remedy or correct the violation. ion to the department of an acceptable plan of -2-SB 329

REFERENCE BILL

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

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).

(4) On cancellation of a license or the right to operate one or more of the multiple type establishments under same license, the license certificate shall be returned to the department for destruction or deletion of types of establishment as the department may direct in its -3- SB 329 1 notice of cancellation.

2 (5) When the department furnishes evidence to the 3 county attorney of a county in this state, the county attorney shall prosecute any person, firm, or corporation 4 5 violating this act, or a rule effective under this act." 6 Section-3--- There-is--a--new--RietMi--section--numbered 7 34-305-1-that-reads-as-follows-8 9 departmenty--iocaly--country--or--district--health--officery sanitariany--or-other-authorized-representativey-if-he-finds 10 11 after-proper-investigation-of-a-hotely-motely-tourist--home, retirement -- home, - or - rooming-house-subject-to-the-provisions 12 of-this-chaptery-that-the-public-healthy-safetyy-or--welfare 13 14 imperatively-requires-emergency-actiony-may-close-the-hotely 15 motely-tourist-homey-retirement-homey-or-rooming-house-for-a period-not-to-exceed-seventy-two-(72)-hourst 16 (2)--When-a-localy-county-or-district-health-officer-or 17 18 sanitarian--closes--a-hotely-motely-tourist-homey-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: +3}--A--hotely-motely-tourist-homey-retirement-homey-or 23 rooming-house-closed-under-the-provisions--of--this--section 24 shall--remain--closed--until--such--time--as-the-departmenty 25 -4-SB 329

1	local 7-county7-ordistricthealthofficerorsanitarian
2	determines-that-emergency-action-is-no-longer-necessary,-but
3	innoevent-may-such-elosure-exceed-seventy-two-{72}-hours
4	except-when-other-appropriate-enforcementactionhasbeen
5	initiated. ANEMERGENCYCLOSINGMAYBECONSIDEREDA
6	#Contested-case#_under_the-montana-administrativeprocedure
7	ACTANDTHE LICENSEEIS-ENTITLE D- TO-A-HEARING-UNDER-THAT
8	ACT
9	Section-4;ThereisanewR;C:M;sectiontobe
10	numbered-34-305.2-that-reads-as-follows:
11	34-305.2InjunctionsNotwithstandinganyother
12	provision-of-this-acty-thedepartmentylocalycountyyor
13	districthealthofficeror-sanitarian-may-bring-an-action
14	for-an-injunction-against-thecontinuationofanalleged
15	violation-that-has-been-the-basis-for-denial-or-cancellation
16	of-a-license-by-the-department-or-against-a-person-who-fails
17	to-comply-with-an-emergency-order.
18	Section 3. This act is effective January 1, 1976.

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