

1 *Sen. Seibel* BILL NO. 367
 2 INTRODUCED BY *Collegian Owen Norman Seibel*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 5 27-614, R.C.M. 1947, BY PROVIDING A THIRTY DOLLAR (\$30)
 6 LICENSE FEE FOR FOOD ESTABLISHMENTS AND PARTICIPATION IN THE
 7 FEE BY LOCAL BOARDS OF HEALTH; AMENDING SECTION 27-615,
 8 R.C.M. 1947, BY PROVIDING THE PROCEDURE FOR CANCELLATION OR
 9 DENIAL OF A FOOD ESTABLISHMENT LICENSE; ADOPTING AN
 10 EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION;
 11 REPEALING SECTIONS 27-616 AND 27-617, R.C.M. 1947; AND
 12 PROVIDING A DELAYED EFFECTIVE DATE."

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

15 Section 1. Section 27-614, R.C.M. 1947, is amended to
 16 read as follows:

17 "27-614. Application for license--fee. (1) An
 18 application for a license is made to the department on
 19 forms, and contains information, required by the department.

20 (2) For each license issued, the department shall
 21 collect a fee of ~~ten dollars~~ thirty dollars (\$30). It
 22 shall deposit receipts in the state general fund.

23 (3) Before June 30 of each year, the department shall
 24 pay to a local board of health as established under section
 25 69-4504, 69-4506, or 69-4507, R.C.M. 1947, a payment of

1 twenty dollars (\$20) for each establishment that is licensed
 2 in the jurisdiction of that local board of health; provided,
 3 however, that there is a functioning local board of health,
 4 and that the local board of health, local health officers,
 5 and sanitarians assist in the enforcement of the provisions
 6 of this chapter and the rules adopted under it.

7 (4) Before June 1 of each year, the local board of
 8 health shall submit to the department a list of the
 9 establishments in each jurisdiction that are licensed under
 10 this chapter. The funds received by the local board of
 11 health shall be deposited with the appropriate local fiscal
 12 authority and shall be in addition to the funds appropriated
 13 under section 69-4508, R.C.M. 1947."

14 Section 2. Section 27-615, R.C.M. 1947, is amended to
 15 read as follows:

16 ~~"27-615. Denial--or--cancellation-of-license---partial~~
 17 ~~cancellation.--(1) The--department--may--deny--or--cancel--a~~
 18 ~~license--if--provisions--of--this--act--or--rules--adopted--by--the~~
 19 ~~department--under--this--act--are--violated.~~

20 ~~(2) A--license--for--a--multiple-type--establishment~~
 21 ~~authorized--by--section--27--613--(2)--may--be--denied--or--canceled~~
 22 ~~in--whole--or--in--part--as--determined--by--the--department.~~

23 ~~(3) If--a--license--for--multiple-type--establishment--is~~
 24 ~~canceled--in--part,--the--license--shall--be--returned--to--the~~
 25 ~~department--for--destruction--and--a--new--license--shall--be--issued~~

~~for that part of the establishment which may still be operated.~~

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 chapter or a rule effective under this chapter, and the licensee has failed or refused to remedy or correct the violation. Submission to the department of an acceptable plan of correction within ten (10) days after receipt from the department of written notice of violation, and execution of an acceptable plan within the time prescribed in the written notice of approval of the plan by the department shall be a bar to prosecution for violation.

(2) A license may not be denied or cancelled by the department without delivery to the applicant or licensee of a written statement of the grounds for cancellation or denial or the charge involved and an opportunity to answer at a hearing before the department to show cause, if any, why the license should not be denied or cancelled. In such case, the licensee must make a written request to the department for a hearing within ten (10) days after notice of the grounds or charges 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 an establishment authorized by section 27-613(2).)

(4) On cancellation of a license or the right to operate one or more of the multiple type establishments under the 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 notice of cancellation.

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

Section 3. There is a new R.C.M. section numbered 27-615.1 that reads as follows:

27-615.1. Emergency enforcement remedy. (1) The department, local, county, or district health officer, sanitarian or other authorized representative, if he finds after proper investigation of an establishment subject to the provisions of this chapter that the public health, safety, or welfare imperatively requires emergency action, may close the establishment for a period not to exceed seventy-two (72) hours.

(2) When a local, county, or district health officer

1 or sanitarian closes an establishment under this section, he
2 shall immediately notify the department and recommend
3 further action which may be taken under the provisions of
4 this chapter.

5 (3) An establishment closed under the provisions of
6 this section shall remain closed until such time as the
7 department, local, county, or district health officer or
8 sanitarian determines that emergency action is no longer
9 necessary, but in no event may such closure exceed
10 seventy-two (72) hours except when other appropriate
11 enforcement action has been initiated.

12 Section 4. There is a new R.C.M. section numbered
13 27-615.2 that reads as follows:

14 27-615.2. Injunctions. Notwithstanding any other
15 provision of this act the department, local, county, or
16 district health officer or sanitarian may bring an action
17 for an injunction against the continuation of an alleged
18 violation that has been the basis for denial or cancellation
19 of a license by the department or against a person who fails
20 to comply with an emergency order.

21 Section 5. Sections 27-616 and 27-617, R.C.M. 1947,
22 are repealed.

23 Section 6. This act is effective January 1, 1976.

-End-

SB 367

STATE OF MONTANA

REQUEST NO. 185-75

FISCAL NOTE

Form BD-15

In compliance with a written request received February 10, 1975, there is hereby submitted a Fiscal Note for S.B. 367 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:

S.B. 367 increases the license fee for food establishments from the current \$10 to \$30, the addition to accrue to local boards of health; provides procedures for cancellation or denial of a food establishment license; adopts an emergency enforcement remedy; provides for injunction procedures; and provides an effective date of January 1, 1976.

ASSUMPTIONS:

Based on historical license data for 1968-1974, it is estimated that:

1. The number of food establishments will increase 6% per year.
2. Administration of the county grant system will require additional state personal services costs of \$1200 per year. All personal service costs will increase 10% per year.

FISCAL IMPACT:

I. Revenue

	<u>FY 76</u>	<u>FY 77</u>
Estimated Revenue under current law	\$ 43,550	\$ 46,160
Estimated Revenue under proposed law	<u>130,650</u>	<u>138,480</u>
Estimated increase in revenue	<u>\$ 87,100</u>	<u>\$ 92,320</u>

II. Expenditures

Estimated expenditures by category under current law			
Personal Services	\$54,030		59,433
Operating Expenses	<u>9,620</u>	\$63,650	<u>\$10,582</u> \$70,015
Estimated expenditures by category under proposed law			
Personal Services	\$55,230		\$60,753
Operating Expenses	9,620		10,582
Grants	<u>87,100</u>	<u>\$151,950</u>	<u>92,320</u> \$163,655
Estimated increase in expenditures		<u>\$ 88,300</u>	<u>\$ 93,640</u>

III. Estimated Net Effect (Revenue - Expenditure) (\$1,200) (\$1,320)

CONCLUSION: Enactment of S.B. 367 would increase net expenditure by an estimated \$2,520 during the biennium.

LOCAL IMPACT: Increased license fees distributed to the counties should total \$179,420 during the biennium. The increased local revenue will help defray the costs of licensing inspections at the local level.

Michael S. Polling
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/13/75

Approved by Committee
on Public Health, Welfare
& Safety

SENATE BILL NO. 367

INTRODUCED BY COLBERG, OLSON, NORMAN, SEIBEL

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 27-614, R.C.M. 1947, BY PROVIDING A THIRTY DOLLAR (\$30) LICENSE FEE FOR FOOD ESTABLISHMENTS AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH; AMENDING SECTION 27-615, R.C.M. 1947, BY PROVIDING THE PROCEDURE FOR CANCELLATION OR DENIAL OF A FOOD ESTABLISHMENT LICENSE; ADOPTING AN EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION; REPEALING SECTIONS 27-616 AND 27-617, R.C.M. 1947; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 27-614, R.C.M. 1947, is amended to read as follows:

"27-614. Application for license--fee. (1) An application for a license is made to the department on forms, and contains information, required by the department.

(2) For each license issued, the department shall collect a fee of ~~ten dollars-(\$10)~~ thirty dollars (\$30). It shall deposit receipts in the state general fund.

(3) 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 that 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.

(4) Before June 1 of each year, the local board of health shall submit to the department a list of the establishments in each jurisdiction that are licensed under this chapter. 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 69-4508, R.C.M. 1947."

Section 2. Section 27-615, R.C.M. 1947, is amended to read as follows:

~~"27-615. Denial--or--cancellation-of-license---partial cancellation---(1)--The--department--may--deny--or--cancel--a license--if--provisions--of--this--act--or--rules--adopted--by--the department--under--this--act--are--violated;~~

~~(2)--A--license--for--a--multiple-type--establishment authorized--by--section--27-613--(2)--may--be--denied--or--canceled in--whole--or--in--part--as--determined--by--the--department;~~

~~(3)--if--a--license--for--multiple-type--establishment--is canceled--in--part,--the--license--shall--be--returned--to--the department--for--destruction--and--a--new--license--shall--be--issued~~

1 ~~for that part of the establishment which may still be~~
2 ~~operated.~~

3 Cancellation or denial of license--procedure. (1) The
4 department may cancel a license if it finds, after proper
5 investigation, that the licensee has violated this chapter
6 or a rule effective under this chapter, and the licensee has
7 failed or refused to remedy or correct the violation.
8 Submission to the department of an acceptable plan of
9 correction within ten (10) days after receipt from the
10 department of written notice of violation, and execution of
11 an acceptable plan within the time prescribed in the written
12 notice of approval of the plan by the department shall be a
13 bar to prosecution for violation.

14 (2) A license may not be denied or cancelled by the
15 department without delivery to the applicant or licensee of
16 a written statement of the grounds for cancellation or
17 denial or the charge involved and an opportunity to answer
18 at a hearing before the department to show cause, if any,
19 why the license should not be denied or cancelled. In such
20 case, the licensee must make a written request to the
21 department for a hearing within ten (10) days after notice
22 of the grounds or charges has been received.

23 (3) When a multiple type establishment is licensed by
24 the department, the denial or cancellation of the license
25 may affect the entire establishment or only a portion of it

1 as determined by the department. (A multiple type
2 establishment includes an establishment authorized by
3 section 27-613(2).)

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

10 (5) When the department furnishes evidence to the
11 county attorney of a county in this state, the county
12 attorney shall prosecute any person, firm, or corporation
13 violating this chapter, or a rule effective under this
14 chapter."

15 Section 3. There is a new R.C.M. section numbered
16 27-615.1 that reads as follows:

17 27-615.1. Emergency enforcement remedy. (1) The
18 department, local, county, or district health officer,
19 sanitarian or other authorized representative, if he finds
20 after proper investigation of an establishment subject to
21 the provisions of this chapter that the public health,
22 safety, or welfare imperatively requires emergency action,
23 may close the establishment for a period not to exceed
24 seventy-two (72) hours.

25 (2) When a local, county, or district health officer

1 or sanitarian closes an establishment under this section, he
 2 shall immediately notify the department and recommend
 3 further action which may be taken under the provisions of
 4 this chapter.

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 6 this section shall remain closed until such time as the
 7 department, local, county, or district health officer or
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 9 necessary, but in no event may such closure exceed
 10 seventy-two (72) hours except when other appropriate
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 12 MAY BE CONSIDERED A "CONTESTED CASE" UNDER THE MONTANA
 13 ADMINISTRATIVE PROCEDURE ACT AND THE LICENSEE IS ENTITLED TO
 14 A HEARING UNDER THAT ACT.

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 21 violation that has been the basis for denial or cancellation
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24 Section 5. Sections 27-616 and 27-617, R.C.M. 1947,
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 9 plan of correction within ten (10) days after receipt from
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 12 attorney shall prosecute any person, firm, or corporation
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15 ~~Section 3--There is a new R.C.M. section numbered~~
 16 ~~27-615.1 that reads as follows:~~

17 ~~27-615.1--Emergency--enforcement--remedy--(1)--The~~
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 19 ~~sanitarian--or--other--authorized--representative,--if--he--finds~~
 20 ~~after--proper--investigation--of--an--establishment--subject--to~~
 21 ~~the--provisions--of--this--chapter--that--the--public--health,~~
 22 ~~safety,--or--welfare--imperatively--requires--emergency--action,~~
 23 ~~may--close--the--establishment--for--a--period--not--to--exceed~~
 24 ~~seventy-two--(72)--hours.~~

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1 or sanitarian closes an establishment under this section, he
 2 shall immediately notify the department and recommend
 3 further action which may be taken under the provisions of
 4 this chapter.

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 6 this section shall remain closed until such time as the
 7 department, local, county, or district health officer or
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 18 provision of this act the department, local, county, or
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 25 are repealed.

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

-End-

COMMITTEE ON STATE ADMINISTRATION AMENDMENTS TO SENATE BILL 367

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, lines 6 & 7.
Following: "ESTABLISHMENTS"
Strike: "AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH"
4. Amend title, page 1, line 10.
Following: "REMEDY,"
Strike: "PROVIDING FOR INJUNCTION;"
5. Amend page 1, section 1, subsection (2), line 21.
Following: "~~10~~"
Strike: "thirty"
Insert: "twenty"
6. Amend page 1, section 1, subsection (2), line 21.
Following: "dollars"
Strike: "(\$30)"
Insert: "(\$20)"
7. Amend page 1, section 1, subsection (3), lines 23 through 25, page 2, lines 1 through 13.
Strike: subsections (3) and (4) in their entirety.
8. Amend page 5, section 3, lines 15 through 23.
Strike: section 3 in its entirety and renumber all subsequent sections accordingly.

AS SO AMENDED
BE CONCURRED IN

SENATE BILL NO. 367

INTRODUCED BY COLBERG, OLSON, NORMAN, SEIBEL

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 27-614, R.C.M. 1947, BY PROVIDING A THIRTY TWENTY DOLLAR ~~4000~~ (\$20) LICENSE FEE FOR FOOD ESTABLISHMENTS AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH; AMENDING SECTION 27-615, R.C.M. 1947, BY PROVIDING THE PROCEDURE FOR CANCELLATION OR DENIAL OF A FOOD ESTABLISHMENT LICENSE; ADOPTING AN EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INFUNCTION; REPEALING SECTIONS 27-616 AND 27-617, R.C.M. 1947; AND PROVIDING A DELAYED EFFECTIVE DATE."

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(2) --- A license for a multiple type establishment authorized by section 27-613 (2) may be denied or canceled in whole or in part as determined by the department.

(3) -- If a license for multiple type establishment is canceled in part, the license shall be returned to the

1 ~~department for destruction and a new license shall be issued~~
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 7 ~~this section shall remain closed until such time as the~~
 8 ~~department, local, county, or district health officer or~~
 9 ~~sanitarian determines that emergency action is no longer~~
 10 ~~necessary, but in no event may such closure exceed~~
 11 ~~seventy-two (72) hours except when other appropriate~~
 12 ~~enforcement action has been initiated.~~ AN EMERGENCY CLOSING
 13 MAY BE CONSIDERED A "CONTROVERSY" UNDER THE MONTANA
 14 ADMINISTRATIVE PROCEDURE ACT AND THE LICENSEE IS ENTITLED TO
 15 A HEARING UNDER THAT ACT.

16 Section 3. There is a new R.C.M. section numbered
 17 27-615.2 that reads as follows:

18 27-615.2. Injunctions. Notwithstanding any other
 19 provision of this act the department, local, county, or
 20 district health officer or sanitarian may bring an action
 21 for an injunction against the continuation of an alleged
 22 violation that has been the basis for denial or cancellation
 23 of a license by the department or against a person who fails
 24 to comply with an emergency order.

25 Section 3. Sections 27-616 and 27-617, R.C.M. 1947,

1 are repealed.

2 Section 4. This act is effective January 1, 1976.

-End-

SENATE BILL NO. 367

INTRODUCED BY COLBERG, OLSON, NORMAN, SEIBEL

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 27-614, R.C.M. 1947, BY PROVIDING A THIRTY TWO DOLLAR ~~(\$30)~~ (\$20) LICENSE FEE FOR FOOD ESTABLISHMENTS AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH AND PARTICIPATION IN THE FEE BY LOCAL BOARDS OF HEALTH; AMENDING SECTION 27-615, R.C.M. 1947, BY PROVIDING THE PROCEDURE FOR CANCELLATION OR DENIAL OF A FOOD ESTABLISHMENT LICENSE; ADOPTING AN EMERGENCY ENFORCEMENT REMEDY; PROVIDING FOR INJUNCTION; PROVIDING FOR INJUNCTION; REPEALING SECTIONS 27-616 AND 27-617, R.C.M. 1947; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

Section 1. Section 27-614, R.C.M. 1947, is amended to read as follows:

"27-614. Application for license -- fee. (1) An application for a license is made to the department on forms, and contains information, required by the department.

(2) For each license issued, the department shall collect a fee of ~~ten dollars (\$10)~~ thirty TWENTY dollars ~~(\$30)~~ (\$20). It shall deposit receipts in the state general fund.

~~(2) 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 that 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.~~

~~(4) Before June 1 of each year, the local board of health shall submit to the department a list of the establishments in each jurisdiction that are licensed under this chapter. 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 69-4508, R.C.M. 1947.~~

(3) 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 AN AMOUNT FROM ANY GENERAL FUND APPROPRIATION TO THE DEPARTMENT WHICH IS FOR THE PURPOSE OF INSPECTING ESTABLISHMENTS LICENSED UNDER THIS ACT; PROVIDED, HOWEVER, THAT THERE IS A FUNCTIONING LOCAL BOARD OF HEALTH, AND THAT THE LOCAL BOARD

1 OF HEALTH, LOCAL HEALTH OFFICERS, AND SANITARIANS ASSIST IN
 2 THE ENFORCEMENT OF THE PROVISIONS OF THIS CHAPTER AND THE
 3 RULES ADOPTED UNDER IT.

4 (4) BEFORE JUNE 1 OF EACH YEAR, THE LOCAL BOARD OF
 5 HEALTH SHALL SUBMIT TO THE DEPARTMENT A LIST OF THE
 6 ESTABLISHMENTS IN EACH JURISDICTION THAT ARE LICENSED UNDER
 7 THIS CHAPTER. THE FUNDS RECEIVED BY THE LOCAL BOARD OF
 8 HEALTH SHALL BE DEPOSITED WITH THE APPROPRIATE LOCAL FISCAL
 9 AUTHORITY AND SHALL BE IN ADDITION TO THE FUNDS APPROPRIATED
 10 UNDER SECTION 69-4508, R.C.M. 1947."

11 Section 2. Section 27-615, R.C.M. 1947, is amended to
 12 read as follows:

13 ~~"27-615. Denial or cancellation of license -- partial~~
 14 ~~cancellation -- (1) The department may deny or cancel a~~
 15 ~~license if provisions of this act or rules adopted by the~~
 16 ~~department under this act are violated.~~

17 ~~(2) A license for a multiple type establishment~~
 18 ~~authorized by section 27-613 (2) may be denied or canceled~~
 19 ~~in whole or in part as determined by the department.~~

20 ~~(3) If a license for multiple type establishment is~~
 21 ~~canceled in part, the license shall be returned to the~~
 22 ~~department for destruction and a new license shall be issued~~
 23 ~~for that part of the establishment which may still be~~
 24 ~~operated.~~

25 Cancellation or denial of license -- procedure. (1)

1 The department may cancel a license if it finds, after
 2 proper investigation, that the licensee has violated this
 3 chapter or a rule effective under this chapter, and the
 4 licensee has failed or refused to remedy or correct the
 5 violation. Submission to the department of an acceptable
 6 plan of correction within ten (10) days after receipt from
 7 the department of written notice of violation, and execution
 8 of an acceptable plan within the time prescribed in the
 9 written notice of approval of the plan by the department
 10 shall be a bar to prosecution for violation.

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

20 (3) When a multiple type establishment is licensed by
 21 the department, the denial or cancellation of the license
 22 may affect the entire establishment or only a portion of it
 23 as determined by the department. (A multiple type
 24 establishment includes an establishment authorized by
 25 section 27-613(2).)

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

7 (5) When the department furnishes evidence to the
 8 county attorney of a county in this state, the county
 9 attorney shall prosecute any person, firm, or corporation
 10 violating this chapter, or a rule effective under this
 11 chapter."

12 ~~Section 3. There is a new R.C.M. section numbered~~
 13 ~~27-615.1 that reads as follows:~~

14 ~~27-615.1. Emergency enforcement remedy. (1) The~~
 15 ~~department, local, county, or district health officer,~~
 16 ~~sanitarian or other authorized representative, if he finds~~
 17 ~~after proper investigation of an establishment subject to~~
 18 ~~the provisions of this chapter that the public health,~~
 19 ~~safety, or welfare imperatively requires emergency action,~~
 20 ~~may close the establishment for a period not to exceed~~
 21 ~~seventy-two (72) hours.~~

22 ~~(2) When a local, county, or district health officer~~
 23 ~~or sanitarian closes an establishment under this section, he~~
 24 ~~shall immediately notify the department and recommend~~
 25 ~~further action which may be taken under the provisions of~~

1 ~~this chapter.~~

2 ~~(3) An establishment closed under the provisions of~~
 3 ~~this section shall remain closed until such time as the~~
 4 ~~department, local, county, or district health officer or~~
 5 ~~sanitarian determines that emergency action is no longer~~
 6 ~~necessary, but in no event may such closure exceed~~
 7 ~~seventy-two (72) hours except when other appropriate~~
 8 ~~enforcement action has been initiated. AN EMERGENCY CLOSING~~
 9 ~~MAY BE CONSIDERED A "CONTINGENT CASE" UNDER THE MONTANA~~
 10 ~~ADMINISTRATIVE PROCEDURE ACT AND THE BUSINESS IS ENTITLED TO~~
 11 ~~A HEARING UNDER THAT ACT.~~

12 ~~Section 3. There is a new R.C.M. section numbered~~
 13 ~~27-615.2 that reads as follows:~~

14 ~~27-615.2. Injunctions. Notwithstanding any other~~
 15 ~~provision of this act the department, local, county, or~~
 16 ~~district health officer or sanitarian may bring an action~~
 17 ~~for an injunction against the continuation of an alleged~~
 18 ~~violation that has been the basis for denial or cancellation~~
 19 ~~of a license by the department or against a person who fails~~
 20 ~~to comply with an emergency order.~~

21 ~~SECTION 3. THERE IS A NEW R.C.M. SECTION NUMBERED~~
 22 ~~27-615.2 THAT READS AS FOLLOWS:~~

23 ~~27-615.2. INJUNCTIONS. NOTWITHSTANDING ANY OTHER~~
 24 ~~PROVISION OF THIS ACT THE DEPARTMENT, LOCAL, COUNTY, OR~~
 25 ~~DISTRICT HEALTH OFFICER OR SANITARIAN MAY BRING AN ACTION~~

1 FOR AN INJUNCTION AGAINST THE CONTINUATION OF AN ALLEGED
2 VIOLATION ~~THAT HAS BEEN THE BASIS FOR DENIAL OR CANCELLATION~~
3 ~~OF A LICENSE BY THE DEPARTMENT OR AGAINST A PERSON WHO FAILS~~
4 ~~TO COMPLY WITH AN EMERGENCY ORDER.~~ OF THIS ACT.

5 Section 4. Sections 27-616 and 27-617, R.C.M. 1947,
6 are repealed.

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

-End-